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AUDITOR'S REVIEW OF UNAUTHORIZED AND IMPROPER TRANSACTIONS OF ANC 7C'S CHAIRPERSON

September 30, 1999



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Ms. Jacqueline M. Harris, Treasurer
Advisory Neighborhood Commission 7C
4651 Nannie Helen Burroughs Ave. N.E.
Washington, D.C. 20015

Letter Report: Auditor's Review of Unauthorized and Improper Transactions of ANC 7C's Chairperson

Dear Commissioner Harris:

Pursuant to D.C. Code, Section 1-264(d), the District of Columbia Auditor reviewed the financial activities of ANC 7C's chairperson. The purpose of this review was to examine activities related to the opening of a checking account using the name "ANC-SMD7C06", a Single Member District (SMD) of Advisory Neighborhood Commission (ANC) 7C, to deposit donations and make disbursements for a community day festival.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of this review were to determine:

1. whether the use of ANC 7C's name and tax identification number to open a checking account at Chevy Chase Bank was authorized by the majority of ANC 7C commissioners in a public meeting; and
2. whether any ANC 7C funds were disbursed for activities that did not comply with the Advisory Neighborhood Commission Act of 1975, as amended, (ANC Law), Corporation Counsel opinions, and Financial Guidelines and Procedures issued by the Office of the District of Columbia Auditor.

This review covered the period July 17, 1998 through December 1, 1998, which included the period that the account at Chevy Chase Bank was opened in the name of ANC-SMD7C06. During

this period, funds were deposited into the account and disbursements were made for expenses related to a community day festival held in the ANC 7C community.

The Auditor reviewed copies of bank statements, canceled checks, deposit information, and signature cards. Where available, we reviewed receipts and invoices that documented the disbursement of funds from the account. We also interviewed Commissioner Mary Gaffney, ANC 7C's chairperson and one of the individuals authorized to write checks on the account.

The Auditor reviewed minutes of ANC 7C meetings held prior to July 17, 1998 as well as minutes of meetings held after December 1, 1998 in order to determine the extent of ANC 7C commissioners' involvement, if any, in the opening of and disbursement of funds from the account. Also, the Auditor reviewed ANC 7C's quarterly financial reports during and after this period to determine if the disbursements from the account in question were reported thereon and whether other ANC 7C funds were improperly used to pay any festival expenses that may have violated the ANC Law, Corporation Counsel opinions, and Financial Guidelines and Procedures issued by the Office of the District of Columbia Auditor.

BACKGROUND

On July 17, 1998, two individuals, Commissioner Mary L. Gaffney and Ms. Ethel M. Campbell, opened a checking account at Chevy Chase Bank in the name of ANC-SMD7C06. At that time, Commissioner Gaffney was the chairperson of ANC 7C and an elected representative of SMD7C(06). The authorized signatories on the account were Ethel M. Campbell and Mary L. Gaffney with Commissioner Gaffney designated as the primary account holder. Ms. Campbell was not an ANC 7C commissioner. According to Commissioner Gaffney, Ms. Campbell was a community resident who assisted with the festival. The Auditor was unable to contact Ms. Campbell concerning the matter discussed in this report.

During the almost five months that the account remained opened, approximately \$1,560 was received from various individuals and business establishments and deposited into the account at Chevy Chase Bank. Disbursements from the account were apparently made to support a community festival held in the ANC 7C community. The account was closed on December 1, 1998 and the balance of \$3.65 was deposited into ANC 7C's bank account.

The following explanations were obtained from an interview with Commissioner Gaffney. The Auditor, however, cannot attest to the accuracy of the explanations. According to Commissioner Gaffney, she opened the account at Chevy Chase Bank in order to deposit funds and

pay expenses related to a community day festival that was held in Single Member District 7C(06), the single member district which Commissioner Gaffney represented. Commissioner Gaffney stated that she did not use funds provided by ANC 7C's quarterly allocation because she was aware that ANC 7C could not expend such funds for a community festival. She indicated, however, that she was not aware that she was prohibited from opening a bank account in the name of her single member district to deposit donations. Further, she was not aware that she was prohibited from using these donated funds to pay expenses related to a festival. Commissioner Gaffney also stated that the festival was an annual event and that, in the past, she had used her own funds and other donations to finance the event.

