

**BEFORE THE ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

In the Matter of
Alpha J. Buie, treasurer of the African
American Democratic Club,
Respondent.

SFEC NO. 13-131112

Decision and Order

This decision and order are issued in support of the Ethics Commission's previously announced decision in the matter of Ethics Complaint number 13-131112 at its regularly held meeting of January 23, 2017. On January 23, the Ethics Commission conducted a hearing on the merits of this matter. Milad Dalju, Esq. appeared on behalf of the Executive Director and Ethics Commission Staff. Respondent appeared pro se. At the hearing, all five members of the Ethics Commission accepted into evidence Staff's Hearing Brief and associated Exhibits, heard testimony from Respondent, considered the factual record and legal arguments presented by Staff, and took public comment. Having considered the pertinent law and facts, the Ethics Commission unanimously makes the following findings and order:

FINDINGS OF FACT

On October 19, 2011, Respondent Alpha J. Buie formed a general-purpose committee for “African American political education and voter registration.” See Declaration of Shaista Shaikh (Shaikh Dec.), Exhibit 1, p. 2, Respondent’s Form 410 Statement of Organization. Respondent Buie identified herself as the Treasurer for the Committee and Charles Spencer as the Principal Officer. *Id.* On October 27, 2011, the Committee filed its first Recipient Committee Campaign Statement Form 460 (Form 460), which covered the period of January 1 to October 22, 2011. See Shaista Dec., Exhibit 2. On that Form 460, Respondent reported receiving \$1,000 in contributions. *Id.*

1 On July 19, 2012, during the time-period when the Committee was still actively filing campaign
2 statements, Respondent Buie spoke with Ethics Commission Fines Collection Officer Ernestine Braxton
3 about late fines the Committee had accrued. *See Declaration of Ernestine Braxton, ¶ 4.* Respondent Buie
4 requested a waiver of \$2,720.00 in late fees because she was new to the duties of treasurer and was
5 handling a family emergency involving her mother during the 2012 election period. *Id.*, Exhibit 4.
6 Respondent Buie produced newspaper articles and travel receipts accounting for time she spent
7 removing her mother from an elder care center where her mother had suffered physical abuse and
8 neglect. *Id.* Executive Director John St. Croix granted Respondent Buie's waiver request for good cause
9 on September 7, 2012. *Id.* ¶ 5, Exhibit 5.

10 On October 25, 2012, Respondents filed their last Form 460 statement covering the reporting
11 period from October 1 to October 20, 2012. *See Shaista Dec.*, Exhibit 3. On that Form 460, Respondent
12 Buie was still identified as the Treasurer for the Committee. *Id.* at p. 1. Respondent reported receiving
13 \$9,570.00 in contributions year to date and making \$13,503.76 in expenditures year to date. *Id.* at
14 Exhibit 3, p. 3. Respondent also reported an ending cash balance of \$5,216.51. *Id.* Respondent gave no
15 indication that she was terminating the Committee. To date, Respondent has not terminated the
16 Committee by filing a Terminating Statement Form 410 or filed any other reports indicating whether
17 fundraising or expenditure activity has occurred over the last four years. *See Shaista Dec.* ¶¶ 6-7.

18 Prior to the hearing on the merits, Respondent last communicated with Staff in October 2014.
19 At the time, Respondent Buie represented to Staff that she had verbally resigned as the Committee's
20 treasurer in November 2012. Staff advised Respondent Buie that she could not formally resign until she
21 filed a statement of resignation with the Committee. Respondents worked with Staff to obtain records
22 documenting how the Committee wound down its ending cash balance. At some point, Respondent Buie
23 even participated in a conference call with former Ethics Commission Executive Director John St. Croix
24

and a Wells Fargo bank representative because the Wells Fargo bank held the Committee's checking accounts. According to Respondent, the bank representative told Respondent and Mr. St. Croix that the accounts Ms. Buie had managed on behalf of the Committee in 2012 no longer existed. At the conclusion of the hearing on the merits, the Commission accepted Respondent's representation that the accounts affiliated with the Committee are closed. Nobody can confirm that the Committee has ceased all political activity, but during public comment, former Committee President Charles Spencer promised to make sure the Committee formally terminated its status as a general purpose committee as soon as possible after the hearing on the merits.

Conclusions of Law

The San Francisco Charter, Appendix C3.699-13(c) authorizes the Commission to hold a public hearing to assess penalties and order remedial relief if, based on substantial evidence, the Commission determines that Respondents have violated the law. The Commission’s Enforcement Regulations at Section XII.A.2 further elaborates on the Commission’s authority, providing that “a respondent has committed a violation of law only if a person of ordinary caution and prudence would conclude, based on a preponderance of the evidence, that the respondent has committed the violation.” Any person who “intentionally or negligently violates any of the provisions of this Chapter shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for any penalties authorized therein.” CFRO § 1.170(c). The Political Reform Act makes treasurers—such as Respondent Buie—personally responsible for complying with campaign finance laws: “It shall be the duty of each . . . treasurer . . . to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of this chapter.” Cal. Govt. Code § 84104. For the following reasons, the Commission finds that Respondent committed 3 violations of CFRO based on a preponderance of the evidence.

