

OFFICE OF THE INDEPENDENT ADVOCATE
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
REPORT OF INVESTIGATION

K #:10-044 Josaphat Celestin

Date Opened: April 7, 2010

Date Closed: April 12, 2010

Name of Investigators: Arthur D. Skinner; Christina Seymour, Auditor
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Background:

On March 25, 2010, the COE received an email from Ms. Christina White, Director of the Office of Governmental Affairs, Miami-Dade Elections Department, requesting an opinion on Miami-Dade County Code §12-22, Election Campaign Financing Trust Fund. Specifically, Ms. White is requesting clarification on §12-22(c), Election Campaign Financing, Eligibility, as to when the 90 day timeframe begins for a candidate to declare their intent to seek public funding via filing the official form, “Irrevocable Statement and Application for Election Campaign Financing Trust Fund,” with the Miami-Dade County Elections Department. Per the current Miami-Dade County Code’s §12-22(c) language, a candidate must file an “Irrevocable Statement and Application for Election Campaign Financing Trust Fund” within 90 days of **opening a campaign account**. Thus, the current language in Code §12-22(c) is unclear as to whether the opening of a campaign account is triggered on the date the candidate files true and correct campaign documents with the Elections Department **OR** on the date that a candidate opens his/her campaign depository at a banking institution. ¹

¹ COE Auditor notes that this is a policy issue that is to be addressed by the COE Staff General Counsel in an official Request for Opinion, which will be publicly presented at the April 14, 2010 meeting of the Miami-Dade County Ethics Commission.

Ms. White's request for clarification stemmed from the Josaphat Celestin candidacy, who initially filed his paperwork with MDC Elections on December 9, 2009. Per Ms. White's email, on December 10, 2009 MDC Election's staff noted that Celestin had signed the Form DS-DE9, "Appointment of Treasurer and Designation of Campaign Depository," as both the Candidate and Campaign Treasurer, who is actually listed as "Sylvio Destinval." Mr. Celestin was contacted repeatedly by the MDC Elections staff informing Celestin that the Campaign Treasurer, Sylvio Destinval, is required to sign as the Campaign Treasurer, and not the candidate's signature in lieu of his campaign treasurer's actual signature, as Celestin is not the Campaign Treasurer. Furthermore, Elections instructed Celestin to resubmit the corrected Form DS-DE9 to MDC Elections. Celestin filed his corrected Form DS-DE9 on January 6, 2010 with MDC Elections Department.

Additionally, Ms. White indicated in her email to the COE that on December 17, 2009, the Elections Department sent Celestin a certified acknowledgement letter that Celestin is an officially announced candidate for Miami-Dade County Commissioner District 2 in the 2010 election cycle. Election's also stated in this letter that the candidate had a deadline of 90 days after opening a campaign account to apply for public funding. Since the Elections Department was basing the start of the 90-day timeframe on the date of December 6, 2009 (i.e., when Celestin's initial inaccurate paperwork was filed with MDC Elections), the December 17, 2009 correspondence to Celestin indicated to Celestin that the last date for this candidate to apply for public funding is March 9, 2010.

Investigation:

Investigator Art Skinner reviewed all of Josephat Celestin's campaign documentation submitted to MDC Elections provided to the COE by Ms. White, MDC Elections' Director of Governmental Affairs. The COE Investigator noted that the documentation revealed that Celestin had in fact incorrectly submitted the Form DS-DE9, Appointment of Campaign Treasurer and Designation of Campaign Depository, on December 9, 2009. Specifically, the form showed that Celestin had designated Sylvio Destinval as Campaign Treasurer, but Celestin himself signed his own name in the space where Sylvio Destinval should have signed his own name to show his acceptance of the Campaign Treasurer position for Celestin's campaign.

