

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

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| IN THE MATTER OF |) |
| |) DATE: November 7, 2001 |
| Mark Jones |) |
| Deputy Chief of Staff |) DOCKET NO.: PI 2001-101 |
| Office of the Mayor |) |

ORDER

Statement of the Matter

This matter arises out of an internal inquiry instituted by the Office of Campaign Finance (OCF) on or about February 2, 2001. It concerns the alleged misuse by Mark Jones of his position / of Deputy Chief of Staff, in contravention of the D.C. personnel regulations at Chapter 18, "Employee Conduct", of the District Personnel Manual (DPM) (Standards of Conduct). As a result of a series of contemporaneous media reports regarding Mark Jones' fundraising activities, OCF queried whether Mr. Jones solicited funds for several private organizations to support certain public events, used government time and resources therefor, and, solicited same from some businesses regulated by the D.C. government.

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the Standards of Conducts (Standards). There was not any indication herein that Mr. Jones committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Code 1-1101.01 et seq. (2001) [formerly D.C. Code §§1-1401 et seq. /]. Any alleged violation of the Act by Mr. Jones would be predicated upon the premises that Mr. Jones realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities. / See D.C. Code §§1-1106.01 and 1-1106.02 [formerly D.C. Code §§1-1461 and 1-1462]. OCF's review did not reveal any such activity.

Issues

1. Whether Mark Jones violated §1804.1(b) of the Standards, when he allegedly used government time and resources by soliciting contributions for Urban Assistance Fund and For the Kids Foundation, private non-profit organizations, / which wholly supported certain public events, by telephone calls or correspondence, emanating from his D.C. government office?
2. Whether Mark Jones violated §1803.2(b) of the Standards, when he allegedly solicited, personally or through his assistant, contributions for private non-profit organizations, which supported certain public events, from individuals and businesses whose operations or activities are regulated by the D.C. government?

Background

On January 26, 2001, OCF learned from WRC News4 television that Mark Jones, Deputy Chief of Staff to Mayor Anthony Williams, was responsible for soliciting funds for Urban Assistance Fund and For the Kids Foundation, respectively, for a Presidential Inaugural reception and an adult Christmas Party for Mayor Williams. Additional reports from WRC News4 television and articles from the Washington Post, City Paper, Washington Times and the Georgetown Current subsequently and rapidly covered this news. As a result, OCF initiated an internal inquiry into this matter. A preliminary investigation, pursuant to the Standards, followed.

On February 9, 2001, OCF advised Mark Jones that OCF had commenced an investigation into his possible violation of the Standards. He was requested to respond to the allegation and to submit any relevant information. On February 27, 2001, he submitted his notarized response.

On March 20, 2001, OCF dispatched interrogatories to the incorporators and officers of Urban Assistance Fund, For the Kids Foundation and Millennium Washington-Capital Centennial. The first response was received on March 27, 2001.

On March 30, 2001, OCF issued a Notice of Hearing, Statement of Violations and Order of Appearance to Mark Jones, requiring him to provide information on this matter on the record. On April 20, 2001, an informal hearing in this matter was held. Mr. Jones appeared, with counsel, Frederick L. Cooke, Jr., Esq., and David Wilmot, Esq., both of Washington, D.C., and testified thereon.

Also, on April 20, 2001, interrogatories were dispatched to all known contributors to the non-profit corporations. Several requests for extensions were granted inasmuch as declarants were unavailable or on vacation. At its May 2, 2001 meeting, the Board of Elections and Ethics (BOEE), at the request of the OCF Director, granted an extension of 90 days, pursuant to D.C. Code §-1103.02(c) [formerly D.C. Code §1-1432(c)], to fully

review all submissions. On May 30, 2001, OCF dispatched interrogatories to Mayor Anthony Williams' Chief of Staff, Dr. Abdusalam Omer. / His response was received on June 27, 2001.

At the August meeting of the BOEE, the OCF Director asked and obtained another extension of 90 days, pursuant to the statute, to obtain and review possibly salient information from the Office of the Inspector General (OIG). / As a result of the second extension, OCF unsuccessfully attempted to seek further information from another declarant, / and continued to receive appended responses from declarants. Responses from all recipients were received through September 6, 2001.

The scope of the OCF investigation encompassed reviewing and evaluating all submitted information, in light of the Act, and D.C. personnel regulations; research; and in-house meetings.

Relevant Regulatory Provisions

Section 3702 of the Board's rules reads, in part:

“3702.1 An internal inquiry shall involve an examination by the Director of a possible violation of the Act, when the possible violation comes to the attention of the Director.

“3702.2 The Director may initiate an internal inquiry through the following sources:

“(a) The media [.]

