

BEFORE THE DIRECTOR
OF THE
OFFICE OF CAMPAIGN FINANCE
D.C. BOARD OF ELECTIONS AND ETHICS
2000 14TH STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0547

IN THE MATTER OF)
)
D.C. Democratic State Committee)
c/o Daniel Wedderburn, Treasurer)
3539 T Street, N.W.)
Washington, D.C. 20007)

DATE: April 7, 2010

DOCKET: OCF FI 2009-104

ORDER

Statement of the Case

On January 22, 2010, the Office of Campaign Finance (OCF) issued to Daniel H. Wedderburn, Treasurer of the D.C. Democratic State Committee (Respondent), an order to appear before the Director on February 2, 2010, at 10:00 a.m.; and, to show cause why civil penalties should not be levied against Respondent for violations of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974 (Act), as amended, D.C. Official Code §§1-1101.1 et seq. (2001 Edition, as amended). See 3 D.C.M.R. §3711 (March 2007, as amended).

Specifically, the reports, statements, and responses filed by Respondent were found “not in compliance with the [Act]”, pursuant to the Final Audit Report (Audit Report) of The D.C. Democratic State Committee (DCDSC) (State Party Committee), issued on December 18, 2009. Audit Report at p. 13. The Audit Report, spurred by a complaint for an investigation by Philip E. Pannell (complainant), Ward 8 Committeeman for the Committee, found that Respondent failed to conform to the mandatory recommendations cited in the Preliminary and Interim Audit Reports. See Audit Report, incorporated by reference herein as Exhibit One, and located at www.ocf.dc.gov.

The Preliminary and Interim Audit Reports recommended Respondent to submit an Amended Consolidated Report and perform the following changes thereon:

A. Report deposits/receipts/contributions totaling \$152,345.00 from PNC Bank and \$19,974.29 from Independence Federal Savings Bank, and disclose the contributions in the total sum of all receipts received by the Committee, in accordance with D.C. Official Code §§1-1102.06(b)(2) & (8). Audit Report at p. 3.

B. Delete reported receipts totaling \$8,515.14 which were not negotiated through the Committee’s bank accounts, in accordance with D.C. Official Code §§1-1102.06(b) (2) & (8). Audit Report at p. 4.

C. Include three (3) bank credits totaling \$164.75 and reconcile the difference in reported receipts versus audited receipts in the amount of (\$ 0.11), in accordance with D.C. Official Code §§1-1102.06(b)(2) & (8). Id.

D. Report expenditures totaling \$85,471.88, bank charges/adjustments from PNC Bank totaling \$13,877.92, and bank charges from Independence Savings Bank totaling \$170.00, in accordance with D.C. Official Code §§1-1102.06(b)(9) & (10). Audit Report at p. 5.

E. Include in total expenditures an understatement in the amount of \$0.46 due to the incorrect disclosure of four (4) expenditures; and reconcile the difference of \$5.70 in reported expenditures versus audit expenditures (per Committee bank statements), in accordance with D.C. Official Code §§1-1102.06(9) & (10). Id.

F. Delete reported expenditures totaling \$4,535.00 because they were not negotiated through the Committee's bank accounts; and delete three (3) payments totaling \$1,015.33, because they were made before the period under audit (January 1, 2007 through January 31, 2009), in accordance with D.C. Official Code §§1-1102.06(b)(9) & (10). Audit Report at p. 6.

G. Correct the misstatement of its receipts [\$163,968.79 understatement], disbursements [\$93,964.23 understatement], and its cash on hand [\$13,919.64], as of January 31, 2009, in accordance with D.C. Official Code §§1-1102.06(b) (8) & (10). Audit Report at pp. 6-7.

H. List D.C. Denver Convention 2008 as a Committee account because it is not "indistinguishable as a separate entity" with an "independent identity" and report any monies received and spent in accordance with the Act; and, refund the excessive portion of each contribution received in excess of \$5,000.00," pursuant to D.C. Official Code §1-1141.01(d)(1).

The show cause hearing was held on February 2, 2010 before William O. Sanford, OCF Senior Staff Attorney. See Exhibit Two. The undersigned acted on behalf of OCF. Donald R. Dinan, Esq. of Roetzel and Andress, and (former Councilmember from Ward 5) Vincent Orange, Esq., both of Washington, D.C. acted on behalf of Respondent; Anita Bonds, Committee President, also appeared and testified. The record was held open to receive additional documents until February 12, 2010; and, the period was extended to February 16, 2010, due to severe area snow conditions.

