

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

In Re: District of Columbia
Independent Party

Administrative Hearing
No. 07-001

Re: Application for Approval of
the Name of a Political Party

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the Board of Elections and Ethics (“Board”) on Wednesday, January 10, 2007, pursuant to D.C. CODE §1-1001.05(a)(14) and 3 DCMR §1605. It involves an application for the approval of the name, “District of Columbia Independent Party,” as a registered political party in the District of Columbia. The Chairman of the proposed party, Dennis Moore, represented the political party before the Board. Chairman Wilma A. Lewis and Board members Lenora Cole and Charles R. Lowery, Jr. presided over the hearing.

Statement of the Facts

On November 13, 2006, Mr. Moore filed an “Application for Approval of the Name of a Political Party in the District of Columbia” pursuant to 3 DCMR §1605.3. Mr. Moore submitted the designation, “District of Columbia Independent Party” (“DCIP”) as the proposed name of the political party. Mr. Moore also filed a copy of the mission statement and by-laws of the proposed party. Included among the provisions of the by-laws were the following:

ARTICLE 1 – NAME

. . . The DCIP will be representative of duly registered District of Columbia voters who register through the DC Board of Elections and Ethics as Independent or “*independent*” members of the electorate.

ARTICLE 2 – PURPOSES

The purposes of the DCIP are: a) to organize and maintain an official and effective political organization for Independent and “*independent*” voters in the District of Columbia; . . .

ARTICLE 3 – MEMBERSHIP

Section 1. General Members are duly registered District of Columbia Independent or “*independent*” voters who are members and non-elected officers of the DCIP. Executive Members are duly registered District of Columbia Independent or “*independent*” voters who are elected DCIP officers engaged in the administration of the DCIP.” . . .

The District of Columbia Independent Party Bylaws (emphasis added).

On November 22, 2006, Mr. Moore filed a Statement of Organization with the Director of Campaign Finance pursuant to D.C. CODE §1-1102.04(a).

Analysis

In order for the Board to approve the name of a political party in the District of Columbia, it must first determine that the proposed party has met all the procedural filing requirements for approval under D.C. CODE §1-1102.04(a)¹ and 3 DCMR §§ 1605.2² and 1605.3.³ The Board finds that all of the procedural requirements were met here.

¹ D.C. CODE §1-1102.04(a) states in relevant part: “Each political committee shall file with the Director a statement of organization within 10 days after its organization.”

² 3 DCMR § 1605.2 states: “Application for approval of the name of a political party shall be made on a form prescribed by the Board.”

³ 3 DCMR § 1605.3 states: “The application for party approval shall include the name, address, telephone number, and voter registration number of the chairperson, treasurer, other principal officers and each member of the duly authorized local committee of such party in the District.”

Specifically, an application, with all of the required information, was submitted on the prescribed form, and the proposed political party timely filed a Statement of Organization with the Director of the Office of Campaign Finance on November 22, 2006.

Once the Board determines, as it did here, that a proposed political party has complied with all procedural filing requirements, the Board should consider whether the proposed name for the political party would tend to confuse or mislead the public. Under 3 DCMR §1605.4, “[t]he Board may reject any application for approval of a name that, in the judgment of the Board, tends to confuse or mislead the public.” It is this hurdle that the proposed party fails to pass.

The proposed name of the political party is the “District of Columbia Independent Party.” Historically, in the District of Columbia, the word “independent” has been a term associated in the electoral process with duly registered voters who claim no party affiliation. Indeed, the Party Registration section of the Voter Registration Form allows prospective voters to choose from among several party affiliations or to choose “no party (independent)”. Given the historical meaning and the custom of assigning no political affiliation to voters who select “independent” in registering to vote in the District of Columbia, the Board is concerned that the proposed name of the political party would in fact “tend to confuse or mislead the public.” *See* 3 DCMR § 1605.4.

The confusion that the proposed name is likely to present is illustrated by the proposed party’s own by-laws, which includes within the membership of the proposed party individuals who register as “Independent or ‘independent’ members of the electorate.” *See* Art. 1 of the DCIP Bylaws; *see also* Art. 2, and Art. 3, Sect.1. Thus, under the by-laws submitted to the Board, individuals who have traditionally registered

as “independent” with the intention and understanding that they would not be affiliated with a political party would find themselves registered with the District of Columbia Independent Party.

Even if the proposed party were to amend its by-laws to exclude members of the electorate that select “independent,” as Mr. Moore proposed during the hearing, this would not, in the Board’s view, avoid the confusion that is likely to occur. The need to distinguish—as Mr. Moore attempted to do at the hearing—between Independents (with a capital “I”) and independents (with a lower-case “i”) would continue to foster confusion among the electorate.

The Board’s rejection of the proposed party name under the circumstances here is not intended to suggest that the word “independent” can never be used in the name of a political party. For example, the Board is aware that, on at least one occasion, the name of a political party which included the word “independent” was approved in the District of Columbia.⁴ The Board believes, however, that any political party name that uses the term “independent” should be sufficiently distinguishable from the commonly used term “independent” that it will allow voters to readily differentiate between the political party and the state of being unaffiliated. This is not the case here.

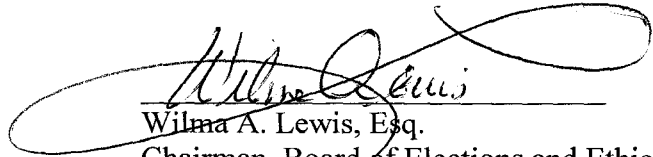
Accordingly, the Board rejects the name “District of Columbia Independent Party,” pursuant to 3 DCMR 1605.4, as a name that would tend to confuse or mislead the public. Specifically, the Board finds that the proposed name is confusing and misleading in that it is not sufficiently distinguishable from the term “independent”, which traditionally has been associated with registered voters who claim no party affiliation.

⁴ In 1972, the Board approved the name Independent Husband Liberation Party as a registered political party in the District of Columbia.

For the foregoing reasons, it is hereby:

ORDERED that the District of Columbia Independent Party's Application for Approval of the Name of a Political Party in the District of Columbia is **DENIED**.

January 26, 2007



Wilma A. Lewis, Esq.
Chairman, Board of Elections and Ethics

Lenora Cole, Ph.D
Member, Board of Elections and Ethics

Charles R. Lowery, Jr., Esq.
Member, Board of Elections and Ethics