

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

IN RE THE MATTER OF)
) CA 07-15
)
)
A. LEIOMALAMA SOLOMON aka)
MALAMA SOLOMON; and FRIENDS)
OF MALAMA SOLOMON)
)
)
Respondents)
_____)

CONCILIATION AGREEMENT

On or around November 2006, Barbara U. Wong, Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation of A. Leiomalama Solomon aka Malama Solomon and Friends of Malama Solomon ("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 November 2006, Barbara U. Wong, Executive Director for the Commission, initiated an investigation of the Respondents.
 2. Respondent Solomon was a candidate for the Lieutenant Governor's Office in 2006.
 3. Respondent Friends of Malama Solomon ("Committee") is the candidate committee for Respondent Solomon.
 4. Section 11-204(c), HRS, provides that "[a] candidate's immediate family, in making contributions to the candidate's campaign...shall be limited in the aggregate to \$50,000 in any election period. The aggregate amount of \$50,000 shall include any loans made for campaign purposes to the candidate from the candidate's immediate family."

5. HRS section 11-191 provides that "[i]mmediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.
6. The relevant election period for Respondents was from November 6, 2002 through November 7, 2006.
7. Solomon filed nomination papers on July 24, 2006 and the Committee's organizational report was filed with the Commission on August 3, 2006.
8. The primary election was on September 23, 2006. Solomon had 62 days between July 24, 2006 and the primary election to campaign for office.
9. Flora Beamer-Solomon is Respondent Solomon's mother.
10. Randolph Solomon is Respondent Solomon's father.
11. Respondents reported receiving a \$25,000 loan from Flora Beamer-Solomon on July 24, 2006 in the Committee's second preliminary report covering the reporting period from July 1, 2006 through September 8, 2006. A loan document attached to the report stated that the lenders were Flora Beamer-Solomon and Randolph Solomon.
12. Solomon won the primary election and was a candidate in the general election on November 7, 2006. She had 45 days between the primary election and the general election to campaign for office.
13. At the end of the primary election, the Committee reported a deficit of \$33,799.60 (a negative cash balance of \$8,799.60 and an outstanding \$25,000 loan).

14. Hulali Solomon Covington “(Covington”) is Respondent Solomon’s sister and was the Committee’s treasurer.
15. Respondents reported receiving a \$10,000 loan from Covington on or about October 4, 2006 and a second \$10,000 loan from Covington on or about October 5, 2006 in the second amended preliminary report which was filed with the Commission on December 8, 2006. These loans were not disclosed in the preliminary general report filed with the Commission on October 30, 2006. These loans were disclosed in the second amendment to the preliminary general report that was filed on December 8, 2006, after the Commission’s investigation began.
16. Respondents reported receiving a \$50,000 loan from Solomon on or about October 5, 2006 in the second amended preliminary report which was filed with the Commission on December 8, 2006. This loan was not disclosed in the preliminary general report that was filed with the Commission on or about October 30, 2006. This loan was disclosed in the second amendment to the preliminary general report that was filed on December 8, 2006, after the Commission’s investigation began.
17. Respondents made expenditures for television advertisements by issuing check #1062 for \$32,312.29 on October 11, 2006 and check # 1068 for \$23,848.80 on October 23, 2006.
18. Despite the Respondents’ denial and offer of proof otherwise, the Commission determined that it is more probable than not that Randolph

Solomon was the true source of \$95,000 in funds and exceeded the \$50,000 limit for contributions and loans from immediate family members in section 11-204(c), HRS.

- a. Respondents reported receiving a \$25,000 loan on July 24, 2006 from Randolph Solomon and Flora Beamer-Solomon.
 - b. Randolph Solomon was the true source of the \$20,000 in loans (two \$10,000 loans) that Respondents reported receiving on or about October 4 and 5, 2006 from Covington.
 - c. Randolph Solomon was the true source of the \$50,000 loan that Respondents reported receiving on or about October 5, 2006 from Solomon.
19. Respondents urge that Covington, rather than Randolph Solomon, was the true source of the \$20,000 that Respondents reported receiving on or about October 4 and 5, 2006. Respondents urge that Solomon, rather than Randolph Solomon, was the true source of the \$50,000 that Respondents reported receiving on or about October 5, 2006. Respondents point to section 11-191(b), HRS, relating to the definition of a “contribution”, which provides that “...a candidate's expenditure of the candidate's own funds or the making of a loan or advance in the pursuit of the candidate's campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.”

20. The failure to document and disclose a loan shall cause the loan to be treated as a contribution, pursuant to section 11-205.6, HRS. The \$10,000 loan on or about October 4, 2006, the \$10,000 loan on or about October 5, 2006, and the \$50,000 loan on or about October 5, 2006 were not documented and disclosed when the preliminary general report was filed on October 30, 2006. These loans were disclosed in the second amendment to the preliminary general report filed on December 8, 2006.
21. Section 11-202, HRS, provides that “[n]o person shall make a contribution of the person's own money or property, or money or property of another person to any candidate, party, or committee in connection with a nomination for election, or election, in any name other than the true name of the person who owns the money or who supplied the money or property.

All contributions made in the name of a person other than the true or established name of the actual owner of the money or property shall escheat to the Hawaii election campaign fund.”

22. Section 11-204(e), HRS, provides that: “[a]ny candidate, candidate's committee, or committee that receives in the aggregate more than the applicable limits set forth in this section in any primary, initial special, special, or general election from a person, shall be required to return any excess contribution to the original donor within thirty days of receipt of the excess contribution. Any excess contribution not returned to the

original donor within thirty days shall escheat to the Hawaii election campaign fund....” Respondents did not return any excess contribution to Randolph Solomon within thirty days of receipt of the contribution.

23. Sections 11-195, 11-212, and 11-213, HRS, specify that a candidate is required to certify reports filed with the Commission and the reports must disclose the name, address, employer, and occupation of each contributor who makes contributions aggregating \$1,000 or more during an election period; and information about each loan to the committee. Respondents did not report two \$10,000 loans and a \$50,000 loan from Randolph Solomon.
24. Respondents did not knowingly, intentionally, or recklessly violate sections 11-195, 11-202, 11-204, 11-205.6, 11-212, and 11-213, HRS.
25. Section 11-193, HRS, relating to the Commission’s duties, provides, in part that the Commission must “...[a]scertain whether any candidate, committee, or party has failed to file a report required by this subpart or has filed a substantially defective or deficient report, and to notify these persons by first class mail that their failure to file or filing of a substantially defective or deficient report must be corrected and explained. The correction or explanation shall be submitted in writing to the commission not later than 4:30 p.m. on the fifth day after notification of the failure to file or deficiency has been mailed to these persons. The commission shall publish in the newspaper, and on its website, the names

of all candidates, committees, and parties who have failed to file a report or to correct their deficiency within the time allowed by the commission. Failure to file or correct a report when due, as required by this subpart, shall result in a penalty of \$50. Failure to respond after a newspaper notification or website publication shall result in an additional penalty of \$50 for each day a report remains overdue or uncorrected. All penalties collected under this section shall be deposited in the Hawaii election campaign fund...”

26. The Committee’s supplemental report was due on July 31, 2007 and was not filed, resulting in the imposition of penalties. Respondents said that the report was not filed because of the ongoing investigation.

VII. Settlement Terms

1. As final settlement of the matter and issues in this Conciliation Agreement #07-15, Respondents agree to an assessment of \$12,000 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:

Malama Solomon

Friends of Malama Solomon

By: _____

By: _____

Date: _____

Print Name / Title

Date: _____