

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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REGULAR BOARD MEETING

+ + + + +

WEDNESDAY

JUNE 3, 2015

+ + + + +

The Regular Board Meeting of the District of Columbia Board of Elections convened in Room 280 North, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:45 a.m., Deborah K. Nichols, Chairman, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

DEBORAH K. NICHOLS, Chairman  
STEPHEN I. DANZANSKY, Member

BOARD OF ELECTIONS STAFF PRESENT:

CLIFFORD D. TATUM, Executive Director  
KENNETH MCGHIE, General Counsel

ALSO PRESENT:

CECILY COLLIER-MONTGOMERY, Director,  
Office of Campaign Finance

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## P-R-O-C-E-E-D-I-N-G-S

10:40 a.m.

1  
2  
3 CHAIRMAN NICHOLS: Good morning. I  
4 will call to order the regular meeting of the  
5 Board of Elections for June 2015. It is  
6 Wednesday, June 3. The time is 10:42 a.m. We  
7 are meeting in 280 North of One Judiciary Square.

8 I'm Deborah K. Nichols, Chairman of  
9 the Board of Elections. Present with me this  
10 morning is Board Member Stephen Danzansky. Also  
11 present this morning Mr. Clifford Tatum, the  
12 Board's Executive Director; Ms. Cecily Collier-  
13 Montgomery, the Board's Director of Campaign  
14 Finance.

15 MS. COLLIER-MONTGOMERY: Good morning.

16 CHAIRMAN NICHOLS: And Mr. Kenneth  
17 McGhie, the Board's General Counsel.

18 Without objection the agenda for this  
19 morning's meeting is adopted.

20 MEMBER DANZANSKY: No objection.

21 CHAIRMAN NICHOLS: Unless there are  
22 corrections, the minutes of the regular board

1 meeting of Thursday, May 14, 2015 are adopted.

2 Are there any matters that Board  
3 Member Danzansky wishes to address in this public  
4 meeting?

5 MEMBER DANZANSKY: None, Madam Chair,  
6 other than to congratulate the staff on an  
7 efficient and effective recount. That is a  
8 significant effort to be open and clear on rules  
9 and procedures and it obviously worked as the  
10 statute intended it to. I want to congratulate  
11 the staff publicly for a job well done.

12 CHAIRMAN NICHOLS: And I wish to  
13 associate myself with your comments in that  
14 regard.

15 All right. We will now receive the  
16 report of the Board's Executive Director, Mr.  
17 Tatum.

18 MR. TATUM: Madam Chair, I have two  
19 items on the report today; the report on the  
20 April 28 Special Election Recount and General  
21 Matters.

22 The recount was scheduled to commence

1 on May 28, 2015 at 10:00 a.m. at the request of  
2 Mr. White. Mr. White identified four precincts  
3 that he wanted us to begin the recount with.  
4 those precincts were 115, 117, 120, and 134. For  
5 the record, precinct 134 and 115 were in the same  
6 physical location on April 28th.

7 The Board began its recount with 15  
8 temporary employees and five full-time staff  
9 members. After completing the hand tally of the  
10 ballots for those four precincts at roughly 2:33  
11 p.m. in the afternoon we provided Mr. White's  
12 representative with a hand tally of what the vote  
13 totals were compared to the recount as to the  
14 certified results.

15 We gave them an actual cost incurred  
16 number to indicate this is how much you've  
17 incurred as of these four precincts. As a result  
18 of that information provided, the representative  
19 asked us to suspend the recount until she could  
20 talk with Mr. White to determine whether he  
21 wanted to proceed.

22 At roughly 11:00 p.m. on May 28th we

1 received an email from Mr. White requesting us to  
2 terminate the recount. On May 29th we submitted  
3 a confirming email indicating that we had indeed  
4 stopped the count. We sent that email to Mr.  
5 White, to the representative, as well as to Mr.  
6 White's attorney Lawrence Manley.

7           Within that email we indicated that we  
8 would provide a report of the recount of those  
9 four precincts, the supporting documentation that  
10 they had requested, which was the ballot  
11 accounting forms, as well as the invoice. We  
12 have all of those documents ready to be forwarded  
13 to Mr. White.

14           The invoice for a total of 15  
15 temporary employees who worked a total of six  
16 hours at a rate of \$20 per hour we generated  
17 actual cost of \$1,800. We had one security guard  
18 contracted from, I believe, DGS for 16 hours for  
19 two days. That totaled \$476.80 for a subtotal of  
20 \$2,276.80.

