

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

IN THE MATTER OF	)	
	)	DATE: June 8, 2009
Silas Grant	)	
Candidate	)	
Advisory Neighborhood Commissioner for	)	
Advisory Neighborhood Commission	)	
5C09	)	
2830 6 <sup>th</sup> Street, N.E.	)	DOCKET NO.: Full Investigation 2009-03
Washington, D.C. 20017	)	

**ORDER**

**Statement of the Case**

On March 9, 2009, Deborah L. Smith of Washington, D.C. filed a complaint with the Office of Campaign Finance (OCF) against Silas Grant (respondent), candidate for Advisory Neighborhood Commissioner for Advisory Neighborhood Commission 5C09. It is alleged that respondent failed to file the requisite disclaimers upon his campaign literature and that he expended more than he reported on his December 29, 2008 “The Summary Financial Statement of Candidate for the Office of member of an Advisory Neighborhood Commission (ANC)” (ANC Summary Financial Statement), in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), D.C. Official Code §§1-1101.01 et seq. (2001 Edition).

Specifically, respondent allegedly circulated copies of at least two (2) pieces of campaign literature, during his successful campaign for ANC seat 5C09 in the General Election in November 2008, which may have spawned expenses in excess of that which was reported by respondent on the December 29, 2008 ANC Summary Financial Statement, in contravention of 3 D.C.M.R. §3008.16 (March 2007, as amended). It is further alleged that the campaign literature lacked the requisite disclaimers, in violation of D.C. Official Code §§1-1102.10(e) and 1-1102.10.

**Issues**

1. Whether respondent violated D.C. Official Code §1-1102.01(e) when he allegedly distributed campaign literature that failed to include the required notice: “A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.”
2. Whether respondent violated D.C. Official Code §1-1102.10 when he allegedly distributed campaign literature that failed to include the required “words ‘paid for by’ followed by the

name and address of the payer or committee or other person and its treasurer on whose behalf the material appears.”

3. Whether respondent violated 3 D.C.M.R. §3008.16 by allegedly submitting an inaccurate ANC Summary Financial Statement.

### **Background**

On January 9, 2009, OCF received, by facsimile, a letter of complaint from Deborah L. Smith alleging that Silas Grant, her opponent in the ANC 5C09 General Election of 2008, may have submitted an inaccurate ANC Summary Statement on December 29, 2008, and used campaign literature without the appropriate disclaimer information.

On March 9, 2009, Ms. Smith notarized her complaint, appended supporting documentation and formally requested an investigation into this matter. OCF accepted the matter therefor and, on the same date, advised respondent by letter of the investigation and delivered the submitted information from Ms. Smith thereto. Respondent was also advised to answer the complaint no later than March 30, 2009.

On March 30, 2009, respondent submitted a notarized reply to the allegations. Additionally, respondent included an amended ANC Summary Financial Statement and supporting documentation to his answer.

The scope of the OCF investigation encompassed a review and verification of the submitted documents. The investigation ended today.

### **Relevant Statutory and Regulatory Provisions**

D.C. Official Code §1-1102.01(e) states:

Each political committee and candidate shall include on the face or front page of all literature and advertisement soliciting funds the following notice: “A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics.”

D.C. Official Code § 1-1102.10 states, in pertinent part:

All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots...and other matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office ... shall be identified by words “paid for by” followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appear.

D.C. Official Code §1-1103.05(b) (3) provides that “the Board may issue a schedule of fines for violations of [the Act], which may be imposed ministerially by the Director [of the Office of Campaign Finance].”

Pursuant to 3 D.C.M.R. §3008.16, in pertinent part:

The ANC Summary Financial Statement filed by an ANC candidate. . .shall include the following: (a) Total campaign receipts and expenditures relative to an election, including funds received and expended by the candidate[.]

Pursuant to 3 D.C.M.R. §3709.1:

The Director may institute or conduct an informal hearing on alleged violations of the reporting and disclosure requirements, prescribed by the Act and Chapter 30 – 37 of this title.