Respondent averred that it has always been prepared to submit an Amended Consolidated Report, pursuant to the Final Report, incorporating each of the recommendations cited therein except for the recommendation to list D.C. Denver Convention as a Committee account. Exhibit Two at 29 and 45. According to Respondent, the activities of D.C. Denver Convention 2008 could not be attributed to Respondent because Respondent did

not: authorize the account, set up the account and did not maintain control of the account. Letter to OCF Director on behalf of Respondent from Counsel Dinan dated February 16, 2010.

Issue

Whether Respondent should be fined, in accordance with D.C. Official Code §1-1103.05(b)(3) and 3 D.C.M.R. §3711, or, if fined, whether same should be mitigated, for Respondent's failure to submit the recommended Amended Consolidated Report, pursuant to the mandate of the December 2009 Final Audit thereof because Respondent believes that the contributions and expenditures associated with D.C. Denver Convention 2008, as required by the Final Audit for inclusion therein, cannot be attributable thereto inasmuch as Respondent further believes it did not authorize the account, set up the account or maintain control of the account.

Background

Complainant alleged that a checking account was established at the Industrial Bank of Washington, D.C. from June 18, 2008 through February 6, 2009 under the name of the Committee and that it was never reported to the Committee or to OCF; and, that two (2) contributions of \$5,000 each from "Verizon Communications, Inc. Good Government Club" were not listed in the Committee reports. OCF discovered there existed a "DC Delegation Denver Convention 2008 Donor Sheet," requesting contributions for "Denver Convention 2008," and listing at the bottom thereof that its "report will be filed with the DC Office of Campaign Finance, Washington, D.C."

Upon a review of OCF records, it was determined that there was not any record of any report from D.C. Denver Convention 2008, nor had it organized as a political committee with OCF. Because the alleged improprieties were completely financial in nature, OCF authorized, with approved requests for extensions from the D.C. Board of Elections and Ethics (BOEE), what would become a nine (9) month audit of Respondent. It must be noted that Respondent's treasurer was newly installed and, together with counsel and the chairperson, many documents were meticulously gleaned from various and diverse sources and presented to the OCF Audit Manager.

During the period of the audit, preliminary and interim audit reports issued, following thorough and detailed oral and written inquiries and responses between Respondent and counsel, and the OCF Audit Manager. In other words, each issue was carefully examined. Accordingly, OCF determined that Respondent should have combined its reporting of receipts and expenditures with that of D.C. Denver Convention 2008. Final Report at 12. Notwithstanding, upon issuance of the Final Report, Respondent questioned whether civil penalties should attach in view of its opposite belief on the issue of D.C. Denver Convention 2008 and its willingness to submit an Amended Consolidated Report encompassing all of the other recommendations.

The scope of the OCF investigation, which was conducted until March 31, 2010, pursuant to a grant of an order of extension by the BOEE, entailed a full field audit, reviewing and verifying all submitted information, in light of the OCF and FEC statutes and regulations; research; and in-house meetings.

Relevant Statutory and Regulatory Provisions

D.C. Official Code §1-1101.01 reads, in pertinent part:

When used in this chapter, unless otherwise provided:

...

(2) The term “candidate” means an individual who seeks nomination for election, or election, to office, whether or not such individual is nominated or elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he or she has: (A) Obtained or authorized any other person to obtain nominating petitions to qualify himself or herself for nomination for election, or election to office; (B) received contributions or made expenditures, or has given his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination for election, or election, to office; or (C) reason to know, or knows, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose. A person who is deemed to be a candidate for the purposes of this chapter shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other federal law.

(3) The term “office” means. . .an official of a political party.

(4) The term “official of a political party” means:

...

(B) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States.

(5) The term “political committee” means any proposer, individual, committee (including a principal campaign committee), club, association, organization, or other group of individuals organized for the purpose of, or engaged in: promoting or opposing a political party [and] promoting or opposing the nomination or election of an individual to office[.]

D.C. Official Code §1-1102.01(a) reads, “Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of treasurer thereof and no other person has been designated and has agreed to perform the

functions of treasurer. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.”

D.C. Official Code §1-1102.01(b) reads, at the last sentence, “All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of such committee.”

