

## REPORT OF INVESTIGATION

K #: 10-126 Oliver Gilbert (C10-033)

Date Opened: Sept. 8, 2010

Date Closed: Sept. 29, 2010

Name of investigator: Karl Ross  
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### **ALLEGATION:**

The complainant, Ulysses Harvard, filed a formal ethics complaint on September 8 in which he alleged the above-named respondent engaged in behavior that would violate the voluntary provisions of the Voluntary Fair Campaign Practices agreement, which the respondent signed at the time he filed his qualification papers. Mr. Harvard alleged the respondent violated the section of the guidelines stating: "I will neither use nor permit the use of malicious untruths or innuendos about an opponent's personal life, nor will I make or condone unfounded accusations discrediting that person's credibility." In particular, Mr. Harvard claimed the respondent, Oliver Gilbert, made public remarks contrary to this voluntary agreement in front of the North Dade Regional Library on or about August 9 at the onset of early voting. Mr. Harvard alleges that, in the presence of prospective voters, Mr. Gilbert made disparaging remarks about Mr. Harvard engaging in domestic violence – "that I beat up women" – and that Gilbert later made other inappropriate remarks, including calling him a "punk" and making reference to a foreclosure action against Mr. Harvard's home. He said that the respondent then laughed at him and made other inappropriate or mocking gestures. The Miami Gardens municipal election was held on Aug. 24, 2010, and the complainant lost to Mr. Gilbert, the incumbent office-holder, by a 3-to-1 margin.

## **INVESTIGATION:**

On September 27, COE interviewed Anslem Smith, who was a candidate for the Miami Gardens city commission and an alleged witness to the library incident.

Mr. Smith advised that he did recall an encounter between Mr. Harvard and Mr. Smith at the North Dade Regional Library on or about August 9, at the start of early voting. He said he observed the men have a “conversation” but was not aware of any insults or “anything negative being said.” When told that Harvard’s complaint names him as a witness and indicates that he intervened in a verbal spat involving name calling on the part of Mr. Gilbert, Smith stated: “I don’t know specifically what he (Harvard) is talking about.” Smith said he was too focused on his own campaigning to pay attention to whatever was being discussed by other candidates greeting voters on that occasion.

On September 27, COE interviewed the complainant, Mr. Harvard.

Mr. Harvard expressed disappointment that Anslem Smith claimed not to recall the incident that occurred outside of the North Dade library during early voting. He said that he was talking to voters when Mr. Gilbert began to heckle him and tell him he shouldn’t bother running because he’s not going to be elected, then turned belligerent and made statements about his allegedly beating women and not paying his bills. He said the dispute got so bad that Smith “had to separate us.” It was at that time, after Smith intervened, that Gilbert allegedly called Smith a punk. Harvard said that Gilbert’s cousin (Felicia Robinson, now a councilwoman) was there and approached them and said: “You guys shouldn’t be acting like that.” He said he told Robinson that she should talk to her cousin since he was the one who started it.

On Sept. 27, COE interviewed Miami Gardens City Clerk Ronetta Taylor.

Ms. Taylor confirmed that both Mr. Gilbert and Mr. Harvard signed the voluntary fair campaign practices agreement. Asked if she was aware, directly or indirectly, about any disputes between the candidates that concerned these guidelines, she said that she was and that she believed she witnessed the “tail end” of such a dispute at the North Dade Regional Library during early voting. She said she saw Anslem Smith was talking to Gilbert and that he [Smith] was “up in his face.” She said that Smith was trying to get Gilbert to calm down. She said Harvard told her about the comments that Gilbert allegedly made “about beating his wife and having bad debt.” She said she told both candidates “to behave” and left the scene.

On September 27, COE interviewed Felicia Robinson, a Miami Gardens city councilwoman and cousin of the respondent.

Ms. Robinson, a high school math teacher, said she did recall “something going on” between Mr. Gilbert and Mr. Harvard. She said she did approach them and tell them to “handle it” in a more discreet and mature manner and not in public. She said this year’s election has been especially “heated,” and that she has had to intervene in this fashion on more than one occasion with other candidates as well. She said she was aware of a dispute between Gilbert and Harvard, but did not know what was being said. “I didn’t specifically hear a personal attack.” She said she did recall Anslem Smith being present at the time of the incident and somehow involved as well.

On September 27, COE interviewed the respondent, Mr. Gilbert.