Pursuant to 3 D.C.M.R. §3711.1, in pertinent part:

Upon a determination. . . that a violation has occurred, the Director may ministerially impose fines upon the offending party[.]

Pursuant to 3 D.C.M.R. §3711.2, in pertinent part:

Fines shall be imposed as follows [--]

- (n) Failure to place notices required by the Act on campaign literature \$500
- (dd) Failure to disclose required information on reports and statements \$50 per day [.]

Pursuant to 3 D.C.M.R. §3711.3, the aggregate of the penalties imposed under the Director’s authority may not exceed \$2000 for each violation.

For good cause shown pursuant to 3 D.C.M.R. §3711.6, the Director of Campaign Finance may modify, rescind, dismiss or suspend any fine.

**Summary of Evidence**

In her March 9, 2009 submission, Deborah Smith attached the following: (1) a laminated postcard which includes “Re-ELECT GRANT” on one side and biographical data on the reverse; and, (2) a laminated 11: X 17” poster which includes “Re-ELECT GRANT” on the front. Additionally, Ms. Smith supplemented her documentation with Office Depot bills in October 2008 attesting to her expenses of \$477.17 for the ANC campaign.

In his March 30, 2009 answer, respondent, among other things, respondent admitted therein, “In terms of the inquiry of my campaign literature, neither my 11X17 [inch] signs nor my card literature contained the proper text referring to the committee or treasurer which would file reports with your agency. I was not aware of the rule until after the 2008 election. So in actuality, I had two elections where this rule was violated and for that I apologize sincerely. I would hope that this rule is emphasized across the city for ANC Commissioners because I have seen a lot of campaign literature that does not contain the

proper text. As a matter of fact, I have attached a copy of Ms. Smith's literature which does not contain the text either. So, this is a violation that occurs regularly in campaigns at the ANC level. However, there is no excuse for it, and I am willing to take any punishment given to me by this agency."

With his answer, respondent submitted an amended and notarized ANC Summary Financial Statement, dated March 30, 2009; and, an "Updated Total Sheet created on 3/12/09" representing his transactions throughout the campaign. Respondent also submitted copies of checks, cash, bank statements and receipts regarding said campaign.

Respondent further admitted that, as a result of this inquiry, he reviewed his December 29, 2008 ANC Summary Financial Statement and realized that he had erred in his calculations; to wit, on March 30, 2009, he submitted the amended form. The March 30, 2009 document reflects total receipts of \$631, as opposed to \$430 on the December 29, 2008 document; and, \$986.09 in expenditures on the former, as opposed to \$606 on the latter.

The undersigned spoke with representatives of Ace Press and FedExKinko's, both of Washington, D.C., and frequent vendors of the District of Columbia. According to Ace Press, the cost of \$219 for 5000 laminated postcards charged by PK Graphics of Miami Beach, Florida, as represented by respondent in his expenditure receipts, is "a great deal and one that can only be received out of town." According to the sales associates at FedExKinko's, respondent took advantage of a 35% and 37% personal discount on the cost of \$263.17 for 30 laminated posters, by virtue of applying to the company therefor in his individual capacity.

### **Findings of Fact**

Having reviewed the allegations and OCF records, I find:

1. Respondent was a successful candidate for the office of Advisory Neighborhood Commissioner for 5C09 in the November 2008 election.
2. In support of his 2008 candidacy, respondent caused to print (1) a laminated postcard which includes "Re-ELECT GRANT" on one side and biographical data on the reverse; and, (2) a laminated 11" X 17" poster which includes "Re-ELECT GRANT" on the front.
3. Respondent did not include on any of the literature submitted to OCF a request for campaign contributions for his November 2008 campaign political campaign for the office of Advisory Neighborhood Commissioner for 5C09.
4. Respondent spent \$986.09 on his successful November 2008 political campaign for the office of Advisory Neighborhood Commissioner for 5C09, with \$492.17 for the laminated postcards and posters; and disclosed the former amount on his amended and notarized ANC Summary Financial Statement received on March 30, 2009.