Commissioner Gaffney stated that while she maintains documentation and records for disbursements from ANC 7C's account at Industrial Bank, she was not as conscientious about maintaining documentation for disbursements from the ANC-SMD7C06 account because she was not aware that this was required. Therefore, she did not retain all receipts and invoices that may have provided an explanation of the purpose and support for each disbursement from this account. For those disbursements that Commissioner Gaffney did not have supporting documentation, verbal explanations were provided as noted in Table I on page 8.

Commissioner Gaffney further explained that she used ANC 7C's tax identification number and address because she needed a number to open the account and she provided the ANC's number and address "without thinking."

FINDINGS

ANC 7C's CHAIRPERSON IMPROPERLY OPENED A CHECKING ACCOUNT IN THE NAME OF ANC-SMD7C06 WITHOUT THE AUTHORIZATION OF ANC 7C COMMISSIONERS

District of Columbia Code, Section 1-264(b) states in relevant part the following:

"Each Commission shall by resolution designate a commercial bank, savings and loan association, credit union, or any combination thereof, which is insured by the government of the United States pursuant to the Deposit Insurance Act, approved September 21, 1950 (87 Stat.873; 12 U.S.C.1811 et seq), and which is located within the District of Columbia, as a depository of all funds received by the Commission. Each Commission shall establish no more than 1 checking or negotiable order of withdrawal account..."

ANC 7C's chairperson violated D.C. Code, Section 1-264(b) when she opened a checking account at Chevy Chase Bank in the name of ANC-SMD7C06 without ANC 7C's authorization. A review of minutes of ANC 7C meetings did not reflect that the ANC approved the opening of the second account.

Further, the ANC's chairperson violated D.C. Code, Section 1-264(b) which states: "Each Commission shall establish no more than 1 checking or negotiable order of withdrawal account." At the time the chairperson opened the second account, ANC 7C already maintained a checking account which was located at Industrial Bank. The tax ID number used to open the ANC-SMD7C06 account at Chevy Chase Bank was the same tax ID number used by ANC 7C to establish its checking account at Industrial Bank. Additionally, the address shown on the ANC- SMD7C06 account was the ANC's address at 4651 Nannie Helen Burroughs Ave. N. E.

The Auditor also found that, for six of the nine checks written from the second account, the name shown on the face of the checks was "Advisory Neighborhood Commission 7C". According to a review of the account number, the checks were written from the second account improperly opened at Chevy Chase Bank. Commissioner Gaffney stated that she stamped ANC 7C's name and address on the six checks. For the remaining three checks, ANC-SMD7C06 was reflected on the face of the check. However, the address remained that of ANC 7C.

**DONATED AND APPROPRIATED FUNDS WERE
IMPROPERLY USED FOR A COMMUNITY FESTIVAL**

District of Columbia Code, Section 1-261(l) states, in relevant part, the following:

"No Commission may solicit or receive funds unless specifically authorized to do so by the Council, except that receipt of individual contributions of \$400 or less need not be approved by the Council. ..."
[Auditor's Emphasis]

Further, D.C. Code, Section 1-264(l) states in relevant part the following:

"A Commission shall expend funds received through the annual allocation received pursuant to subsection (a) of this section, or other donated funds, for public purposes within the Commission area or for the functioning of the Commission office, including staff salaries and nominal refreshments at Commission meetings." (Auditor's Emphasis)

A May 26, 1994 opinion from the Office of Corporation Counsel¹ advised ANC's that spending District appropriated funds for entertainment and food is not permissible. By letter dated August 16, 1994, the District of Columbia Auditor advised ANC's that: "the Office of the Auditor will recommend disallowance of all disbursements for food and entertainment purposes (nominal refreshments at Commission meetings are excluded.) This will include block parties, food distribution programs, trips and festivals that have in the past been listed as neighborhood enhancement programs or projects."

The funds deposited in the ANC-SMD7C06 account at Chevy Chase Bank were solicited from various individuals and business establishments for the purpose of the SMD improperly funding an activity that the ANC could not directly fund with appropriated money. A review of copies of checks on which donations were made reflected that some checks were made payable to Advisory Neighborhood Commission 7C rather than SMD7C(06), which indicated that some of the donors may have believed that they were making a donation directly to ANC 7C rather than the

¹The Corporation Counsel set forth the following standard found in the General Accounting Office's Principles of Federal Appropriation Law, Chapter 4, Part C, section 5(d) at page 4-100:

Just as the entertainment of government personnel is generally unauthorized, the entertainment of non-government personnel is equally impermissible. The basic rule is the same regardless of who is being fed or entertained: Appropriated funds are not available for entertainment, including free food, except under specific statutory authority.