21           Mr. White made a deposit of \$850 for  
22 requesting a 15 precinct recount but his deposit

1 was greater than that. It was actually 17  
2 precincts so we deducted the \$850 from the  
3 \$2,276.80 which leaves him with an outstanding  
4 balance of \$1,426.80. We will forward this  
5 invoice to Mr. White today along with to his  
6 attorney and representative and request -- the  
7 invoice indicates payment is due upon receipt.

8 That concludes my matter on the  
9 recount report. For general matters, I have no  
10 general matters at this time.

11 CHAIRMAN NICHOLS: All right. Okay.  
12 Thank you, Mr. Tatum.

13  
14 Any questions for Mr. Tatum?

15 All right. We will move on to the  
16 Report of General Counsel, Mr. McGhie.

17 MR. MCGHIE: I have two things on the  
18 agenda. The first one is Office of Campaign  
19 Finance Petitions for Enforcement. I would call  
20 to the table General Counsel for the Office of  
21 Campaign Finance, Mr. Sanford, and Rudolph McGann  
22 from my office.

1 Anytime you are ready, Mr. McGann.

2 MR. MCGANN: Good morning, Board. The  
3 first matter is OCF Docket No. 14C-075.  
4 Respondent's name is Martin Sterbal, treasurer.  
5 He failed to timely file his October 10th report  
6 of receipts and expenditures which was due  
7 October 10, 2014. The effective date of the  
8 order was January 2nd.

9 The transmittal was March 3rd. He has  
10 not appeared at any of the prehearings set before  
11 the Board, one on the 21st of April and one on  
12 the 6th of May this year. He was given notice of  
13 this hearing on May 27th. I believe he is  
14 present.

15 CHAIRMAN NICHOLS: You want to do them  
16 one at a time or --

17  
18 MR. MCGANN: All at one time. The  
19 next matter is OCF Docket No. 14C-073.  
20 Respondent's name is Darrell Gaston, treasurer.  
21 Failure to timely file an October 10th report of  
22 receipts and expenditures that was due Friday,



1 October 10, 2014.

2 The fine amount is \$1,900. The  
3 effective date of the order was January 2nd and  
4 it was transmitted to the Board on March 3rd.  
5 Mr. Gaston did not appear at either of the  
6 hearings scheduled for April 21st and May 6th.  
7 He was informed of this hearing on May 27th and  
8 he is not present.

9 Next is Christian Carter, OCF Docket  
10 No. 14C-072, failure to file the October 10th  
11 report of receipts and expenditures due October  
12 10, 2014. The OCF order date was December 8,  
13 2014, fined in the amount of \$1,900.

14 The effective date of the order was  
15 January 2nd and the transmittal was March 3rd.  
16 Mr. Carter has not appeared at the prehearing  
17 scheduled for him on April 21st and May 6th and  
18 he is not here today.

19 Two matters involving Mr. James  
20 Caviness. One is 14C-069, failure to file the  
21 October 10th report of receipts and expenditures  
22 due October 10th. That fine was in the amount of

1       \$1,900. The order was filed December 8th  
2       effective January 2nd and transmitted to the  
3       Board on March 3rd. Mr. Caviness did not appear  
4       for his prehearings scheduled for the 21st of  
5       April and May 6th and he is not here today.

6               The other matter involving Mr.  
7       Caviness -- bear with me. Excuse me -- is OCF  
8       Docket No. 14C-050, failure to timely file the  
9       August 10th report of receipts and expenditures.  
10      A fine was rendered in the amount of \$1,650.

11              The order was on October 24th,  
12      effective November 18th, transmitted on March  
13      3rd. Mr. Caviness, again, as aforementioned, did  
14      not appear in either the prehearings scheduled  
15      for this matter and is not here today.

16              The next matter is Mr. Villareal  
17      Johnson, OCF Docket No. 14C-068, failure to  
18      timely file the July 31st report of receipts and  
19      expenditures due August 18, 2014. The order was  
20      rendered December 17, 2014 for a fine in the  
21      amount of \$2,000.

22              The effective date was January 12th

1 and the transmittal to the Board was on March  
2 3rd. Mr. Johnson did not appear at either the  
3 prehearing scheduled for him on April 21st and  
4 May 6th and he is not here today.

5 The next matter is OCF Petition 14C-  
6 056, Mr. Kevin Valentine, treasurer, failure to  
7 timely file an August 10th report of receipts and  
8 expenditures due August 11, 2014. The order date  
9 was October 24, 2014 and the fine was in the  
10 amount of \$100. Mr. Valentine did not appear  
11 before the Board for a prehearing conference on  
12 April 21 nor May 6th and he is not present today.

