

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)
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) DATE: March 4, 2003
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**Committee to Re-elect
Senator Strauss
Richard J. Bianco, Treasurer**

DOCKET NO.: PI 2002-103

ORDER

Statement of the Case

This matter arises out of a complaint filed by Pete Ross, 1712 Surrey Lane, N.W., Washington, D.C., 20007, 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 Committee to Re-elect Strauss (Committee), supporting the incumbent Peter Strauss for U.S. Senator, violated D.C. Official Code Section 1-1102.10 by circulating campaign literature without the required disclaimer.

Issue

Whether the Committee allegedly distributed campaign literature that failed to disclose, as required by D.C. Official Code Section 1-1102.10, 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

Complainant submitted a notarized letter on September 10, 2002 (date of Primary Election) and averred that the Committee was circulating campaign literature that failed to indicate the requisite disclosure requirement. A copy of the offending literature was submitted therewith. See Exhibit A.

The Committee was notified on the same date, and Senator Strauss, the incumbent candidate, met with the undersigned to address the situation. He tendered the identical campaign literature with the appropriate disclaimer and implied that complainant's allegation was false. See Exhibit B. Notwithstanding his presentation of the "corrected" literature, a copy of the same campaign literature was also presented to Senator Strauss. That campaign literature failed to include the requisite disclosure and it was addressed to the undersigned. See Exhibit C.

On September 19, 2002, complainant's submission was accepted for filing and a preliminary investigation was initiated. The investigation was completed on October 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; examining applicable OCF records; and interviews.

Relevant Statutory and Regulatory Provisions

D.C. Official Code Section 1-1102.10 states, in part, "All newspaper or magazine advertising, posters, circulars, billboards. . .and other printed matter with reference to or intended 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."

At 3 D.C.M.R. Section 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. Section 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. Section 3711.5, it reads, “Any fine imposed by the Director, under Section 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 Section 3709.12.”

At 3 D.C.M.R. Section 3711.7, it reads, “Fines imposed under this 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 his contention, complainant submitted the allegedly offending campaign literature of September 10, 2002. See Exhibit A. The Committee, through Senator Strauss, relied upon his September 10, 2002 campaign literature with the requisite disclosure. See Exhibit B. OCF relied upon the receipt by mail of the undersigned of the same campaign literature, without the requisite disclosure. See Exhibit C. OCF also relied upon information gleaned by the undersigned during interviews with the complainant and Senator Strauss.

Findings of Fact

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

1. By Primary Election Day, September 10, 2002, the Committee had distributed by mail and handouts, campaign literature, inter alia, in the form of a pamphlet entitled “Whey They Deny Our Rights, Who Is Fighting For Us?” See Attachments A-C.
2. In some areas of the District of Columbia, the Committee failed to distribute this pamphlet with the requisite identifying disclosure information listed thereon. See Attachments A & C.

3. On or about Friday, September 6, 2002, the undersigned received a copy of the pamphlet, by mail, without the requisite identifying disclosure information listed thereon.
4. On Primary Election Day, September 10, 2002, Senator Strauss presented the pamphlet at the OCF Office with the requisite identifying disclosure information and averred that all of the Committee's campaign literature listed same.

Conclusions of Law

Based upon the record and evidence, I therefore conclude:

1. The Committee violated D.C. Official Code Section 1-1102.10, because the Committee distributed campaign literature without the proper identifying campaign finance disclosure information from September 6-10, 2002.
2. The penalty established at 3 D.C.M.R. Section 3711.2(1) for failure to place notices required by the Act on campaign literature is \$10 per day per violation.
3. The Committee circulated campaign literature without the proper identifying disclosure information for 3 days. See 3 D.C.M.R. 3711.4.
4. The Committee may be fined in the amount of \$30 for violating D.C. Official Code Section 1-1102.10.

Recommendation

I hereby recommend the Director to impose a fine of \$30 upon the Committee for failure to place the proper identifying disclosure information on its campaign literature pamphlet entitled, "Whey Then Deny Our Rights, Who Is Fighting For Us?"

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS HEREBY ORDERED that the Committee pay a fine of \$30 for failure to place the proper identifying disclosure information on its campaign literature pamphlet entitled, "Why Then Deny Our Rights, Who Is Fighting For Us?"

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: Pete Ross
1712 Surrey Lane, N.W.
Washington, D.C. 20007

Committee to Re-Elect Senator Strauss
Richard J. Bianco
Treasurer
601 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004

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.