“3702.3 Within a reasonable time after examination of an internal inquiry, the Director shall determine whether to initiate a preliminary investigation.”

3 DCMR §3702 (1999, as amended).

Section 1801.2 of the Standards of Conduct reads, in part: “[w]hen, after consideration of the explanation of the employee, the Board of Elections and Ethics. . .decides that remedial action is required regarding any matter covered under this chapter, appropriate action shall be immediately taken or ordered. Remedial action / may include, but shall not be limited to, the following:

“(a) Changes in assigned duties;

“(b) Divestment by the employee of his or her conflicting interest;”

“(c) Corrective or adverse action pursuant to [the Personnel Act]; or

“(d) Disqualification for a particular assignment.”

Section 1802.1 reads, in part: “[i]n accordance with [the Personnel Act], enforcement of this chapter shall, consistent with the regulations set forth herein, be the responsibility of each agency head, except that enforcement for the following persons shall be the responsibility of the D.C. Board of Elections and Ethics:

“(a) The Mayor, the Chairman and each member of the Council, the President and each Member of the Board of Education, members of boards and commissions as provided in subsection (a) of Section 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act. . .; and

“(b) Employees in the Executive Service, and persons appointed under the authority of D.C. Code §§1-610.1 through 1-610.3 (1981) (and paid at a rate of DS-13 or above in the District Schedule or comparable compensation), or designated in D.C. Code §1-610.8 (1981).”

Section 1803.2 reads, in part: “[a] District employee shall not solicit or accept, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with others . . .(b) [c]onducts operations or activities that are subject to regulation by the D.C. government[.]”

Section 1804.1 reads, in part: “[a]n employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:

“(b) Using government time or resources for other than official business, or government approved or sponsored activities, except that a District employee may spend a reasonable amount of government time and resources on such projects, reports, and studies as may be considered in aid of other government jurisdictions (local, state, or federal), provided the work so performed is within the scope of the individual’s regular assignments as a District employee.”

Summary of Evidence

In support of his position, Mark Jones relies upon his two sworn submissions: his response of February 27, 2001, and his answers offered during the informal hearing of April 20, 2001. Exhibits (Exhs.) A-B.

In his response, Mr. Jones stated that he believed “. . .that the scope of the regular assignments given [to him] as Deputy Chief of Staff specifically included securing the funds needed for the non-profit corporations in question to accomplish the event/activity that also involved the District government[.]” Moreover, Mr. Jones stated that he “. . .clearly had no intent to violate the Standards [and that he] was simply doing the job that [he] was hired to do, and performing the tasks that [he] was assigned to perform.”

During the April 20, 2001 informal hearing, Mr. Jones averred that soliciting funds for public activities from non-profit organizations was legal because the activities “. . . were civic government events sanctioned by the Executive Office of the Mayor.” At that time, he promised to submit additional documentation to indicate that his assigned responsibilities involved fundraising activities. That documentation was received on May 14, 2001. Exh. C.

OCF relies upon the sworn Answers to its Interrogatories submitted by Dr. Abdusalam Omer, former Chief of Staff to Mayor Anthony Williams. Exh. D. Dr. Omer avers, inter alia, that he was Mr. Jones’ supervisor and that Mr. Jones’ position did not encompass direct solicitation of funds for non-profit corporations. Dr. Omer relies upon his November 6, 2000 letter to Warren Graves, Director of Governmental and External Affairs of RFK Memorial Stadium in Washington, D.C., and a member of the D.C. Sports and Entertainment Commission (Commission). Therein, he requests the Commission to assist with funding of an affair to honor Adam Clarence Vinson, a Bronze Medal recipient in the 2000 Summer Olympics, to indicate that he solicited funds, but from a D.C. government entity. Exh. O.

OCF also relies upon the records of the D.C. Department of Consumer and Regulatory Affairs with regard to the corporate status of Urban Assistance Fund, Inc. Exh. E.

OCF further relies upon the Answers to its Interrogatories submitted by A. Bobby Spence, President of Urban Assistance Foundation; Stephen A. Burch, President of the Mid-Atlantic Division of Comcast Cable Communications, Inc.; Janet A. Howard, Vice President of International Diplomatic Relations of the Coca-Cola Company; Ted Trabue, Manager of Government Relations of PEPCO; Steven Jumper, Director of Public Affairs of Washington Gas; Mary A. Short, President of Technical Engineering and Applications Management, Inc.; H.R. Crawford, President and CEO of Crawford/Edgewood Managers, Inc.; Richard S. Carter of the Carter Family Foundation; and William I. Parson, Jr., former treasurer of For the Kids Foundation, all of Washington, D.C. Exhs. F-N. The declarants aver, inter alia, that they were contacted by Mr. Jones to contribute monies to public events by checks payable to a non-profit corporation.