13 I believe those seven matters are the  
14 matters that we have. Mr. Sanford would like to  
15 concur.

16 MR. SANFORD: I would concur with  
17 that. I believe that's all we have today.

18 CHAIRMAN NICHOLS: All right. I will  
19 entertain a motion to authorize the Board's  
20 Office of the General Counsel to enforce the OCF  
21 petitions for violations of the Campaign Finance  
22 office.

1 MEMBER DANZANSKY: So moved, Madam  
2 Chair.

3 CHAIRMAN NICHOLS: All in favor, aye.

4 MEMBERS: Aye.

5 CHAIRMAN NICHOLS: All opposed. The  
6 ayes have it. The motion carries.

7 Thank you, Mr. Sanford, Mr. McGann.

8 MR. SANFORD: Thank you.

9 MR. MCGANN: Thank you.

10 MEMBER DANZANSKY: Before we leave our  
11 General Counsel, Madam Chair, I just have one  
12 question. We assume that the cost of the recount  
13 the balance of the cost will be paid but in the  
14 event it is not, does it become a receivable to  
15 the District of Columbia or is there a petition  
16 or enforcement mechanism?

17 MR. MCGHIE: It would pretty much be  
18 the same enforcement mechanism. It would be the  
19 same process. So we would come to the Board for  
20 an order allowing us to proceed in Superior Court  
21 to enforce the bill.

22 MEMBER DANZANSKY: Okay. And it would

1 be only against the committee and not against the  
2 individual?

3 MR. MCGHIE: It would be against the  
4 candidate.

5 MEMBER DANZANSKY: It would be against  
6 the candidate?

7 MR. MCGHIE: Yes.

8 MEMBER DANZANSKY: Very good. Thank  
9 you.

10 CHAIRMAN NICHOLS: All right, Mr.  
11 McGhie. Continue.

12 MR. MCGHIE: Okay. The only thing I  
13 have left is a litigation status update. The  
14 Board is familiar with both the cases. The first  
15 one is Sewell v. DC Board of Elections. That was  
16 a complaint filed alleging harassment. The  
17 Office of General Counsel filed a motion to  
18 dismiss. For some reason Mr. Sewell instead of  
19 responding to our motion to dismiss filed his own  
20 motion to dismiss. The court granted his motion  
21 to dismiss without prejudice on May 12th.

22 CHAIRMAN NICHOLS: Without prejudice.

1 MR. MCGHIE: Without prejudice. Our  
2 motion was with prejudice.

3 Then the next one is McMillian v. DC  
4 Board of Elections. This is in the Court of  
5 Appeals. Again, we filed a motion to dismiss.

6 He was required to respond to our  
7 motion on April 23rd. He failed to respond and  
8 the court ordered on May 4th that he have until  
9 today to respond to our motion to dismiss or show  
10 cause why it should not be dismissed. We will  
11 know at the end of the day what the status is on  
12 McMillian.

13 That concludes my litigation status  
14 update.

15 CHAIRMAN NICHOLS: All right. Thank  
16 you, Mr. McGhie.

17 We will now receive the report of the  
18 Campaign Finance, Cecily Collier-Montgomery.

19 MS. COLLIER-MONTGOMERY: Yes. Good  
20 morning again. During the month of May there  
21 were no filing deadlines for our candidates and  
22 committees. However, during the month of May we

1 did have new candidates and committees who  
2 registered to participate in the 2016 election  
3 cycle.

4           Raise the Wage (Initiative Committee  
5 for Fair Minimum Wage Act of 2016) registered  
6 with the office on May 15, 2015. With our  
7 entrance conferences for new participants on May  
8 7, 2015 we held an entrance conference and we had  
9 two citizens who appeared; Nellene Lucinda  
10 Richardson and Lawrence A. Dixon-Bey.

11           We had an entrance conference  
12 scheduled for June 4, 2015 and that is to be  
13 attended by Raise the Wage committee members  
14 Edwin Jones, Sr., the treasurer; Jimmie Luthuli,  
15 the chairperson; and Delvone Michael, the  
16 custodian of records.

