

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

IN THE MATTER OF)
) DATE: March 4, 2003
Committee to Re-elect)
Anthony Williams)
Thomas Murray, Treasurer) DOCKET NO.: PI 2002-102
)

ORDER

Statement of the Case

This matter arises out of a complaint filed by Thomas Lindenfeld (complainant), 6001 Nebraska Avenue, N.W., Washington, D.C., 20015 through his attorney, Sherri L. Wyatt, Esq., 1825 I Street, N.W., Suite 400, Washington, D.C., 20006, alleging a violation of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D.C. Official Code Sections 1-1101.01 et seq. (the Act). Complainant alleged that the Committee to Re-elect Anthony Williams, which supported Anthony Williams for his successful 2002 re-election as Mayor of the District of Columbia, violated D.C. Official Code Section 1-1102.10 by failing to continuously report a debt to complainant on each Report of Receipts and Expenditures (Report) subsequent to June 2000.

Issue

Whether the Committee failed to submit true and accurate information on each Report, subsequent to June 2000, when each Report failed to list an alleged debt owed to complainant for services rendered, as required by D.C. Official Code Section 1-1102.06(a).

Background

On September 6, 2002, complainant submitted a notarized pleading through counsel requesting the Office of Campaign Finance (OCF) to require the Committee to report a debt of \$75,000 owed by the Committee to complainant for services performed for the Committee from January through June 2000. Complainant alleged that around December 1999, then Chief of Staff Abdusalam Omer, on behalf of Mayor Anthony Williams, orally offered to complainant a position as a political consultant and advisor to Mayor Williams for the 2002 mayoral election.

Complainant stated that the parties agreed that he would work for calendar years 2000 and 2001 for \$150,000 per year to be payable in 12 installments at \$12,500 per month. Complainant averred that the parties also agreed that the funds for his services would be provided by Mayor Williams' re-election committee, which was established in April 2000.

Complainant claimed that, from January through June 2000, he fully performed all obligated duties for the Committee and has failed to be compensated thereby. Additionally, complainant alleged that Mayor Williams, members of his staff and the Committee have repeatedly admitted and acknowledged the debt owed to him. Finally, complainant declared that the aforementioned have continued to refuse to pay the amount due and have failed to report this debt on any of the Committee's OCF Reports.

On September 19, 2002, upon review by OCF, this complaint was accepted for filing. Letters were issued to the parties requesting responses and additional information, if any, no later than September 30, 2002. Nothing further was received from complainant. The Committee requested, and was granted, an extension through October 7, 2002, upon which to respond.

On October 7, 2002, the Committee responded, through counsel, and stated that it disputed complainant's claims because, according to the Committee, the debt does not exist. The Committee acknowledged that complainant also filed a similar complaint in the District of Columbia Superior Court on or about June 25, 2002, and, accordingly denied the allegations in both pleadings.¹

¹ See Thomas Lindenfeld v. Anthony Williams, et al. (Case No. 02CA005119, June 25, 2002).

Specifically, the Committee maintained that the oral contract was a legal nullity incapable of being enforced, that Dr. Omer was ethically barred, as a D.C. government employee, from reaching an agreement with complainant and that he was without authority to act on behalf of the Committee. Moreover, the Committee chided the complainant, as an experienced political consultant, for assuming that Dr. Omer, as a D.C. government employee, was armed with the Committee's consent to act therefor.

It should be noted that the Committee attached a September 24, 2000, letter from complainant to Mayor Anthony Williams wherein he shared that, although a member of the Committee informed him that his services were not required, he would "fully adhere to the terms outlined in [his] contract," as reassured by both Mayor Williams and Dr. Omer. See Exhibit, at p. 2. Contrarily, the Committee maintained in its pleading that complainant continued to perform any consulting services to the Committee fully aware that the Committee would not be responsible for any compensation he perceived was due to him.

The investigation was completed on December 19, 2002. Nonetheless, at a meeting of the Board of Elections and Ethics held on January 8, 2003, the undersigned, who was also serving as Acting Director, requested an extension, pursuant to D.C. Official Code Section 1-1103.02(c), within which to submit the final order in this matter. The Board granted the request.

The scope of the OCF investigation encompassed reviewing and verifying the pertinent submitted information and research and analysis of the Act, and its applicable regulations.

Relevant Statutory Provisions and Opinion

D.C. Official Code Section 1-1102.06(a) states, in part, "[R]eports [of receipts and expenditures by political committees and candidates] shall be complete as of such date as the Director may prescribe[.]"

D.C. Official Code Section 1-1102.06(b) states, in part, "Each report under this section shall disclose. . .(11) [t]he amount and nature of debts and obligations owed

by. . .the committee. . .and a continuous reporting of its debts and obligations. . .until such debts and obligations are extinguished[.]”

OCF Interpretative Opinion No. 02-15, “Non-Campaign Related Activities of Candidate and Reporting Requirements” (September 5, 2002).

Summary of Evidence

In support of his complaint, complainant relied upon the oral contract into which he entered with Mayor Williams and Dr. Omer. The Committee relied upon the denial of Mayor Williams that such a contract did not exist. OCF relied upon the statutory construction of the Act.

Findings of Fact

Having reviewed the allegations, the responses and the entire record, I find:

1. The Committee disputes complainant’s demand for \$75,000 compensation for six (6) months of employment, pursuant to an oral contract with Mayor Anthony Williams and Dr. Abdusalam Omer, with the Committee from January through June 2000.
2. The Committee not only disputed complainant’s demand for compensation; the Committee denied complainant’s demand.
3. So long as complainant’s claim for \$75,000 compensation for six (6) months of employment, pursuant to an oral contract with Mayor Anthony Williams and Dr. Abdusalam Omer, with the Committee from January through June 2000, is denied by the Committee, complainant’s claim can never rise to the level of a debt required to be disclosed on any Committee Report.
4. Complainant’s claim for compensation from the Committee is the subject of a matter in the District of Columbia Superior Court, and its adjudication therein will determine whether the claim should be listed on any Committee Report.

Conclusions of Law

Based upon the record and evidence, I therefore conclude:

1. The Act provides candidates for elective office in the District of Columbia broad latitude relative to the conduct of their individual campaigns. OCF Interpretative Opinion No. 02-15, “Non-Campaign Related Activities of Candidate and Reporting Requirements” (September 5, 2002).
2. The Act presupposes that the Committee, as the author of its Reports, is responsible for identifying and disclosing its debts. D.C. Code Section 1-1102.06(b).
3. A debt denied by the Committee, which is the subject of a contractual dispute before the District of Columbia Superior Court, is not a debt, within the Act, that would be listed on the Committee’s Reports.

Recommendation

I hereby recommend the Director to dismiss this matter.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that this matter be dismissed.

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 served a true copy of the foregoing order.

S. Wesley Williams
Investigator

cc: Sherri L. Wyatt, Esq.
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NOTICE

Pursuant to 3 DCMR § 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, NW, Washington, D.C. 20009.