

## Platt v. Election Commission

April 12, 2004, 8:30 p.m.

### *Majority Opinion*

In the appeal of Jonathan S. Platt v. Election Commission, the Court unanimously rejects appellant's appeal that Jackson Hildebrand be disqualified from the election.

Regarding appellant's first contention that Mr. Hildebrand unfairly expensed items at actual cost instead of Fair Market Value that were purchased from a company with a website but are not available for purchase through the website, the Court finds that it lacks the appropriate Fair Market Value standards concerning wristbands and stickers as determined by the Director of Finance of the Election Commission. As a result, no opinion can be offered on the contention as to whether Hildebrand paid the appropriate price for items ordered over the internet.

Regarding appellant's second contention that Hildebrand was not required to expense shipping and handling costs for said items ordered over the internet, the Court finds that shipping costs must be included in the total cost of any item used as campaign material. The Election Commissioner's past practice of not including transportation costs (including but not limited to gas, postage, etc.) in the total price of campaign materials can underestimate their cost and is heretofore not considered by this Court as an acceptable interpretation by the Commissioner of the cost of campaign materials.

Furthermore, in light of the evidence presented at trial, the Court also finds that the practice of prorating purchased but unused campaign materials an invalid interpretation by the Election Commissioner. According to the Election Regulations, Campaign Finances Section, General Expenditures, Point Eight "Any materials produced by an organization for the purpose of soliciting votes outside that organization will be considered campaign materials and must be included on the candidates finance forms." Moreover, Point Six states that "Candidates must list the entire cost of each individual expense in campaign material that in anyway suggests support for their candidacy." The Court finds that any material produced, regardless of whether it is distributed must be listed at the entire cost of that campaign material. The practice of prorating

allows candidates who purchase goods in bulk at discounted prices to use only a small amount of those purchased goods, thereby expensing a small portion of the actual purchases. However, if prorating is to be a valid practice in the future, it must be 1) at the discretion of the Election Commissioner and not the Director of Finance, and 2) made known to all candidates at the outset of the campaign period and applied evenly and fairly to all.

In addition, the Court also finds that internet purchases from companies not based in Bryan/College Station are to be considered outside purchases and should be treated as such in regards to the application of Fair Market Values. The current practice of considering internet purchases to be within the Bryan/College Station city limits regardless of the actual physical location of the seller company is inappropriate based on Point Three of the General Expenditure Section under Campaign Finances in the Election Regulations.

Despite findings against the Election Commission, the Court refuses to take action against Jackson Hildebrand because any overspending on his part was due to the application of the policies of the Election Commission. Were it not for the Commission's consistent approval of Mr. Hildebrand's finances as the campaign progressed, he would have never exceeded the \$1,000 limit. We find fault with the policies as interpreted by the Election Commission and not with Mr. Hildebrand.

### *Concurring Opinion*

I, Jace Goodier, acting as a Justice of the Judicial Court, do hereby submit this opinion in concurrence with that of the Judicial Court in the case of *Platt v. Election Commission*. I concur with the majority opinion issued by the Court, and I support the conclusions of the Court on all issues but one. Because the Election Commission made certain questionable interpretations of the Election Regulations, the Court believes that the candidate in question, Jack Hildebrand, was within his set budget and will not be disqualified because of the Election Commissions interpretations.

Though it is the majority opinion of the Court that the Election Commission's acts of prorating were incorrect, it is my opinion that the prorating is, in fact, a beneficial action that should not be abandoned. It should instead be amended so as to solve some of the issues that have come forth in this election. The Election Regulations can be interpreted in a way that does not prevent prorating. In the Article Campaign Finances, point eight of the 'General Expenditures' section reads, "Any materials produced by an organization for the purpose of soliciting votes outside that organization will be considered campaign materials and must be included on that candidate's finance forms." It is my interpretation that the word *produce* was not meant to mean 'to manufacture' but instead to mean 'to exhibit' or 'to bring forth', in essence to use. Therefore, it is my opinion that the Election Regulations allow for prorating. A candidate should only be expensed for campaign material, according to point six of the same section, and if the candidate does not produce certain materials, they should not have to expense them.

However, in light of the recent problems, I do propose changes to the prorating system. First, the Election Commission needs to make all candidates aware of the prorating that may occur, a fixed number of days before the election. Second, candidates should be required to expense all costs as they are incurred. However, if the candidate does not use all of the materials purchased during the campaign, they should be allowed to return them, if possible, to the place of purchase and receive a credit from the Election Commissioner on their campaign finance reports. Third, in the cases of nonrefundable materials with price breaks, such as t-shirts, stickers, etc, the Election Commission should prorate the materials in the following manner. A mathematical equation should be derived to calculate the cost of the materials used, not purchased. For example, when buying shirts, Candidate A can either buy five hundred shirts at price  $x$  per shirt or buy one thousand shirts at price 'less than  $x$ ' per shirt. In the current system, it would be economically beneficial for this candidate to buy one thousand shirts and only use eight hundred because he can expense the eight hundred at the price per shirt that he paid for all one thousand shirts. Under my proposed amendment, candidates would not be able to benefit from the price break; instead, the number of shirts that they use will be inserted into the equation in order to derive a cost that is between  $x$  and 'less than  $x$ '. This would

create fairness between all candidates in the current prorating system.