D.C. Official Code §1-1102.01(e) reads, “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 §1-1102.03 (a) reads, in part, “Each political committee. . .accepting contributions or making expenditures, shall designate, in the registration statement required under §1-1102.04. . .1 or more national banks located in the District of Columbia as the campaign depository or depositories of that political committee[.] Each such committee. . .shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee or candidate into that account or accounts. No expenditures may be made by such committee . . .except by check drawn payable to the person to whom the expenditure is being made on that account or accounts.”

D.C. Official Code §1-1102.04(b)(2) requires the statement of organization to include, among other things, “The names, addresses, and relationships of affiliated or connected organizations.”

D.C. Official Code §1-1102.06(a) reads, in part, “The treasurer of each political committee supporting a candidate. . .shall file with the Director. . .reports of receipts and expenditures on forms to be prescribed or approved by the Director.”

D.C. Official Code §1-1102.06(b)(8) & (10) requires that each report “shall disclose [t]he total sum of all receipts by or for such committee. . .during the reporting period [and t]he total sum of expenditures made by such committee. . .during the calendar year[.]”

D.C. Official Code §1-1102.08(a) reads, “A report or statement required by this subchapter to be filed by a treasurer of a political committee. . .shall be verified by the oath or affirmation of the person filing such report or statement.”

D.C. Official Code §1-1103.05(b)(3) reads, in part, “[T]he Board may issue a schedule of fines for violations of this chapter, which may be imposed ministerially by the Director [except that t]he aggregate set of penalties imposed under the authority of this paragraph may not exceed \$2000.”

Pursuant to 3 D.C.M.R. §3711.1, “Upon a determination. . .that a violation has occurred, the Director may ministerially impose fines upon the offending party, in the following manner:

- “(a) Each allegation shall constitute a separate violation; and
- “(b) A fine shall attach for each day of non-compliance for each violation.”

Pursuant to 3 D.C.M.R. §3711.2, “Fines shall be imposed as follows:

- “(c) Failure to designate a campaign depository \$30 per day;
- “(f) Failure to file R&E Reports \$50 per day;
- “(o) Accepting contributions in excess of contribution limitations \$2000; [and]
- “(p) Making contributions in excess of contribution limitations \$1000[.]”

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

Respondent relies upon the verified statements, and accompanying documents, presented during the show cause hearing of February 2, 2010. Committee Treasurer Wedderburn stated that his predecessor, Lenwood Johnson, failed to file Committee reports. Upon taking the position of treasurer, he stated that he worked on reconstructing the books and the paperwork of the Committee for submission to OCF. Exhibit Two at pp. 32-35. In the midst of doing so, the complaint emerged. Moreover, upon the issuance of the Interim Audit, the Committee voted to reject “the notion that the Denver account and the State Committee account should be combined.” *Id.* at pp. 39-40. According to Committee Treasurer Wedderburn, he would have signed the Amended Consolidated Report had the State Committee voted to accept that D.C. Denver Convention 2008 finances should have been included therein. *Id.* at pp. 41-43.

Respondent argued that it never opened the account, created the account, owned the account, or authorized the account for delegates. *Id.* at pp. 51-52. Yet, Respondent “acknowledge[d] and recognize[d] that someone set up a convention account and that was an account that was operating.” *Id.* at pp. 56-57.

Committee Chairperson Anita Bonds stated that she “set up the account based on the law.” *Id.* at p. 60. In accordance with rules and policies of the Federal Elections Commission and established procedures, Committee Chairperson Bonds believed that she could raise money for the convention in this manner. *Id.* at pp. 64-65. She emphatically claimed that OCF advised her and her associates that the account would not be “subject

to [OCF] rules if not set up to support or oppose candidates for D.C. elective office.” Id. at pp. 64-65 & 71-73. Committee Chairperson Bonds admitted that she may have made mistakes in establishing the account; but, the account is not within the scope of OCF authority. See Id. at p. 84.

OCF relies upon the Final Audit. OCF further relies upon the testimony of the principals at the February 2, 2010 show cause hearing.

On pages 9-10, the Final Audit reads, in part, “In its Response to the Preliminary Audit Report, the Committee stated. . .that the D.C. Denver Convention 2008 was a separate and distinct entity from the Committee and the Committee does not have to report the D.C. Denver Convention 2008’s receipts and expenditures to OCF” because:

1. “The Committee did not authorize the establishment of the D.C. Denver Convention 2008 account nor has it ratified prospectively or retroactively the authorization of the D.C. Denver Convention 2008.”

