

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) 671-0550

IN THE MATTER OF)
) DATE: February 6, 2001
)
Committee to Elect Childs)
) DOCKET NO.: PI 2000-103(c)
)

ORDER

Statement of the Case

This matter arises out of a complaint filed by Marie Drissel, 2135 Bancroft Place, N. W., Washington, D. C., 20008, alleging a violation of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D. C. Code §§1-1401 et seq. (the Act). Ms. Drissel claimed that on Election Day, November 7, 2000, 2 workers of the Committee to Elect Childs (Committee) circulated and mounted campaign literature, that did not have identifying campaign, treasurer or source of payment information, at 2 District polling precincts.

Issue

Whether the Committee allegedly distributed and mounted campaign literature that failed to disclose, as required by D. C. Code §1-1420, the following identifying language: “. . .the 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 appears.”

Background

On November 7, 2000, Ms. Drissel submitted a complaint wherein she alleged that 2 Committee workers, James Baxter and Luther Buck, circulated and mounted Committee campaign literature, that did not have identifying campaign language, at 2 District polling precincts. She attached a statement from a bystander, Jacqueline DeCarlo, who observed the activity of the former. Ms. Drissel also brought the allegedly offending 3 posters to OCF. She further related in her complaint that another bystander, Beth Solomon, observed Mr. Buck performing the same activity as that of Mr. Baxter.

On November 8, 2000, Ms. Drissel delivered photographs in support of her complaint to OCF. On the same date, the Committee was apprised of the complaint. Mr. Childs requested and was granted, by telephone, on November 8, 2000, at least 4 weeks to provide the information required to respond to these allegations.¹ He said that he still had pending OCF Reports of Receipts and Expenditures, and amendments, to submit. On or around December 11, 2000, at his request, Mr. Childs was granted an additional month within which to submit the required information due to the fact that he was on work-related travel and had not addressed this matter.

¹ Mr. Childs desired to incorporate his responses with those to the remaining allegations of 3 previous complaints submitted by Ms. Drissel in regard to this election contest.

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On January 9, 2001, OCF dispatched a Notice of Hearing, Statement of Violations and Order of Appearance to the candidate, Robert Childs, and A. Wayne Strickland, Committee Treasurer, requiring one or both to provide the requested additional information on the record. On January 22, 2001, an informal hearing on this matter was held. Mr. Childs appeared and provided the requested information.

The scope of the OCF investigation in this matter encompassed interviewing Committee workers; and gathering, reviewing and verifying pertinent submitted information.

Relevant Statutory and Regulatory Provisions

D. C. Code §1-1420 states, in part, "All newspaper or magazine advertising, posters, circulars, billboards. . .and other printed matter with reference to or intended for the support or defeat of a candidate. . .for nomination or election to any public office. . .shall be identified by the 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 appears."

D. C. Code §1-1435(b)(3) states, in part, "The aggregate set of penalties imposed under the authority of [the Director] may not exceed \$2000."

At 3 D.C.M.R. §3711.2, it reads, in part, "Fines shall be imposed as follows: . . . (l) failure to place notices required by the Act on campaign literature[,] \$10 per day[.]"

At 3 D.C.M.R. §3711.4, it reads, "In calculating the time period for delinquencies, Saturdays, Sundays, and holidays shall not be included."

At 3 D.C.M.R. §3711.5, it reads, "Any fine imposed by the Director, under §3711.2, shall become effective on the sixteenth (16th) day following the issuance of a decision and order; Provided, that, the respondent does not request a hearing under §3709.12."

At 3 D.C.M.R. §3711.7, it reads, "Fines imposed under his chapter shall be paid within ten (10) days of the effective date, at the OCF, Frank D. Reeves Municipal Building, 2000 14th Street, N. W., Washington, D. C., 20009, by money order or check made payable to the D. C. Treasurer."

