

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

IN THE MATTER OF

Save DC Now, Inc.
Junius Carter, Treasurer
622 Irving Street, NW
Washington, DC 20010

) DATE: January 14, 2011
)
)

) DOCKET NO.: OCF 10P-033
)
)

ORDER

Statement of the Case

This matter comes before the Office of Campaign Finance (OCF) pursuant to complaints filed by Dorothy Brizill and Brian Lederer, Esq. which alleged that the Save DC Now, Inc. Committee (hereinafter respondent committee), a registered unauthorized committee which conducted a "write-in" campaign to re-elect Mayor Adrian Fenty, violated Cease and Desist Orders issued by OCF on November 1, 2010 and November 2, 2010. Eleanor Anderson serves as chairperson and Junius Carter serves as treasurer of the respondent committee. Ms. Brizill and Mr. Lederer alleged that they had observed violations of the Orders in the following precincts: 1,6,15,25,30,33,34,37,41,52,53,54,61,62,63,67,69,71,77,89,90,102,103,109,110,114,115,122,128, 129,134 and 140. The Orders required the respondent committee to Cease and Desist from the distribution, circulation, and use of literature purchased and produced by the Fenty 2010 Principal Campaign Committee, including, but not limited to, posters, circulars, handbills, sample ballots, stickers and shirts. The Orders additionally stated that "failure to comply may result in the imposition of a fine of \$500.00 per violation as prescribed by 3DCMR §3711.2(n)".

By Notice of Hearing, Statement of Violations and Order of Appearance dated November 15, 2010, OCF ordered Eleanor Anderson (hereinafter respondent chairperson), Junius Carter (hereinafter respondent treasurer) and Joshua Lopez, Field Coordinator, to appear at a scheduled hearing on November 22, 2010 and show cause why the respondent committee should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, (the Act) as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

On November 22, 2010, respondent chairperson, appeared with Dana Moore, Esq. (hereinafter counsel); OCF was represented by Jean Scott Diggs, Senior Hearing Officer and Sonya Lake, Public Affairs Specialist.

Ms. Lake stated that it was alleged that the respondent failed to comply with Cease and Desist Orders issued November 1, 2010 and November 2, 2010. Counsel stated that pursuant to receipt of the November 1, 2010 Order, Save DC Now, Inc. collected all of the campaign literature within its control that was the subject of the Order and communicated

with all of the campaign volunteers that use of the literature and materials was prohibited. Counsel additionally stated that the respondent committee fully complied with the Order and used their own funds to create and pay for new literature. Counsel also stated that certain "renegade groups" which were not connected to Save DC Now, Inc. might have been responsible for circulation of the Fenty campaign literature after the Order.

Ms. Diggs stated that she visited ten (10) precincts on election day, November 2, 2010, and observed Fenty 2010 signs with the words, "Write In" , printed across the front. She further stated that she also observed Fenty 2010 signs turned inside out with black and white "write in" signs stapled to the front of the reversed Fenty 2010 signs, which was used as a stand for the signs promoting the "write in" effort.

Counsel concluded that the respondent committee was not responsible for the circulation of the prohibited signs because there were other people who were displaying signs in support of the "write in" effort.

On November 22, 2010, Joshua Lopez, appeared pro se. Mr. Lopez stated Save DC Now turned the Fenty 2010 signs inside out and used them as a backdrop for new signs that were used for the "write in" campaign. Mr. Lopez additionally stated that he attributed the recycled Fenty signs turned inside out to the Save DC Now "write-in" effort. Mr. Lopez also stated that he did not receive authorization from the Fenty 2010 re-election campaign to alter or recycle their campaign literature or materials.

On November 22, 2010, Junius Carter (hereinafter respondent treasurer), appeared pro se. Mr. Carter stated that he functioned as the treasurer for the respondent committee, and that he was not involved in the field work. Mr. Carter additionally stated that he did receive the Cease and Desist Orders and forwarded the information to campaign volunteers. Mr. Carter also stated that his duties as treasurer were limited to preparing and filing Reports of Receipts and Expenditures for submission to OCF.

