

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

<b>IN THE MATTER OF</b>	)	DATE: May 6, 2011
	)	
Commissioner Barrie R. Daneker	)	DOCKET NO.: OCF 11C-004
Candidate for ANC 5C07	)	
26 Bryant Street, NW	)	
Washington, DC 20001	)	

ORDER

**Statement of the Case**

This matter comes before the Office of Campaign Finance (OCF) pursuant to a complaint by James Fournier which was initially filed with the Office of the General Counsel for the Board of Elections and Ethics (BOEE) on November 5, 2010. Mr. Fournier alleged that Barrie Daneker, candidate for Advisory Neighborhood Commission 5C07 in the November 2010 General Election (hereinafter respondent candidate), altered a Democratic State Committee (DSC) Sample Ballot to include his name on a list of democratic candidates without authorization. Subsequent to a referral from the BOEE, OCF docketed the matter on March 9, 2011 and determined that the respondent candidate failed to place notices required by D.C. Official Code §1-1102.10 on campaign literature.

By Notice of Hearing, Statement of Violation and Order of Appearance (hereinafter Notice of Hearing) dated March 16, 2011, OCF ordered the respondent candidate to appear at a scheduled hearing on March 24, 2011, and show cause why he 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**

On March 24, 2011, the respondent candidate appeared with counsel, Vincent Orange, Esq. OCF was represented by Latia Gaskins, Clerical Assistant.

Ms. Gaskins stated that OCF has alleged that the respondent candidate had failed to include notices required by the Act which states: "paid for by" and the name of the treasurer on campaign literature in accordance with the provisions of D.C. Official Code §1-1102.10. Counsel stated that the respondent candidate admitted the violation with an explanation. Counsel continued that Mr. Daneker was not aware that his reproduction of campaign literature that was produced and circulated by the Democratic State Committee was in violation of the provisions of D.C. Official Code §1-1102.10. Counsel additionally stated that when the respondent candidate was advised that his alteration of Democratic State Committee campaign materials was inappropriate, he immediately attempted to remove them from circulation. However, he was unable to retrieve all of the documents. Consequently, at least one copy of the altered DSC Sample Ballot was obtained by

Mr. Fournier who subsequently submitted a copy to the BOEE as an attachment to his complaint.

OCF examined the literature that Mr. Fournier submitted which consisted of one copy of a “Ward Five Sample Ballot” instructing voters to vote for the following Democratic Candidates: Eleanor Holmes Norton, DC Delegate to Congress; Vincent Gray, Mayor; Kwame Brown, Chairman of the Council; Phil Mendelson, At-Large Member of the Council; Mike Panetta, US Shadow Representative; Harry”Tommy” Thomas, Member of the Council for Ward Five and Barrie Daneker, ANC Commissioner 5C07. However, the disclaimer at the bottom of the document indicated that it was “Authorized by the DC Democratic State Committee, William O’ Field Treasurer”.

Counsel stated that respondent candidate’s reproduction of the sample ballot was not intended to mislead or deceive the voters but, merely his attempt to align himself with the candidates he was supporting in the General Election. Lastly counsel stated that immediately after the respondent candidate became aware of the infraction, he made a good faith effort to rectify the mistake by removing the altered ballots from circulation but, unfortunately, he was unable to retrieve a small number that had already been removed from where they had been placed.

### **Findings of Fact**

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

1. The respondent candidate was required to include notices required by the Act on all campaign literature in accordance with D.C. Official Code §1-1102.10.
2. The respondent candidate failed to include the notices on all campaign literature.
3. The respondent candidate has sought elective office in the District of Columbia before and has no prior history of non compliance with OCF requirements.
4. The respondent candidate timely filed a Summary Financial Statement and is currently in compliance with the statute.

### **Conclusions of Law**

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

Respondent committee violated D.C. Official Code §1-1102.10.

2. The penalty established at D.C. Official Code §1-1103.05(b) (3), 3DCMR §§3711.2(n), 3711.3 and 3711.4 for failure to place notices required by the Act on campaign literature as required by D.C. Official Code § 1-1102.10 is a fine of \$500.00 per violation.

3. In accordance with D.C. Official Code §1- 1103.05(b)(3), the respondent committee may be fined a maximum of \$500.00 for failing to place notices required by the Act on campaign literature.
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. Respondent candidate's attempt to immediately rectify his mistake, combined with his prior history of compliance and his timely adherence to OCF filing requirements, warrants favorable consideration.

**Recommendation**

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine this matter.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William O. SanFord  
General Counsel

WHEREFORE, IT IS HEREBY ORDERED that the fine in this matter is hereby suspended.

\_\_\_\_\_  
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 Barrie Daneker by first class postage pre-paid mail on May 6, 2011.

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**NOTICE**

Pursuant to 3DCMR §3711.5 (March 2007), 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 420, 2000-14<sup>th</sup> Street, N.W., Washington, D.C. 20009.