Mr. Gilbert met with COE investigators along with his attorney, Robert Holland. Mr. Gilbert was given a chance to respond to the complaint, and advised that, as it relates to the incident at the library, he did not recall exactly what was said but does recall getting into a verbal exchange with Mr. Harvard. He said that his memory is not clear because his father had recently died and he was upset. He said he did recall telling Mr. Harvard that he thought he was going to lose the election and that, at one point, he began laughing at Mr. Harvard in order to mock him and to make him upset. “There was a dispute . . . He was upset, and I laughed at him because I knew that would make him more upset.” He said he recalled that Anslem Smith was there, and Smith told them, “You all leave it alone.” He said that Harvard remained angry at him, and told him, “I’m going to fuck you up, big boy.” He said that, during the incident, he does not believe he made any references to Mr. Harvard’s alleged domestic violence or to his financial situation.

Gilbert said that as a former prosecutor, he knows the difference between being charged with and being convicted of a crime. He said that in his view, however, Mr. Harvard admitted to what could be considered assault. He said that, nonetheless, any remarks he made were directed at Mr. Harvard personally and not directed at prospective voters. He said he did not believe such behavior would persuade anybody to vote for him. He said he did recall that Felicia Robinson was present during the encounter as well as Anslem. Smith. He said he did not recall that the city clerk, Ms. Taylor, was present, though she may have arrived after the fact.

With respect to allegations about his campaign telling female voters not to vote for Harvard because of his alleged personal transgressions, Gilbert said that he never made any such remarks, nor did he direct his campaign staff or volunteers to make any such comments. He said that he wanted his supporters to speak to prospective voters only about his attributes and not to mention his opponents. “If somebody in my campaign said that, I would be very, very surprised,” he said. Lastly, with respect to the allegations about failure to report in-kind campaign contributions for legal research, Mr. Oliver stated that he is an attorney and he would not need to enlist anybody at his law firm to research his opponent, in particular the records associated with his arrest on domestic battery charges in 1997. “I could do that on my iPhone,” he said.

On September 29, COE interviewed Ann Vickers-McDuffie, a Miami-Dade County employee who served as clerk for the early voting at the North Dade Regional Library.

Ms. Vickers advised that she was not aware of the incident in question. “Nobody brought it to my attention,” she said, noting that she would have been inside at the time. “It would have been my deputy and them who took care of it.” She confirmed her poll deputy was Vanessa Lomax.

On September 30, COE interviewed Vanessa Lomax, early voting poll deputy.

COE visited the home of Ms. Lomax at 16230 NW 17<sup>th</sup> Place on the above date and interviewed her regarding the incident in front of the North Dade library. Ms. Lomax said she did not recall any such incident, nor was she made aware that any such incident occurred. She advised that she knows the candidates in question – Mr. Gilbert and Mr. Harvard – and that she did see them at the entrance to the polling site. However, she said: “I didn’t see anything.” She said that if she had seen something, she would have reported it to the clerk, Ms. Vickers-McDuffie.

A review of the public record and media reports was also made in connection with the investigation that show, among other things, that Mr. Harvard was arrested for domestic battery in April 1997 and that the charge was dismissed the following July without going to trial. In remarks published in the Miami Herald on August 12, Mr. Harvard admitted that he “pushed” his son’s mother “by grabbing her arm” following an argument at his home, “and told her to leave.” Mr. Harvard also acknowledged in an August 17 story in the Herald that his home was in foreclosure and that, according to the report, he owed \$16,500 in back taxes to the IRS, which placed a lien on his home.

### **CONCLUSION:**

Based upon the available information and in consultation with the Office of the Independent Advocate (OIA), it does not appear that probable cause exists to find the respondent, Mr. Gilbert, violated the ethics code as it relates to the Fair Campaign Practices agreement. While by his own admission, Mr. Gilbert behaved in a manner that was unbecoming for an elected official – engaging in a verbal altercation and provoking a rival candidate by telling him he is going to lose and laughing at him – the accounts provided by witnesses do not contradict Mr. Gilbert’s claim that he does not recall making any references to the complainant’s personal affairs. In particular, Mr. Gilbert denies making any remarks pertaining to the complainant’s alleged history of domestic violence and states that he realizes that it would be unfair and inappropriate to do so considering the complainant was charged but never convicted of said offense. Any

references to Mr. Harvard's unpaid mortgage would be true and, therefore, technically not in violation of the agreement – though such tactics would still seem to violate the intent and spirit of the agreement to run a positive campaign based on one's own record and achievements. While it is disconcerting that such a display of personal animosity occurred in the vicinity of a polling place, it would appear that any remarks made by the respondent – inappropriate or otherwise – were directed at the complainant and not at potential voters. It would therefore appear that, based on the available information, the incident at the North Dade Regional Library does not appear to violate the provisions of the voluntary Fair Campaign Practices agreement, part of the ethics code.

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