Summary of Evidence

In support of her complaint, Ms. Drissel submitted her affirmed letter of November 7, 2000, identifying Jacqueline DeCarlo and Beth Solomon as witnesses, and the posters. She also delivered photographs, in support of her claim, to OCF. See Attachment A for Ms. Drissel's letter and the statement by Ms. DeCarlo.² The Committee, through Mr. Childs, relies upon his responses, in seriatim, to the complaint, given under oath on January 22, 2001, supported by submitted documentation. See Attachment B.

OCF relies upon the confirmation and verification by the OCF investigator of all statements given under oath. See Attachment C. Finally, OCF relies upon information gleaned by the undersigned during the informal hearing of January 22, 2001.

² The photographs and posters, which are incorporated within Attachment A, are available for review in the OCF office.

Findings of Fact

Having reviewed the allegations and respondents' answers, I find:

1. On Election Day, November 7, 2000, the candidate, Robert Childs, distributed campaign literature, 2 pieces of which consisted of an October 21, 2000 editorial from The Washington Post and an undated article from The Northwest Current, supporting his candidacy. See Attachments B and C.
2. Mr. Childs distributed campaign literature with the requisite identifying campaign information listed thereon. Id.
3. On Election Day, November 7, 2000, James Baxter and Luther Buck were Committee workers. See Attachment C.
4. Messrs. Baxter and Buck acknowledged that they were carrying and distributing campaign literature from and for the Committee. Id.
5. Mr. Childs acknowledged that Messrs. Baxter and Buck were Committee workers. See Attachment B.
6. Mr. Childs acknowledged that Messrs. Baxter and Buck were carrying and distributing campaign literature from and for the Committee. Id.
7. Both workers were distributing and mounting Committee campaign literature consisting of 2 taped poster size reproductions suspended on steel rods of 2 Washington Post editorials, dated October 21, 2000 and a November 6, 2000, endorsing the candidate at 2 District polling precincts. Id.
8. The campaign literature delivered to OCF by Marie Drissel was that which Mr. Baxter had mounted at a District polling precinct. See Attachment A.
9. None of the campaign literature distributed and mounted by Messrs. Baxter and Buck had the requisite identifying campaign information listed thereon. See Attachments A and C.

Conclusions of Law

Based upon the record and evidence, I therefore conclude:

1. The acts of committee workers James Baxter and Luther Buck on Election Day, November 7, 2000, are ascribed to that of the Committee.
2. The Committee was required to ensure that James Baxter and Luther Buck, as their committee workers, distributed and mounted campaign literature with the proper identifying campaign information, pursuant to D. C. Code §1-1420.
3. The Committee violated D. C. Code §1-1420, because its committee workers distributed and mounted campaign literature without the proper identifying campaign information.

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4. The penalty established at 3 D.C.M.R. §3711.2(l) for failure to place notices required by the Act on campaign literature is \$10 per day per violation.
5. On Election Day, November 7, 2000, the Committee failed to place notices required by the Act on 2 pieces of campaign literature.
6. The Committee may be fined in the amount of \$20 for violating D. C. Code §1-1420.

Recommendation

I hereby recommend the Director to impose a fine of \$20 upon the Committee for failure to place notices on 2 pieces of campaign literature on Election Day, November 7, 2000.

Date

Kathy S. Williams
General Counsel

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ORDER OF THE DIRECTOR

IT IS ORDERED that a fine of \$20 be imposed upon the Committee for failure to place notices on 2 pieces of campaign literature on Election Day, November 7, 2000.

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

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have been served with a true copy of the foregoing Order.

cc: Curtis Lewis, Esq.
Curtis Lewis and Associate
1750 New York Avenue, N. W.
Washington, D. C. 20004

Robert G. Childs
1624 Webster Street, N. W.
Washington, D. C. 20011

A. Wayne Strickland
1806 Valley Terrace, S. E.
Washington, D. C. 20032

Marie Drissel
2135 Bancroft Place, N. W.
Washington, D. C. 20008

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 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.