2. “The sole purpose of the D.C. Denver Convention 2008 account was to support the costs/expenses of the D.C. Denver Convention 2008 and that these activities were primarily in support of the D.C. delegation to the convention.”

3. “The D.C. Denver Convention 2008 has a Taxpayer Identification Number which is unique, independent and separate from the DCDCS, which has its own Taxpayer Identification Number [and] treasurer. . .who was not elected by the DCDCS body to this position.”

4. “The D.C. Denver Convention 2008 account has an independent address and conducts its banking activity at Industrial Bank, which is independent of the DCDCS’s banking activity which is conducted at Independence Federal Savings Bank and PNC Bank.”

5. “The D.C. Denver Convention 2008 account was established pursuant to [FEC] regulations that do not restrict donations to host committees for the purpose of paying the cost of activities associated with the national political conventions. The FEC regulations specifically permit convention host committees to solicit contributions payable to the host committee.”

6. “The Committee Donor Sheet which was given to potential contributors specifically identified the organization as ‘D.C. Delegation Denver Convention 2008’ and stated that checks were to be made payable to ‘Denver Convention 2008.’ The Donor [S]heet contained prominently the fundraiser disclaimer and that this disclaimer made clear the purpose of the funds solicited and how they were to be used. Further, the disclaimer made it clear that the funds were ‘for the D.C. Delegation expenses’ and identified the host committee as ‘Denver Convention 2008.’”

7. “The use of the funds being solicited was well known to the donors – to pay for the expenses of the Democratic Presidential Convention in Denver.”

8. “The D.C. Denver Convention 2008 did not and does not support candidates for public office.”

As noted, the Final Audit dispels all of Respondent’s claims. Final Audit at pp. 10-12. Moreover, testimony from counsel and the principals failed to buttress same.

First, Committee Chairperson Bonds initiated fundraising of convention expenses in February 2008 by writing on Respondent’s letterhead. “I was really using it for identification purposes.” Exhibit Two at p. 102.

Second, three (3) expenditures from the D.C. Denver Convention 2008 account were made to “D.C. President Gala 2009.” According to Committee Chairperson Bonds, “the convention account had monies left over[.]” Id. at pp. 114-115.

Third, Committee Chairperson Bonds admitted to signing an Industrial Bank document, used to open the account in July 2008, which stated “D.C. Democratic State Committee Denver 2008 Convention.” Under her signature thereon, she further admitted to inking “D.C. Democratic State Committee Chairperson” and testified that it never occurred to her that “this is activity that is sanctioned by the D.C. Democratic State Committee.” Id. at pp. 126-127.

Fourth, in accordance with her testimony as to the acquisition of funds and the formation of the account, Committee Chairperson Bonds used her status to fundraise and to “facilitate the process, put as much energy in getting the resources that the delegation needed, in for the Mayor whenever I had to, because he was and the Chair of the delegation always is and just trying to make it happen[.]” Id. at p. 128. When questioned by counsel, “so the first time that the D.C. Democratic State Committee had an opportunity to inquire about these actions were after the fact?”, Committee Chairperson Bonds responded, “Oh, yes O, yes, definitely.” Id. at pp. 129-130.

Fifth, Respondent failed to submit during the hearing or with documents received by OCF on February 16 2010, any indication of filing with FEC.

Sixth, it was pointed out to the principals that the Committee Donor Sheet also listed the logo for the Democratic National Congressional Committee and that, contrary to the fundraiser disclaimer, there was no OCF filing. Id. at p. 99 & 101-102. Committee Chairperson Bonds testified that “because I’m very conscious of the significance of office campaign finance, and as I said, having my history, I wanted to make sure that there was a disclaimer on the documentation. And so the disclaimer was added on the donor sheet, because in theory, you can’t really solicit without having something that would indicate that you’re going to actually file a report. I thought that we had to file a report. What

I'm saying is the idea of soliciting and the reaching out occurred before an account was set up, before this was made apparent, and before the contact was made with the Office of Campaign Finance." Id. at p. 106. She further testified that she was advised, after "substantially" all of the checks had been received, after the August convention that a filing was not required with the Office of Campaign Finance. Id. at p. 108.

Seventh, Committee Chairperson Bonds agreed that some of the checks were "made out to the State Committee [.]" Id. at p. 101.