It was also noted during the hearings on November 22, 2010, that other members of the OCF staff visited the 35 precincts cited in the complaints by Ms. Brizill and Mr. Lederer. Five additional precincts (including Nos. 22,31,32,35 and 36) during the 2010 General Election were observed by OCF Staffers to display recycled and altered Fenty 2010 campaign literature and materials in violation of the Orders.

Findings of Fact

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

1. Respondent committee is a registered, unauthorized Political Action Committee with the Office of Campaign Finance.
2. Respondent committee was ordered to Cease and Desist from the distribution, circulation, and use of campaign literature purchased and produced by the Fenty 2010 Principal Campaign Committee on November 1, 2010.
3. Respondent committee was ordered to Cease and Desist from the distribution, circulation, and use of campaign literature purchased and produced by the Fenty 2010

Principal Campaign Committee, including, but not limited to, posters, circulars, handbills, sample ballots, stickers and shirts on November 2, 2010.

4. Respondent committee failed to comply with the Cease and Desist Orders and continued to engage in the prohibited activity specified in the Orders prior to and during the 2010 General Election.
5. The Office of Campaign Finance Staff observed violations of the Cease and Desist Orders at precinct Nos. 1,6,15,22, 25,30,31,32,33,34,35,36, 37,41,52,53, 54,61, 62,63, 67,69,71,77, 89,90,102,103,109,110,114,115,122,128, 129,134 and 140 during the 2010 General Election:
6. The respondent committee's activity was not sanctioned by the Fenty 2010 Re-Election campaign.

Conclusion of Law

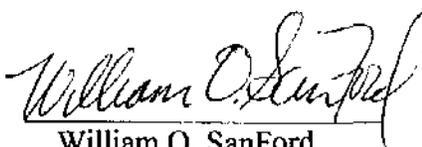
Based upon the record provided by OCF, I therefore conclude:

1. Respondent committee violated D.C. Official Code §1-1103.02(a)(1)(G) and 3DCMR§3710.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), 3DCMR§3711.2(n) for failing to place required notices on campaign literature is a fine of \$500.00 for each violation.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent committee may be fined a maximum of \$18,500.00 for the 37 violations cited above.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of the Office of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. The respondent committee's failure to prevent the flagrant violations of the Cease and Desist Orders committed by Mr. Lopez to which he admitted during a hearing on November 22, 2010, eliminates any basis for leniency or favorable consideration.

Recommendation

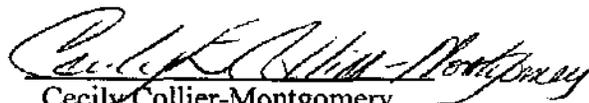
In view of the foregoing and information included in the record, I hereby recommend that the Director impose a fine of \$18,500.00 this matter.

January 14, 2011
Date


William O. Sanford
Hearing Officer

WHEREFORE, IT IS HEREBY ORDERED that the respondent committee be fined \$18,500.00 in this matter.

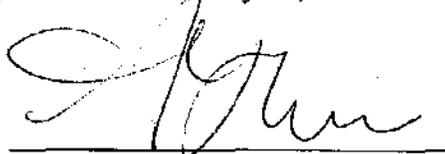
1/14/11
Date


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 Eleanor Anderson via e-mail at elliesfree@rcn.com, Junius Carter via e-mail at savedcnowntreasurer@gmail.com, Josh Lopez via e-mail at lopez120@gmail.com and to the foregoing individuals by first class postage pre-paid mail on January 14, 2010.



NOTICE

Pursuant to 3DCMR §3711.5 (March 2007), any fine imposed by the Director shall become effective on the 16th 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 420, 2000-14th Street, N.W., Washington, D.C. 20009.