A. Counts 1 through 3: Respondent failed to disclose campaign contributions and expenditures by filing required campaign statements.

CFRO requires elected officers, candidates, and committees to file semi-annual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31 disclosing itemized campaign contributions, expenditures, outstanding debts and cash on hand. CFRO § 1.106. These campaign statements, known as Form 460s, are made immediately available to the public for review upon their filing. San Franciscans demanded the level of disclosure required by CFRO § 1.106 in part because they believed the public had a right to know who was contributing to—and influencing—candidates in real time, during and throughout the election season. CFRO § 1.100. Indeed, the goals set forth in CFRO:

- to “[p]lace realistic and enforceable limits on the amount individuals may contribute to political campaigns . . . ;”
- to “[e]nsure that all individuals and interest groups in our city have a fair opportunity to participate in elective and governmental processes;”
- to “[m]ake it easier for the public, the media and election officials to efficiently review and compare campaign statements by requiring committees that meet certain financial thresholds to file copies of their campaign statements on designated electronic media;” and
- to “[h]elp restore public trust in governmental and electoral institutions”

are impossible to meet if candidates do not comply with reporting and public disclosure requirements in the first instance.

A committee is required to continue filing semi-annual statements until it has terminated by filing a Terminating Statement Form 410. Cal. Govt. Code § 84214, FPPC Regulation 18404(b). On October 25, 2012, Respondent reported that the Committee still had \$5,216.51 in cash on hand. Exhibit 3, p. 2. To date, Respondent has not filed any of the required Form 460 Campaign Statements for any reporting period following the Committee's last filing of October 25, 2012, nor have they terminated the committee by filing a Terminating Statement Form 410. See Shaista Dec. ¶¶ 6-7. Accordingly, neither Staff nor the public has any way of knowing

1 whether Respondents legally wound down her campaign, accepted unlawful contributions, continued to
2 fundraise, expended money inappropriately, etc. Three reporting periods passed prior to the Commission's
3 determination of probable cause in this matter.

4 The Commission finds that Respondent committed three separate violations of CFRO § 1.106 as follows:

5 **Count 1.** By failing to file the required semi-annual Form 460 covering the reporting period of
6 October 21 through December 31, 2012, by January 31, 2013, Respondents committed one
7 violation of CFRO § 1.106.¹

8 **Count 2.** By failing to file the required semi-annual Form 460 covering the reporting period of
9 January 1 through June 30, 2013, by July 31, 2013, Respondents committed one violation of
10 CFRO § 1.106.

11 **Count 3.** By failing to file the required semi-annual Form 460 covering the reporting period of
12 July 1 through December 31, 2013, by January 31, 2014, Respondents committed one violation of
13 CFRO § 1.106.

14 FINAL ORDERS

15 **THEREFORE, the Commission makes the following ORDERS:**

16 1. **Liability:** Respondent Alpha Buie, as the treasurer for the African American
17 Democratic Club, committed three violations of the Campaign Finance Reform Ordinance as presented.

18 2. **Injunctive Relief:** The San Francisco Charter, at Appendix § C3.699-13(C),
19 authorizes the Commission to require Respondent to file any reports, statements, or other documents
20 or information required by law. Respondent Alpha Buie is hereby ordered to file a Form 410
21 termination statement and any missing Form 460 campaign statements with the Ethics Commission on
22 or before February 15, 2017. Failure to file missing statements will result in further enforcement action.
23
24 If Respondent Buie is unable to account for money listed as cash on hand on the Committee's last-filed
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26 ¹ CFRO § 1.106 incorporates by reference the PRA, Cal. Govt. Code § 84200(a).

1 campaign statement, Respondent Buie is ordered to write a letter to the Commission explaining the
2 reason(s).

3. **Administrative Penalty:** Because Respondent presented evidence that she
4 attempted to comply with the Campaign Finance Reform Ordinance in good faith and because
5 substantial penalties would not further the purposes of CFRO, the Commission assesses an
6 administrative penalty against Respondent Buie of \$1.00 per violation for a total of \$3.00. Pursuant to
7 Enforcement Regulations, section XII.C.3, Respondent shall remit payment within 90 days of the
8 Commission's decision by delivering a check or money order to the Ethics Commission at 25 Van Ness
9 Avenue, Suite 220, San Francisco, California, 94102.

10 **IT IS SO ORDERED.**

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13 Dated: Jan 24, 2017

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17 Paul A. Renne
18 Chairperson, San Francisco Ethics Commission
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