Eight, Counsel asserted and the principals testified that D.C. Denver Convention 2008 did not support candidates for public office. Nonetheless, testimony throughout indicate a weighty affiliation with Respondent.

Additional documentation was received from Respondent on February 16, 2010. Included therewith were Official Minutes of the Meeting of the DCDSC on December 3, 2009, DC Campaign Finance Rules As Applicable to Fundraising for 2008 Democratic Convention Activities [not attributable to staff of the D.C. Office of Campaign Finance], rules on Handing of Meetings and Recptions(sp?) at national Convention, and agenda of a meeting attended by Committee Chairperson Bonds, attesting to a workshop or seminar on fundraising techniques for the convention.

Findings of Fact

Having reviewed the allegations and the entire record in this matter, I find:

1. Respondent is a political committee and is required to file with the D.C. Office of Campaign Finance (OCF).
2. The OCF Final Audit Report of the D.C. Democratic State Committee (DCDSC) (State Party Committee), issued on December 18, 2009, is incorporated herein by reference.
3. Specifically, Respondent "failed to report deposits/receipts/contributions totaling \$152,345.00 from PNC Bank and \$19,974.29 from Independence Federal Savings Bank, and to disclose the contributions in the total sum of all receipts received by" Respondent. Final Audit at p. 3.
4. Specifically, "reported receipts totaling \$8,515.14 were not traceable to the [Respondent's] bank statements; therefore, not negotiated through the [Respondent's] bank accounts." Final Audit at p. 4.
5. Specifically, "three (3) bank credits totaling \$164.75 were unreported by the [Respondent]; and, "an unreconcilable difference in reported receipts verses audited receipts in the amount of (\$ 0.11)." Id.

6. Specifically, Respondent “failed to report expenditures totaling \$85,471.88. . .bank charges/adjustments from PNC Bank totaling \$13,877.92. . .[and] bank charges from Independence Savings Bank totaling \$170.00.” Final Audit at p. 5.

7. Specifically, four (4) expenditures were incorrectly disclosed, which resulting in a total understatement of \$0.46 in total expenditures and “there was an unreconcilable difference in reported expenditures verses audit expenditures (per [Respondent] bank statements) in the amount of \$5.70.” Id.

8. Specifically, Respondent “reported expenditures totaling \$4,535.00. . .which were not negotiated through the Committee’s bank accounts[; and] three (3) payments totaling \$1,015.33 which were made before the period under audit (January 1, 2007 through January 31, 2009).” Final Audit at p. 6.

9. Overall, Respondent “misstated its receipts [\$163,968.79 understatement], disbursements [\$93,964.23 understatement], and its cash on hand [\$13,919.64], as of January 31, 2009.” Final Audit at pp. 6-7.

10. Additionally, Respondent failed “to list the D.C. Denver Convention 2008 as an account [under Respondent] and report any monies received and spent [and] refund the excessive portions of each contribution received in excess of \$5,000.00.”

11. Respondent lists on its OCF Statement of Organization a designated chairman and a treasurer.

12. The designated chairman and treasurer, or their agents, are solely responsible for Respondent’s financial affairs as it pertains to OCF.

13. Any resolution, order or edict regarding Respondent’s designated chairman and treasurer, or their agents, which is not reflected within Respondent’s OCF Statement of Organization, is null.

14. Any contribution or expenditure which was negotiated through Respondent’s account by the designated chairman, treasurer, or their agents, inured to Respondent; whether or not its purpose was to support or oppose any candidate for elective office and the totality of the circumstances herein reflect that Respondent attributed each contribution or expenditure thereto.

15. The establishment of any account wherein any contribution or expenditure was negotiated through Respondent’s account by the designated chairman, treasurer, or their agents, inured to Respondent; whether or not its purpose was to support or oppose any candidate for elective office and the totality of the circumstances herein reflect that Respondent attributed each contribution or expenditure thereto.

16. The control of any account wherein any contribution or expenditure was negotiated through Respondent's account by the designated chairman, treasurer, or their agents, inured to Respondent; whether or not its purpose was to support or oppose any candidate for elective office and the totality of the circumstances herein reflect that Respondent attributed each contribution or expenditure thereto.