Findings of Fact

Having reviewed the record in its entirety, I find:

1. From April 2000 through September 2001, / Mark Jones (Jones) served as Deputy Chief of Staff for External Affairs to Mayor Anthony Williams (Williams) and was supervised by Dr. Abdusalam Omer (Omer), Chief of Staff. Exhs. A-B.
2. As Deputy Chief of Staff, Jones was required, inter alia, to interact with private sector persons and organizations involved in events and activities with the District government,

and to coordinate the funding thereof that involved the participation by the District government and the private sector organizations. Id.

3. As Deputy Chief of Staff, Jones believed, inter alia, that soliciting funds from private non-profit organizations for District government events and activities was within the scope of his position. Exhs. A & C.

4. Jones was responsible for coordinating the Mayor's holiday party, sponsored by Urban Assistance Fund (UAF) and For the Kids Foundation (FTKF), held on December 20, 2000, at the D.C. Armory; and a Presidential Inaugural Reception, sponsored by the Urban Assistance Fund (UAF), held on January 20, 2001, at the Wilson Building, in Washington, D.C. Exhs. A-D.

5. UAF is a non-profit tax exempt corporation, "organized exclusively for charitable and educational purposes," which, inter alia, raises ". . . funds by means of a unified campaign in the Greater Washington area. . . for financing in whole or in part, of organizations conducted for charitable, health, welfare, recreation and allied purposes within urban areas." Exh. E.

6. A. Bobby Spence (Spence) of New Carrollton, Maryland, is one of three incorporators of UAF, and is currently President. Exh. F.

7. Spence became acquainted with Jones and was invited to participate through UAF in sponsoring the Mayor's holiday party in December 2000, and co-sponsoring the Presidential Inaugural Reception in January 2001, ". . . for the sole purpose of being the beneficiary of leftover funds after the vendors were (sic) paid, so that UAF could fund its programmatic initiatives." Id.

8. Jones developed and implemented a procedural template whereby he would initially solicit monies from a potential donor for the Presidential Inaugural Reception personally by telephone; inform the donor that the event was being sponsored by the D.C. Government; issue or authorize the issuance, under his name, of a letter formally requesting corporate sponsorship of the Presidential Inaugural Reception; direct "Lucy Young" to contact the potential donor with "details"; and dispatch, or authorize the dispatch of, a "Follow-up Information" memorandum, also under his name, thanking the donor for the contribution, identifying "Urban Assistance Fund, Inc., 1730 K Street, N.W., Suite 304, Washington, D.C., 20005" as the check payee, reminding the donor of the provision of signs, logos and viewing stand seats, and informing the donor that Lucy Young will provide further details. Id.

9. Lucy Young was a D.C. government employee ostensibly supervised by Jones in these tasks. Id.

10. Jones issued or authorized the issuance, under his name, of a letter formally requesting corporate sponsorship of the Presidential Inaugural Reception, on D.C. government time using D.C. government resources. Id.
11. Jones solicited funds in the manner described, infra, and obtained corporate donations for the Presidential Inaugural Reception from Comcast Cable Communications, Inc., for \$35,000; The Coca-Cola Company, for \$25,000 and \$5,552 contributions in-kind; PEPCO, for \$15,000; Washington Gas, for \$5,000; Technical Engineering and Applications Management, Inc. (TEAM, Inc.), for \$1,000; and Crawford Management, for \$1,000, all of Washington, D.C. Id. and Exhs. G-L.
12. Jones solicited funds from Richard S. Carter, of Washington, D.C., who donated \$1,500 by check to the UAF from the Carter Family Foundation for a Christmas party in December 2000 for employees of the D.C. Government. Exh. M.
13. Comcast Cable Communications, Inc. is a business conducting cable services in the District of Columbia and is regulated thereby. Exh. G.
14. The Coca-Cola Company is a business selling, inter alia, soft drinks in the District of Columbia and is regulated thereby. Exh. H.
15. PEPCO is a business supplying electricity in the District of Columbia and is regulated thereby. Exh. I.
16. Washington Gas is a business supplying natural gas in the District of Columbia and is regulated thereby. Exh. J.
17. TEAM, Inc. is an organization incorporated in the District of Columbia and is regulated thereby. Exh. K.
18. Crawford Management is a company, which, inter alia, manages real estate in the District of Columbia and is regulated thereby. Exh. L.
19. FTKF- is a non-profit foundation designed to benefit various programs for youth. Exh. N; see also Exh. M.
20. In November 2000, William I. Parson (Parson) of Washington, D.C. was approached by Jones “. . .with the opportunity to become treasurer of this foundation that was supposed to do various community event (sic) associate (sic) with activity for kids to reward and motivate them.” Exh. N.
21. Parson remained as FTKF treasurer until January 2001 when he resigned “[a]fter having several conversation (sic) with Mark Jones about paying for services to various event (sic) associated with the mayor (sic) office, which [he believed] did not fix (sic) the foundation mission.” Id.