17           With our Audit Branch during the month  
18 of May the Audit Branch completed 29 desk  
19 reviews. Also in the Audit Branch we do have  
20 ongoing audits. We had the full field audit of  
21 Gray for Mayor. We have periodic random audits,  
22 Committee to Elect Natalie Williams for Ward 8,

1 Barry for Council, Friends of Leon Andrews, and  
2 Tengen for DC.

3 With the normal committees 2015 we had  
4 the DC Proud Inaugural Committee. With our  
5 periodic random audits for candidates registered  
6 in the 2014 elections we had Ruth for Schools.

7 With out continuing committees the  
8 periodic random audit is being conducted of  
9 Morgan for DC. With our constituent service  
10 programs we have a periodic random audit which is  
11 ongoing of Mayor Bowser Constituent Service Fund.

12 During the month we also issued  
13 several audits. The first was Lori Masters for  
14 Attorney General which was issued on May 29th,  
15 2015; Smitty for AG which was issued on May 8,  
16 2015; Brian Hart for DC which was issued on May  
17 7, 2015; the Republican Committee DC which was  
18 issued on May 28, 2015; and Ward 3 Constituent  
19 Service Fund which was issued on May 28, 2015.  
20 All of the audits are available for review by  
21 members of the public on our website.

22 At this point I would ask Mr. Sanford



1 to give the report of the Office of the General  
2 Counsel.

3 MR. SANFORD: Good morning, Madam  
4 Chairman, and distinguished Board Member  
5 Danzansky. My name is William Sanford, General  
6 Counsel for the Office of Campaign Finance.

7 During the month of May 2015 the  
8 Office of General Counsel received four referrals  
9 for informal hearings from Reports Analysis and  
10 Audit Division. The Office of the General Counsel  
11 conducted with hearings and issued 18 orders  
12 which included the following:

13 Five orders were issued for failure to  
14 timely file reports in which no funds were  
15 imposed. Two orders were issued for failure to  
16 timely respond to request for additional  
17 information in which no fines were imposed.

18 Six orders were issued for failure to  
19 timely file reports in which \$10,900 in fines  
20 were imposed. Two orders were issued for failure  
21 to timely respond to a request for additional  
22 information in which fines totaling \$3,450 were

1 imposed and three orders were issued to vacate  
2 previous orders based upon the respondent's  
3 payment of a fine or motion for reconsideration.

4 The Office of the General Counsel  
5 imposed a total of \$14,350 in fines during the  
6 month of May against the following respondents:

7 The Committee to Elect Villareal  
8 Johnson, failure to timely file the January 31,  
9 2015 report. A fine of \$1,400 was imposed.  
10 Gaston 2014. \$2,500 fine was imposed for failure  
11 to file the March 10, 2015 report of receipts and  
12 expenditures. Bell for Ward 8, \$2,500 fine was  
13 imposed for failure to file March 10, 2015  
14 report.

15 Acquetta Anderson for Ward 4 counsel  
16 received a \$2,000 fine for failure to respond to  
17 request for additional information. And  
18 Acquetta Anderson again, Ward 4, received a  
19 \$1,450 fine for failure to respond to request for  
20 additional information.

21 Ward 6 Democrats received a \$2,000  
22 fine for failure to file a January 31, 2015

1 report of receipt and expenditure. Libertarian  
2 Party of the District of Columbia received a \$500  
3 fine for failure to file on January 31, 2015  
4 report of receipts and expenditures.

5 And Youth Action PAC received a \$2,000  
6 fine for failure to file a December 10, 2014  
7 report of receipt and expenditure. During the  
8 month of May no petitions or enforcement were  
9 transmitted to the Office of General Counsel for  
10 the Board of Elections.

11 During the month of May the Office of  
12 the General Counsel carried seven open  
13 investigations which were pending and no new  
14 investigations were opened. During the month of  
15 May there were no requests for interpretive  
16 opinions and no show cause proceedings were  
17 conducted. That should conclude my report.

18 CHAIRMAN NICHOLS: Thank you, Mr.  
19 Sanford.

20 Are there any questions for Mr.  
21 Sanford?

22 All right. Are there any members of

1 the public who wish to bring matters before the  
2 Board this morning?

3 There being no further business before  
4 the Board, this meeting is adjourned at 11:02  
5 a.m. Wednesday, June 3, 2015.

6 (Whereupon, the above-entitled matter  
7 went off the record at 11:02 a.m.)

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<b>A</b>			
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This is to certify that the foregoing transcript

In the matter of: Regular Board Meeting

Before: DC BOE

Date: 06-03-15

Place: Washington, DC

was duly recorded and accurately transcribed under  
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*Neal R Gross*

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**NEAL R. GROSS**

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