17. D.C. Denver Convention 2008 is D.C. Democratic Committee Denver 2008 and negotiated contributions or expenditures through Respondent; whether or not its purpose was to enable elected Delegates to the Democratic Convention and Respondent attributed each contribution or expenditure of D.C. Democratic Committee Denver 2008 thereto.

18. Any contribution or expenditure of D.C. Democratic Committee Denver 2008 which was negotiated through Respondent's account was authorized by Respondent's chairman, Anita Bonds, or treasurer, Lenwood Johnson, or their designee(s) and inured to Respondent; whether or not any contribution or expenditure of D.C. Democratic Committee Denver 2008 supported or opposed any candidate for elective office, or enabled elected Delegates to the Democratic Convention, and Respondent attributed each contribution or expenditure of D.C. Democratic Committee Denver 2008 thereto.

19. Any document which purported to establish D.C. Democratic Committee Denver 2008 and was signed by Respondent's chairman, Anita Bonds, in her capacity thereof, inured to Respondent; whether or not any such document was incorporated by D.C. Democratic Committee Denver 2008 only to enable elected Delegates to the Democratic Convention and Respondent attributed any such thereto.

20. Respondent's chairman, Anita Bonds, or treasurer, Lenwood Johnson, or their designee(s), authorized, set up or maintained control of D.C. Democratic Committee Denver 2008, the establishment of which inured to Respondent; whether or not any contribution or expenditure of D.C. Democratic Committee Denver 2008 supported or opposed any candidate for elective office or was used to enable elected Delegates to the Democratic Convention and Respondent attributed each contribution or expenditure of D.C. Democratic Committee Denver 2008 thereto.

21. The contributions and expenditures of D.C. Democratic Committee Denver 2008 must be incorporated within the OCF Amended Consolidated Report of the D.C. Democratic Committee and any excess contributions submitted therein must be returned because contributions and expenditures were negotiated through and under the control of the Chairperson or Treasurer of the D.C. Democratic Committee; whether or not any contribution or expenditure of D.C. Democratic Committee Denver 2008 supported or opposed any candidate for elective office, or was used to enable elected Delegates to the Democratic Convention, the organization membership denied any complicity therewith and Respondent attributed each contribution or expenditure of D.C. Democratic Committee Denver 2008 thereto.

22. Respondent was required to file an Amended January 31, 2009 Consolidated Report of the D.C. Democratic Committee, incorporating all of the recommendations of the November 9, 2009 Interim Audit no later than December 9, 2009.

23. Respondent did not timely file the Amended January 31, 2009 Consolidated Report of the D.C. Democratic Committee.

Conclusions of Law

Based upon the record, in its entirety, and the evidence, I therefore conclude:

1. Respondent is subject to the Act's campaign finance statute, at D.C. Official Code §1-1102.01(a).
2. The OCF Final Audit Report of the D.C. Democratic State Committee (DCDSC) (State Party Committee), issued on December 18, 2009, is incorporated herein by reference.
3. Specifically, Respondent "failed to report deposits/receipts/contributions totaling \$152,345.00 from PNC Bank and \$19,974.29 from Independence Federal Savings Bank, and to disclose the contributions in the total sum of all receipts received by" Respondent, in contravention of D.C. Official Code §§1-1102.06(b)(2) & (8).
4. Specifically, "reported receipts totaling \$8,515.14 were not traceable to the [Respondent's] bank statements; therefore, not negotiated through the [Respondent's] bank accounts," in contravention of D.C. Official Code §§1-1102.06(b)(2) & (8).
5. Specifically, "three (3) bank credits totaling \$164.75 were unreported by the [Respondent]; and, "an unreconcilable difference in reported receipts verses audited receipts in the amount of (\$ 0.11), " in contravention of D.C. Official Code §§1-1102.06(b)(2) & (8)
6. Specifically, Respondent "failed to report expenditures totaling \$85,471.88. . .bank charges/adjustments from PNC Bank totaling \$13,877.92. . .[and] bank charges from Independence Savings Bank totaling \$170.00," in contravention of D.C. Official Code §§1-1102.06(b)(9) & (10).
7. Specifically, four (4) expenditures were incorrectly disclosed, which resulting in a total understatement of \$0.46 in total expenditures and "there was an unreconcilable difference in reported expenditures verses audit expenditures (per [Respondent] bank statements) in the amount of \$5.70," in contravention of D.C. Official Code §§1-1102.06(b)(9) & (10).