5. Deborah Smith, an opponent to respondent in the November 2008 election for the office of Advisory Neighborhood Commissioner for 5C09, submitted a local Office Depot invoice on the account of "4 U Body and Beauty Place, 2826 6<sup>th</sup> Street, N.E." for, among other things, the printing, cutting and folding of 600 letters in color for \$426.04.
6. Respondent spent less money on postcards and posters for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09 because he sought out-of-town vendors who charged at a lower rate and used discount options personally available to him.
7. Respondent admitted that he negligently failed to include the necessary identifying disclaimer language on his postcards and posters for his successful November 2008 political campaign for the office of Advisory Neighborhood Commissioner for 5C09.
8. Respondent does not have any prior history of violations with OCF.

### **Conclusions of Law**

Based upon the record and evidence herein, I therefore conclude:

1. Respondent did not violate D.C. Official Code §1-1102.01(e) by failing to place the required notice of "A copy of our report is filed with \_\_\_\_\_ the Director of Campaign Finance of the District of Columbia Board of Elections and Ethics" when he distributed campaign postcards and posters for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09 because he was not soliciting campaign contributions.
2. Respondent violated D.C. Official Code §1-1102.10 when he distributed postcards and posters for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09; and, failed to include thereon the requisite "words 'paid for by' followed by the name and address of the payer or committee or other person and its treasurer on whose behalf the material appears."
3. Respondent violated 3 D.C.M.R. §3008.12(a) by failing to submit an accurate December 29, 2008 ANC Summary Financial Report for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09; notwithstanding, that respondent submitted an accurate ANC Summary Financial Report on March 30, 2009.
4. The penalty established at 3 D.C.M.R. §3711.2(n) for failure to place the required language on his campaign literature as provided by the Act is a fine of \$500 for each type of notice.
5. The penalty established at 3 D.C.M.R. §3711.2(dd) for failure to disclose the required information on his December 29, 2008 ANC Summary Financial Report reports and statements is \$50 per day.
6. In accordance with D.C. Official Code §1-1103.05(b) (3), respondent may be fined a maximum of \$1000 for failure to place the required "words 'paid for by' followed by the name and address of the

payer or committee or other person and its treasurer on whose behalf the material appears” on the posters and postcards distributed for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09.

7. Furthermore, in accordance with D.C. Official Code §1-1103.05(b)(3), respondent may be fined a maximum of \$2000 for failure to submit an accurate ANC Summary Financial Statement for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09.

8. For good cause shown pursuant to 3 D.C.M.R. 3711.6, the Director of Campaign Finance may modify, rescind, dismiss or suspend any fine.

9. Respondent’s explanations for failing to place required “words” required by the Act on the postcards and posters, in that it was not intentional, and for submitting the inaccurate December 29, 2008 ANC Summary Financial Statement, in that he inadvertently committed an error in the computation and submitted an amended March 9, 2009 ANC Summary Financial Statement, were deemed credible and constitute good cause for suspension of any fine, especially in light of the facts that respondent was a first-time candidate for elective office in the District of Columbia and does not have any prior history of violations with the Office of Campaign Finance.

**Recommendation**

In view of the foregoing, I hereby recommend that the Director suspend the fine of \$3000 that could be imposed against respondent for failing to place the require words on the postcards and posters notices and for failing to file an accurate December 29, 2008 ANC Summary Financial Statement, for his successful November 2008 bid for the office of Advisory Neighborhood Commissioner for 5C09, in violation of the Act.

\_\_\_\_\_  
6/8/9  
Date

\_\_\_\_\_  
Kathy S. Williams  
General Counsel

**ORDER OF THE DIRECTOR**

IT IS ORDERED that the fine in this matter be hereby suspended.

6/8/9  
Date

Cecily E. Collier-Montgomery  
Director

**SERVICE OF ORDER**

This is to certify that I have a served a true copy of the foregoing Order by mail today.

April Williams  
Clerk

**NOTICE**

Pursuant to 3 D.C.M.R. §3711.5 (March 2007, as amended), any fine imposed by the Director shall become effective on the 16<sup>th</sup> day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 433, 2000 14<sup>th</sup> Street, N.W., Washington, D.C., 20009.