

ASUCI JUDICIAL BOARD

“All Judicial authority of ASUCI shall be vested in the Judicial Board. The Judicial Board’s authority shall extend to all judicial cases arising under the [ASUCI] Constitution; the various by-laws of ASUCI; all official actions of the Executive Officers, Legislative Council Members, and ASUCI Commissioners; and any matters delegated to the Judicial Board by the Legislative Council”

JUDICIAL RULING ON B49-11

Chair Forouzan, writing for the majority, in which, Vice Chair Agbelemose and Associate Justices Barclay and Lozano join.

Regarding B49-11, “By-Law Amendment: Divestment from Fossil Fuels,” Judicial Board has voted unanimously that this bill is unconstitutional.

The ASUCI Constitution¹ empowers Legislative Council to “appropriate all ASUCI fee income,” a statement which endows Legislative Council with power over the “expenditure of all funds.” Legislative Council has interpreted this power to mean that it has control over the investments of ASUCI; this decision will not opine on whether or not this interpretation is correct or Constitutional, but will instead speak to how it has been used with respect to this specific Bill.

As noted in a prior ruling issued this academic quarter, the Board has found “Divestments” to be statements of financial policy and, as such, subject to the requirements stipulated in the By Laws Article IX (LEGISLATION), Section I, Subsection 2. Legislative Council has affirmed this reading by noting in a “whereas” statement of this and a prior version of the bill that it “enforces financial policy.”² The Board found the previous incarnation of this bill to be lacking with respect to subsection 2; it found the actions of the Council to be “negligen[t]...[il]legitimate...wanton[ly] disrespect[ful]...[un]diligent, [un]dignified, [and] [un]dutiful.”³ The Board ruled that any appropriate financial policy will satisfy the requirements set out in Article IX, Section 1, Subsection 2.

Legislative Council has attempted to circumvent this requirement by cleverly including in B49-11 the following statement⁴: “[l]et it be resolved that the following by-laws ‘IX. LEGISLATION, I. Bills, 2. The format of a bill shall include the following’ be suspended for this By-Law amendment.” In a sadly stunning display of irony, Legislative Council has shown the limits of its ingenuity by attempting to evade the sacrosanct requirements needed to pass such a bill by simply violating another valued principle meant to preserve the sanctity of government. In doing so, it has not only acted improperly but has done so in the most nefarious and pernicious of ways.

¹ ASUCI Constitution Article IV, Section B, Subsection 2

² “Whereas, a bill enforces financial policy...”

³ B49-08 Ruling

⁴ B49-11

Article IV of the ASUCI Constitution states that the “duties” of Legislative Council are to be found in the By-Laws; pertinent to this ruling is Article I of the By-Laws (PURPOSE), which states that the By-Laws will provide the “procedures to be used in conducting the business of ASUCI as described in **Robert’s Rules of Order**” (emphasis added). Robert’s Rules of Order treat By-Laws as those rules of “such importance” that they should not be done away with without “previous notice.”⁵ By-Laws are so vital to any proper governance that one “cannot be suspended” unless it relates to “business procedure” or its suspension is “specifically provided for.”⁶ The By-Law in question, Article IX, Section I, Subsection 2 is neither one that solely relates to “business procedure” nor one that has suspension “specifically provided for.” Thus, to suspend such a by-law is not only wrong but expressly prohibited by Robert’s Rules, the By-Laws and the ASUCI Constitution.

Moreover, this flagrant action has the added effect of only supplementing the body of evidence that suggests Legislative Council has been “negligen[t]...[il]legitimate...wanton[ly] disrespect[ful]...[un]diligent, [un]dignified, [and] [un]dutiful.” To permit such manifestly unjust actions would be impermissible; it would not only allow one instance of improper governance, but codify and sanction future disregard for the very principles that Legislative Council and this Board ought to uphold.

Judicial board finds this legislation to be in violation of the rules laid out in Robert’s Rules of Order, the Legislative Council By-Laws, and the ASUCI Constitution. Utilizing the powers vested in the Judicial Board⁷, we declare B49-11, By-Law Amendment: Divestment from Fossil Fuels, to be unconstitutional.

IT IS SO ORDERED

Oluwatobi Agbelemose, Vice-Chair

Christopher Barclay, Justice

Myron Lozano, Justice

Seena Forouzan, Chair

⁵ <http://www.robertsrules.org/rror-11.htm#67>

⁶ *Id.*

⁷ ASUCI Constitution, Article VI, Section B, Subsection 5