Other facts verified by Investigator and COE Auditor are as follows:

- 1) On January 6, 2010, Celestin filed a corrected Form DS-DE9, Appointment of Campaign Treasurer and Designation of Campaign Depository, with the true and correct signature of Sylvio Destinval as the candidate's Campaign Treasurer.
- 2) On January 11, 2010, Celestin filed Form DS-DE87, Waiver of Report (Campaign Treasurer Report), stating that there was no open bank account, contributions or expenditures for the reporting period 10/01/2009 through 12/31/2009.
- 3) On April 7, 2010, COE Investigator Arthur Skinner interviewed District 2 Commission Candidate, Josaphat Celestin, by telephone (786) 237-1504. Celestin stated that he opened his campaign bank account with Chase Bank 5800 N.W. 7th Avenue, Miami, Florida 33150 on January 11, 2010. Celestin said he will contact Chase Bank and obtain a letter verifying the account and the opening date.

- 4) On April 8, 2010, the COE Auditor interviewed Ms. Maria Acosta, Elections Department staff, and requested a copy Josephat Celestin's "Irrevocable Statement and Application for Election Campaign Financing Trust Fund." A review of this document showed that it was signed by the candidate Celestin on March 12, 2010, the same date that MDC Elections stamped this document as being officially received. It should be noted that the declaration statement submitted by the candidate, Josephat Celestin, indicates this candidate's intent to apply for public funding for his campaign for the MDC Commissioner District 2 seat. The candidate would only receive the public funds after he meets all the eligibility requirements set forth in Miami-Dade County Code §12-22, Election Campaign Financing Trust Fund.

- 5) On April 12, 2010, the COE received a FAX from District 2 Commission Candidate, Josaphat Celestin a letter from Chase Bank verifying that a checking account was opened under the name of Joe Celestin for Miami Dade County Commission District 2. The checking account number: 853386720 was opened February 1, 2010.

CONCLUSION:

Based on the COE's review of all relevant documentation and independent interviews of the parties involved, the COE concludes that Josephat Celestin became an official candidate for Commissioner District 2 on January 6, 2010, that date the Celestin filed the corrected Form DS-DE9, Appointment of Campaign Treasurer and Designation of Campaign Depository, with the true and correct signature of Sylvio Destinval as the candidate's Campaign Treasurer. If the Ethics Commission determines that the opening of a campaign account begins on the date that the candidate files

correct paperwork with the Miami-Dade County Elections Department, then January 6, 2010 marks the beginning of the 90 day timeframe for a candidate to file their intent to seek public funds. Assuming that this is the how the Ethics Commission interprets the language of §12-22(c), Election Campaign Financing, Eligibility, then the last day for Celestin to file his Irrevocable Statement and Application for Election Campaign Financing Trust Fund” would be April 3, 2010.

However, if the Ethics Commission determines that the opening of a campaign account begins on the date that the candidate opens a campaign depository with a banking institution, then February 1, 2010 marks the beginning of the 90 day timeframe for a candidate to file their intent to seek public funds. Assuming that this is the how the Ethics Commission interprets the language of §12-22(c), Election Campaign Financing, Eligibility, then the last day for Celestin to file his “Irrevocable Statement and Application for Election Campaign Financing Trust Fund” would be May 1, 2010.

In any event, the fact that Josephat Celestin properly filed his “Irrevocable Statement and Application for Election Campaign Financing Trust Fund” with the Miami-Dade County Elections Department on March 12, 2010, the candidate is within the 90 day timeframe for declaring his intent to seek public funding as the deadline would be at a date following March 12, 2010 (i.e. either April 3, 2010 or May 1, 2010.)

NOTE: The Conclusions noted above do NOT include investigators opinion about whether probable cause exists or whether respondent/target is guilty or not.

ATTACHEMENTS

1. Email from Elections Department Division Director, Christina White, dated March 25, 2010.

2. "Irrevocable Statement and Application for Election Campaign Financing Trust Fund" for Josephat Celestin, dated March 12, 2010.
3. Copy of Miami-Dade County Code §12-22, Election Campaign Financing Trust Fund.
4. All other campaign documents pertaining to J. Celestin received from MDC Elections.