8. Specifically, Respondent “reported expenditures totaling \$4,535.00. . .which were not negotiated through the Committee’s bank accounts[; and] three (3) payments totaling \$1,015.33 which were made before the period under audit (January 1, 2007 through January 31, 2009),” in contravention of D.C. Official Code §§1-1102.06(b)(9) & (10).
9. Overall, Respondent “misstated its receipts [\$163,968.79 understatement], disbursements [\$93,964.23 understatement], and its cash on hand [\$13,919.64], as of January 31, 2009,” in contravention of D.C. Official Code §§1-1102.06(b)(8) & (10).
10. Additionally, Respondent failed “to list the D.C. Denver Convention 2008 as an account [under Respondent] and report any monies received and spent [and] refund the excessive portions of each contribution received in excess of \$5,000.00, ” in contravention of D.C. Official Code §§1-1102.06(b)(8) & (10).
11. Respondent failed to amend its Statement of Organization in violation of D.C. Official Code §§1-1102.03(a).
12. The penalty established at D.C. Official Code §1-1103.05(b)(3), 3 D.C.M.R. §§3711.2(c), 3711.3 and 3711.4 for failure to designate a campaign depository on Respondent’s Statement of Organization for D.C. Democratic Committee Denver 2008 is a fine of \$30 per day for each business day subsequent to the due date.
13. In accordance with D.C. Official Code §1-1103.05(b)(3), Respondent may be fined a maximum of \$2000 for failure to timely designate a campaign depository on Respondent’s Statement of Organization for D.C. Democratic Committee Denver 2008.
14. The penalty established at D.C. Official Code §1-1103.05(b)(3), 3 D.C.M.R. §§3711.2(f), 3711.3 and 3711.4 for failure to timely file the Amended January 31, 2009 Consolidated Report is a fine of \$50 per day for each business day subsequent to the due date.
15. In accordance with D.C. Official Code §1-1103.05(b)(3), Respondent may be fined a maximum of \$2000 for failure to timely file the Amended January 31, 2009 Consolidated Report; although Respondent purported to file same on March 22, 2010 and it failed to incorporate all of the recommendations of the Final Audit.
16. The penalty established at D.C. Official Code §1-1103.05(b) (3), 3 D.C.M.R. §§3711.2(o), 3711.3 and 3711.4 for accepting contributions in excess of contribution limitations is \$2000 for each violation.

17. In accordance with D.C. Official Code §1-1103.05(b)(3), Respondent may be fined a maximum of \$14,000 for accepting seven (7) contributions in excess of contribution limitations.
18. Pursuant to the Act, Respondent may be fined a maximum of \$18,000.
19. For good cause shown pursuant to 3 D.C.M.R. §3711.6, the Director of the Office of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
20. Due to Respondent's abject, defiant and continuing failure to incorporate all of the recommendations of the Order of the Director in the Final Audit, there no basis upon which the fine in this matter may be modified.

Recommendation

I hereby recommend that the Director impose a fine of \$18,000 in this matter.

I hereby further recommend that, within ten (10) days from the date of this Order, Respondent amend the Statement of Organization to list the D.C. Democratic Committee Denver 2008 bank account and submit the attached Amended January 31, 2009 Consolidated Report, which wholly incorporates all of the recommendations of the Final Audit, including the reporting of the receipts and expenditures of the D.C. Democratic Committee Denver 2008 bank account.

I hereby finally recommend the full refund of all contributions in excess of the \$5,000 contribution limitation.

April 7, 2010

Date

KSWms

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that a fine of \$18,000 is imposed against Respondent in this matter.

IT IS FURTHER ORDERED that within ten (10) days from the date of this Order, Respondent amend the Statement of Organization to list the D.C. Democratic Committee Denver 2008 bank account and submit the attached Amended January 31, 2009 Consolidated Report, which wholly incorporates all of the recommendations of the Final Audit, including the reporting of the receipts and expenditures of the D.C. Democratic Committee Denver 2008 bank account.

IT IS FINALLY ORDERED that the full refund of all contributions in excess of the \$5,000 contribution limitation.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance. Attachments to this Order are available for review or copying in OCF, upon request.

April 7, 2010

Date

CECM

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy by e-mail of the foregoing Order to complainant, respondent and other interested parties on Wednesday, April 7, 2010.

KSWms

NOTICE

Pursuant to 3 D.C.M.R. §3711.5 (1999), 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.