

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
SUITE 420, 2000 14TH STREET, NW
WASHINGTON, D.C. 20009
(202) 671-0550**

IN THE MATTER OF)	DATE: December 8, 2011
)	
The Honorable Regina James, Chairman)	
Advisory Neighborhood Commission 5B)	DOCKET NO.OCF 11C-007
1363 Adams Street, NE)	
Washington, D.C. 20018)	

ORDER

Statement of the Case

This matter comes before the Office of Campaign Finance (OCF) upon the complaint filed by Vaughn Bennett, Advisory Neighborhood Commissioner (ANC)5B04, on September 6, 2011, which alleged that Chairman Regina James (hereinafter Respondent), may have used her position to obtain financial gain for herself, in violation of D.C. Official Code § 1-1106.01(b) (2001 Edition) and may have used District of Columbia government resources for personal and campaign purposes, in violation of 3DCMR § 3301.8 (a) and DPM § 1804.1.

D.C. Official Code § 1-1106.01 (b) states in pertinent part that “No public official shall use his or her official position or office to obtain financial gain for himself or herself, any member of his or her household, or any business with which he or she or a member of his or her household is associated other than compensation provided by law for said public official.”

3DCMR § 3301.8 (a) provides that: “District of Columbia Government resources shall be prohibited from use to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan.”

DPM § 1804.1 states in pertinent part: “An employee may not engage in any outside activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include but are not limited to the following;

- (b) Using government time or resources for other than official business, or approved or sponsored activities, except that a District employee may spend a reasonable amount of government time and resources on such projects, reports, and studies as may be considered in aid of other government jurisdictions (local, state, federal), provided the work so performed is within the scope of the individual's regular assignment as a District employee."

By Notice of Hearing, Statement of Violations and Order of Appearance (hereinafter Notice of Hearing) dated November 18, 2011, OCF ordered the Respondent to appear at a scheduled hearing on November 25, 2011, and show cause why she should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§ 1-1101.01 et seq., and fined accordingly.

Summary of Evidence

Mr. Bennett alleged that the Respondent was a candidate for Advisory Neighborhood Commissioner (ANC) for Single Member District (SMD) 5B03 during the November 2010 election. He also asserted that she was simultaneously employed with the DC Department of Health Care Finance (DHCF). He additionally alleged that the Respondent listed her work telephone number as her telephone number on forms submitted to the Board of Elections and Ethics (BOEE) and that telephone number was posted by the BOEE's website as a contact number for the Respondent. As evidence, Mr. Bennett submitted a copy of a document identified as page 9 of the ANC November 2, 2010 General Election Ballot Order reflecting the Respondent's name and the telephone number in question. OCF verified that the telephone number listed for the respondent was indeed a DC Government telephone number. Mr. Bennett did not provide any evidence that the Respondent actually used the telephone to make or receive personal or campaign related telephone calls.

On November 21, 2011, the Respondent submitted a notarized written statement in lieu of appearing at the scheduled hearing on November 25, 2011. She denied using her government office telephone for either personal or campaign purposes. She additionally stated that a similar complaint had been filed with the U.S. Office of Special Counsel (OSC) and that office had concluded that she had not engaged in any impropriety. The respondent provided a copy of a letter from Corinne R. Siebert, attorney with the Hatch Act Unit of the OSC. While Ms. Siebert did conclude that the respondent did not violate the Hatch Act, because ANC elections are non-partisan, she did not address whether there was a possible conflict of interest with the alleged use of the government telephone for political or personal purposes.

The Respondent stated that even though she did not use her government telephone for either political or personal purposes, she inadvertently listed the telephone number as a daytime contact number but, she did not receive any telephone calls of a political nature at that number. She additionally stated that she did on occasion allow members of her community whose telephones had been disconnected to use her ANC issued mobile telephone to conduct business until their service was restored.

Findings of Fact

Having reviewed the allegations and the record herein, I find that:

1. The Respondent was a candidate for ANC Single Member District 5B03 during the November 2, 2010 election.
2. The Respondent was also employed with the District of Columbia Department of Health Care Finance during the same period.
3. A DC government telephone number was listed as the Respondent's telephone number on the November 2, 2010 General Election Ballot Order.
4. The Respondent was not authorized to use the Government issued telephone for other than government official business.
5. No evidence was presented that indicated that the Respondent used her government telephone or other government resources for personal or political purposes.
6. The Respondent conceded that on occasion she allowed members of her community to use her ANC issued mobile telephone.

Conclusions of Law

Based upon the record provided by the Office of Campaign Finance, I therefore conclude that:

1. The Respondent did not violate the provisions of D.C. Official Code § 1-1106.01 (b).
2. The Respondent did not violate the provisions of 3DCMR § 3301.8 (a).
3. The Respondent did not violate DPM § 1804.1 (b) which prohibits "... using government time or resources for other than official business, or approved or sponsored activities...".

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director dismiss the Complaint in this matter with regard to D.C. Official Code § 1-1106.01 (b) and 3DCMR § 3301.8 (a). I further recommend that the Director admonish the Respondent for using the government issued telephone number for contact information for non-governmental purposes.

Date

William O. Sanford
General Counsel

ORDER OF THE DIRECTOR

WHEREFORE, IT IS HEREBY ORDERED that the complaint in this matter is hereby dismissed.

IT IS FURTHER ORDERED THAT the Respondent is hereby admonished for using the government issued telephone number for contact information for non-governmental purposes

Date

Cecily Collier-Montgomery
Director

This Order may be appealed to the Board of Elections and Ethics within 15 days from the date of issuance.

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on Regina James via first class postage pre-paid mail on December 8, 2011.
