

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

In Re the Matter of) CA 07-14
)
Bryan Baptiste and)
Friends of Bryan Baptiste)
)
Respondents.)
_____)

CONCILIATION AGREEMENT

On or around December 2006, Barbara U. Wong, Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation of Bryan Baptiste and Friends of Bryan Baptiste ("Respondents"). The investigation was initiated pursuant to the express authority of section 11-193(a)(7), Hawaii Revised Statutes ("HRS"), for a determination of whether the Hawaii campaign spending laws had been violated and a complaint would be submitted to the Commission.

NOW, THEREFORE, Respondents and the Commission, having entered into conciliation and pursuant to section 11-216(g), HRS, do hereby agree as follows:

- I. That the Commission has jurisdiction over Respondents and the subject matter of this administrative action.
- II. That this Conciliation Agreement ("Agreement"), upon complete performance of the conditions stated herein has the effect of remedial or corrective action taken by Respondents pursuant to section 11-216(g), HRS.

- III. That Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- IV. That Respondents waive the right to be heard at a public hearing conducted under chapter 91, HRS, pursuant to section 11-228(b), HRS.
- V. That Respondents having voluntarily and fully cooperated with this investigation desire to resolve any further administrative proceedings and potential litigation by entering into this Agreement with the Commission on their own volition and with full knowledge and understanding.
- VI. That parties agree to the pertinent facts as follows:
 1. On or around December 2006, Barbara U. Wong, Executive Director for the Commission, initiated an investigation of the Respondents.
 2. Respondent Friends of Bryan Baptiste is the candidate committee for Respondent Bryan Baptiste, a candidate for the Mayor's Office, County of Kauai.
 3. Section 11-200(b), HRS, provides in part as follows:

“(b) Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or candidate's committee, as a contribution:

* * * *

(3) May make contributions from its campaign fund to any community service, educational, youth, recreational, charitable, scientific, or literary organization; provided that in any election cycle, the total amount of all contributions from campaign funds and surplus funds shall be no more than the maximum amount that one person or other entity may contribute to that candidate pursuant to section 11-204(a); provided further that no contribution from campaign funds shall be made from the date the candidate files nomination papers to the date of the general election.”

4. Section 11-206(c), HRS, provides in part as follows:

“(c) Surplus funds may be used after a general or special election for:

* * * *

(3) Any contribution to any community service, educational, youth, recreational, charitable, scientific, or literary organization; provided that in any election cycle, the total amount of all contributions from campaign funds and surplus funds shall be no more than the maximum amount that one person or other entity may contribute to that candidate pursuant to section

11-204(a); provided further that no contribution from campaign funds shall be made from the date the candidate files nomination papers to the date of the general election.”

5. Section 11-204, HRS, provides in part as follows:

“(a)(1) No person or any other entity shall make contributions to:

* * * *

(C) A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate’s committee in an aggregate amount greater than \$4,000 during an election period...”

6. Mr. Baptiste was a candidate for a four-year nonstatewide office and the relevant election period was from November 6, 2002 through November 7, 2006.
7. Mr. Baptiste filed nomination papers for office on July 18, 2006.
8. The Respondents made contributions of \$21,226.14 to various community groups, during the election period.
9. Respondents made \$17,226.14 in contributions to community groups which exceeded the \$4,000 “cap” in sections 11-200(b)(3) and 11-206(c)(3), HRS.

10. Respondents made seven contributions totaling \$730 to community groups after filing nomination papers.
11. Respondents did not knowingly, intentionally, or recklessly violate sections 11-200(b)(3) and 11-206(c)(3), HRS.

VII. Settlement Terms

1. As final settlement of the matter and issues in this Conciliation Agreement #07-14, Respondents agree to an assessment of Six Thousand Dollars (\$6,000) pursuant to section 11-228, HRS.
2. Terms of payment of the assessment shall be by Order of the Commission.
3. Respondents agree to comply with Hawaii laws on contributions and expenditures.
4. It is understood that Respondents entering into this Conciliation Agreement is intended to remedy or correct the alleged violation, but it is not an admission of liability.

VIII. The Commission upon its own motion or a written request of anyone filing a complaint under section 11-216, HRS, may review compliance with the Agreement. If the Commission believes that the Agreement has been violated, it may institute administrative proceedings or a civil action in the Circuit Court of the First Circuit pursuant to section 11-228(c), HRS.

- IX. This Agreement shall become effective as of the date that all parties have signed and the Commission has approved the entire Agreement.
- X. This Agreement constitutes the entire agreement between the Commission and Respondents on the matters raised herein, and no other statement, promise, or agreement, either in writing or oral, not contained in this Agreement made by either party or by agents of either party shall be enforceable.
- XI. This Agreement, unless violated, shall be a complete bar to any further action by the Commission with respect to the violations at issue in this matter and any and all other matters covered by this Agreement.

FOR THE COMMISSION:

Barbara Wong, Executive Director

Date: _____

FOR THE RESPONDENTS:

Bryan Baptiste

Date: _____

Friends of Bryan Baptiste

By: _____

Print Name

Its: _____

Date: _____