GSA v. Nicolau DePaula
[Oct. 10 2014]

J. Rooke, with whom J. Murata & Roth join, delivered the opinion of the Judicial Board.

This board first received a petition to investigate and review irregularities in former GSA Vice President Nicolau DePaula’s official action on March 29, 2014. We issued a resolution requesting more information at the April 2014 GSA Assembly Meeting. We convened a meeting on September 25, 2014 and undertook a final review to reach our decision today. We reviewed whether Nicolau’s actions violated GSA rules and regulations; whether the GSA Executive Board acted properly as the Association’s fiduciary agents; and whether the Executive Board acted properly in their response to the Judicial Board’s prior rulings on this matter.

I

Upon completion of our investigation, it is evident that Nicolau did not comply with the Association’s Bylaws. As GSA Vice President, Mr. DePaula chaired the RGSO Committee, which allocates money to RGSOs. Any approval of funds from this committee must be voted on and any appeals of this committee’s decisions must go through the Judicial Board.¹ During the completion of his duties in this role, Vice President DePaula allocated money after the RGSO Committee had deliberated and distributed funding, and he unilaterally approved additional funding to existing events without going through appropriate procedures. Such disregard of the rules, as outlined by the Assembly, is gross misconduct. Vice President DePaula not only disregarded the Bylaws of the Association, but also disregarded the GSA Financial Guidelines, constituting financial impropriety. Both gross misconduct and financial impropriety are grounds for impeachment as outlined in Article VI, section 8 of the GSA Constitution.²

Mr. DePaula is no longer an officer or voting member of this Association, thus escaping the jurisdiction of the Assembly to sanction him through impeachment. However, due to his flagrant disregard for both the Association’s Bylaws and the Financial Guidelines, the Judicial Board holds in accordance with the Financial Guidelines that Nicolau DePaula “shall be banned from any further GSA funding” for the Fall 2014 and Spring 2015 semesters.³ We also hold that the GSA Bylaws must include the procedures for the internal workings of the RGSO committee. Additionally, the GSA Vice President must provide the GSA President and the GSA Treasurer, as voucher signatories for the

¹ Article VI, section D of the Association’s ByLaws in effect at the time.

² February 2013 version

³ Article II of the Financial Guidelines
association, documentation of RGSO funding allocations per event as approved by the RGSO Committee, which must include the signatures of all RGSO Committee members.

II

The rules governing this Association clearly outline that the Executive Board has responsibilities to act as an internal control over the functioning of the Association. It is troubling to the Judicial Board that Vice President Nicolau DePaula resigned in December and the Executive Board did not file a petition for investigation with this body until March 29. The Assembly mandates that each Executive Board member report on their duties to the Assembly through the posting of officer reports; this explicitly includes any internal control efforts or investigations. In knowing that there were questions concerns Vice President DePaula’s conduct, a member of the Executive Board should have reported their concerns to this body during that time. Failing to report an on-going investigation or probes into suspicious activities is noncompliance with this mandate from the Assembly. To willfully disregard or suffer from willful blindness of a rule or mandate from the Assembly is either gross misconduct or gross negligence. As established in the Association’s Constitution, gross misconduct and gross negligence is an impeachable offense. The Executive Board must include in their reports any investigation or inquiries, with any supporting evidence or details, into any matter concerning the Association.

III

Members of the Executive Board do not have unfettered powers. There are both Constitutional limitations, as well as, limitations established by our Bylaws. In an email dated November 22, 2013, from the GSA President, Caitlin Janiszewski, to the GSA Treasurer, Jessica Aubin, and GSA Vice President, Nicolau Depaula, there is significant evidence that the GSA President and the GSA Treasurer, acted in collaboration with Vice President DePaula to circumvent the RGSO Committee in approving funding for an event. RGSO funding must be approved by the RGSO Committee. The GSA President and GSA Treasurer are the authorized signatories for Association expenses, making this approval of funds more troubling. It should also be noted that the GSA Treasurer is explicitly held responsible for ensuring that all GSA expenditures are in accordance with

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4 GSA Constitution (February 2013): Article VII, section 3

5 The public posting of Officer Reports was mandated in the Spring of 2013 and carried out throughout the 2013-2014 year. It was voted into the ByLaws in April 2014: Article II, section 3

6 Article VI of the Association’s ByLaws in effect at the time.

7 GSA Constitution (February 2013): Art. VII, section 3
the GSA Financial Guidelines. The GSA President and the GSA Treasurer’s funding approval not only circumvented the committee, but disregarded the prohibition on funding events that charge an entry fee to graduate students. As previously noted the conscious disregard of the Association’s Financial Guidelines constitutes financial impropriety, which is an impeachable offense.

The evidence in this email does not end with the undermining of the Association’s financial structure, but shows a gross disregard for the Association’s rules. GSA President Caitlin Janiszewski, by her own admission, was acting as both the MCAA Chair and the GSA President. The GSA President not only stated she was acting as the MCAA Chair, but apparently approved expenditures in this role. The Constitution of the Association clearly outlines that, “No member of the Executive Board shall be permitted to hold a second office within the GSA.”

The GSA President’s lack of understanding of GSA rules is problematic; all GSA Officers are bound to all GSA governing documents and a willful breach of any governing documents is considered gross misconduct. While the GSA President should be aware of the restraints on her authority, an unintentional breach of the Constitution or governing rules may be gross negligence. The GSA President’s assumption of the MCAA Chairperson’s power and the distribution of MCAA funds which she was not authorized to make is an impeachable offense.

Additionally, the GSA President’s comments in her emails indicate an awareness of the suspicions and inquiries into the GSA Vice President’s official actions. Her failure to report these suspicions immediately, and her incidental complacency is at best a disregard of her fiduciary duties. Given more information, these actions may rise to financial impropriety, gross negligence, or gross misconduct. Moreover, our rules empower us to pursue all legal remedies, which could include alerting the appropriate authorities to conduct a criminal investigation.

The Judicial Board does not have enough evidence at this time to make a definitive decision on this matter but we remain deeply unsettled. Therefore, we hold that an investigation into the official actions of the 2013-2014 GSA President and GSA Trea-

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8 Financial Guidelines, Article III, Subsection 5

9 This prohibition is found in the ByLaws and derived from both University policy & New York State Law. (While Association Members were reimbursed their admission fee, there are lingering questions as to how this situation was handled and ultimately financed.)

10 From the November 22, 2013 email: “as I stand-in MCAA chair”

11 GSA Constitution Article VII, section 1

12 Financial Guidelines, Article III, Subsection 6
surer, Caitlin Janiszewski and Jessica Aubin, shall commence for fear of other financial disputes and irregularities.

All Executive Board correspondence through emails for the 2013-2014 academic year concerning the distribution of any GSA funding— including but not limited to RGSO funding, Grant funding, stipends and office staff payroll, and discretionary funds— must be turned over to the Judicial Board by 11:59pm on Friday, October 17th. Additionally, all financial records and any documents from Executive Board meetings must be turned over by this deadline.

IV

The Executive Board has been noncompliant with early investigations into this case. It must be pointed out that any disregard of a Judicial Board investigation or ruling is gross misconduct; gross misconduct is an impeachable offense.

It is so ordered.

[Signature]
Bradley J. Rooke, J.D.

[Signature]
Melissa Murata

[Signature]
Gary A. Roth