Violation

Filed By: Supervisor of Elections

Against: Torch Party

Date Violation was Heard: October 21, 2013

S. Loveless delivers the opinion of the Commission joined by L. Hebb, C. Hayes, I. Waldick, and A. Norat

T. Thompson recused himself due to a conflict of interest.

The Supervisor of Elections has submitted before this Commission a violation of the Torch Party for not submitting a completed Final Expense Statement.

Following are the facts: Mr. Henmy’s personal bank account serves as the Torch Party’s campaign account. The Supervisor expressed to Mr. Henmy the risks of using a personal bank account for the election and the difficulty of separating personal transactions from party transactions. Mr. Henmy submitted to the Supervisor a Final Expense Statement on behalf of the Torch Party. The Supervisor verified all the expenses on Mr. Henmy’s bank statements and found two cash withdrawals. Mr. Henmy submitted a signed affidavit certifying the party’s expenses and that they represented the fair market value. Since these withdrawals were not accompanied with receipts, the Supervisor did not believe that he could validate the cash withdrawals on the bank statement and verify that the Final Expense Statement was complete.

The issue here is whether the cash withdrawals were personal expenses and thus, if the Torch Party submitted a completed Final Expense Statement. Mr. Henmy explained that the Supervisor of Elections directed him that in order to keep his personal transactions separate from the party transactions, Mr. Henmy should take out cash from the bank account for his personal use. In addition, Mr. Henmy stated that the Supervisor told him that these cash withdrawals do not need to be verified through receipts. There is no statute that requires personal expenses to be documented when a party uses a personal bank account for an election. Relying on Mr. Henmy’s testimony, we ruled that the expenses were personal and thus not included in the Final Expense Statement, so therefore it was complete.

It is clear to this Commission that §703(k) of the SGA Statutes gives the Supervisor of Elections a duty to “verify final expense statements; verify through affidavits…the fair market value of each campaign expense.” What we must rule on is whether the Final Expense Statement submitted by the Torch Party violated §714.3 (b) of the SGA Statutes.

After reviewing the evidence presented in this case, we find that the Final Expense Statement was complete. After observing the materials the Torch Party submitted to the Office of Elections and the bank statements at issue here, we find the elements outlined in
SGA Statute §714.3(b) were met by the Torch Party.

On a policy note, the Commission has grave concerns about what this would do for future violations and does not intend for campaign expenses to be undocumented with regard to receipts or personal bank accounts to be used for an election. The Election Commission recommends that the Senate should review the statutes to ensure clarity in a situation like this. We believe that this issue could have been resolved if the party’s bank account was not a personal account and receipts were kept for every transaction. Any expense, contribution or other element required by §714.3(b) should be documented and provided to the Supervisor of Elections at the time the Final Expense Statement is submitted.

In conclusion, we find that the facts presented before us show that the Torch Party submitted a Final Expense Statement and that the Supervisor should accept it as valid.

We hereby OVERRULE the violation submitted by the Supervisor of Elections.

C. Powell Dissent