22. Jones solicited and accepted for deposit any donations made to FTKF, delivered the donations to Parson, and directed Parson as to how the collected funds were to be deposited and spent. Id.

23. Omer, as Jones' immediate supervisor, and Williams were aware of Jones' responsibility to coordinate funding for the Mayor's holiday party in December 2000 and the Presidential Inaugural Reception in January 2001. Exh. C.

24. There is no evidence that either Omer / or Williams were aware that Jones was performing his job responsibility of "coordinating funding" for the Mayor's holiday party in December 2000 and the Presidential Inaugural Reception in January 2001 by soliciting funds for private non-profit organizations to fund the activities. Exhs. C-D.

25. There is no evidence that either Omer or Williams / authorized Jones to perform his job responsibility of "coordinating funding" for the Mayor's holiday party in December 2000 and the Presidential Inaugural Reception in January 2001 by soliciting funds from private non-profit organizations or gave direction as to the manner in which fundraising was to occur. Id.

26. Jones, as an employee in the Executive Service within the Office of the Mayor, was expected to perform his responsibilities independently and with little supervision. Standards at §§1800 et seq.

27. Jones, as Deputy Chief of Staff for External Affairs in the Office of the Mayor, was entrusted and charged to develop a program to "coordinate funding" for the Mayor's holiday party in December 2000 and the Presidential Inaugural Reception in January 2001, consistent with the Standards. Exhs. A-D.

Conclusions of Law

Based upon the record and evidence, I therefore conclude:

1. Mark Jones was an employee of the District of Columbia government and was subject to the enforcement provisions of the Standards of Conduct at §§1800 et seq.

2. Mark Jones used District government employees, supplies and time to solicit contributions for private non-profit corporations to fund the Mayor's holiday party on December 20, 2000, at the D.C. Armory, and a Presidential Inaugural Reception on January 20, 2001, at the Wilson Building in Washington, D.C.; and, notwithstanding his belief that the conduct was within his authority, Mark Jones violated the Standards of Conduct because soliciting funds for a private non-profit organization is not government business.

3. By soliciting funds directly and through the Urban Assistance Fund and For the Kids Foundation from Comcast, Coca-Cola, PEPCO, Washington Gas, Technical Engineering and Applications Management, Inc. (TEAM, Inc.), and Crawford Management, and receiving therefrom, Mark Jones, notwithstanding his belief that his conduct was within his authority, violated the Standards of Conduct because he solicited and received funds from individuals and businesses conducting operations or activities, which are regulated by the D.C. government.

4. The responsibility for enforcing the provisions of the Standards against Jones would rest with the Chief of Staff because Jones was a subordinate in the Office of the Chief of Staff to the Mayor of the District of Columbia.

Recommendation

Had Mark Jones remained an employee, it would have been my recommendation that the Director advise the Chief of Staff to the Office of the Mayor to take disciplinary action against Mark Jones based upon his violations of the Standards of Conduct. Such action could have included a change in his assigned duties, corrective or adverse action, or his disqualification for a particular assignment, pursuant to §1801.2.

Because Mark Jones is no longer a District government employee, I hereby recommend that the Director urge the Office of the Chief of Staff of the Mayor of the District of Columbia to immediately take steps to definitively and thoroughly inform each member of the staff of the Office of the Mayor of the Standards of Conduct, at §§1800 et seq.

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

In light of the fact that Mark Jones is no longer a District government employee, the Office of Campaign Finance is limited with respect to any disciplinary action which might otherwise be ordered. Where a violation of the Standards of Conduct has occurred, disciplinary action may be taken. This includes changes in assigned duties, divestment of any conflicting interest, corrective or adverse action, or disqualification for a particular assignment. However, the circumstances surrounding the misconduct herein warrant further comment. Specifically, Mark Jones believed that his conduct was within the parameters of his job description. This reinforces that each member of the Office of the Mayor of the District of Columbia must be responsible for knowing and adhering to the Standards of Conduct, by virtue of the provisions at §1802.

Therefore, the Office of the Mayor is strongly urged to take whatever measures, deemed appropriate, to ensure the integrity of government. At a minimum, educational efforts to inform all District Government employees of the Standards of Conduct must continue, but at more regular intervals.

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

Cecily E. Collier-Montgomery
Director

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.