representative of Single Member District-7C(06). Further, the Auditor reviewed a copy of a letter from Commissioner Gaffney, chairperson of the event, which was used to solicit donations for the event. Further, the letter was printed on letterhead containing the name and address of ANC 7C as well as the name of Single Member District 7C(06) (see Exhibit I). This correspondence indicated that the public may have been misled into believing that funds were solicited on behalf of ANC 7C rather than the representative of SMD7C(06)

According to Commissioner Gaffney and the Auditor's review of available documentation, the donated funds were used to fund a community day festival in the ANC 7C community. However, the use of these funds to pay for a community festival did not comply with the ANC Law and the Corporation Counsel's May 26, 1994 opinion in that the ANC Law states that: "A Commission shall expend funds received through the annual allocation . . . or other donated funds, for public purposes. . . ." In essence, donated funds are subjected to the same spending limitations that apply to appropriated funds. Therefore, as previously noted, donated funds cannot be used to purchase food or entertainment. Further, Single Member District 7C(06) is not an independent entity but is one of six Single Member Districts (SMD) that comprise ANC 7C. Single Member District 7C(06) did not have any greater authority or status than the collective body represented by ANC 7C. For example, ANC 7C was prohibited by D.C. Code, Section 1-261(l) from soliciting funds and SMD7C(06) was also prohibited from doing the same. Therefore, SMD7C(06) had no authority to solicit funds or use donated funds to pay expenses related to a festival.

ANC 7C DISBURSED APPROPRIATED FUNDS
TO PAY FOR ENTERTAINMENT EXPENSES
ASSOCIATED WITH THE FESTIVAL

In addition to the funds disbursed by Commissioner Gaffney from the Chevy Chase Bank account, the Auditor found that ANC 7C disbursed \$1,547 of its appropriated funds, from its primary account at Industrial Bank, to pay "Amusement by Ironhorse" for entertainment provided at the SMD7C(06) community day festival. The ANC agreed to pay this expense because a \$1,707 check written to Iron Horse on the improperly established account at Chevy Chase Bank was dishonored by the bank due to insufficient funds in the account. Consequently, minutes of an ANC 7C executive meeting held on February 1, 1999 reflected that ANC 7C commissioners authorized the

payment of the outstanding bill (\$1,547) for the community festival. The Commission's approval of this disbursement in an executive meeting violated D.C. Code, Section 1-264 (g) which states in relevant part the following:

"Disbursements of Commission funds exceeding \$50 for personal service expenditures shall be specifically approved by the Commission at a public meeting prior to the disbursement."
(Auditor's Emphasis.)

The approval of ANC disbursements must be made at a public meeting rather than an executive meeting. Further, as previously noted, ANC funds may not be used to pay for a festival and must be disallowed even if approved by the ANC. Therefore, the Auditor will recommend the disallowance of \$1,547 from ANC 7C's next quarterly allotment for violating the prohibition against using appropriated funds to pay for food and entertainment. Also, the Auditor will recommend the disallowance of an additional \$1,556.35 from subsequent ANC 7C's future quarterly allotments for amounts disbursed from the Chevy Chase bank account for the SMD7C(06) community festival.

RECOMMENDATION

Advisory Neighborhood Commission 7C's chairperson, Mary L. Gaffney, reimburse ANC 7C \$1,556.35 for the unauthorized and improper solicitation of funds and disbursement of the same through a bank account improperly established using ANC 7C's name and tax identification number.

ANC 7C's CHAIRPERSON VIOLATED OTHER PROVISIONS OF THE ANC LAW WHEN FUNDS WERE DISBURSED FROM THE ANC-SMD7C06 ACCOUNT

Approximately \$1,556 were disbursed from the ANC-SMD7C06 account at Chevy Chase Bank. Table I provides a list of all disbursements from the account at Chevy Chase Bank as well as the purpose of each disbursement.

TABLE I
DISBURSEMENTS MADE FROM ACCOUNT
ANC-SMD7C06 AT CHEVY CHASE BANK

Check #	Date	Payee	Amount	Check Signer(s)	Purpose
0001	August 6, 1998	Ms. Jacqueline Smith	\$50.00	Mary L. Gaffney	Raffle Winner
0002	August 6, 1998	Mr. Pritchard	\$100.00	Mary L. Gaffney	Raffle Winner
0003	August 6, 1998	Ms. Rene Miller	300.00	Mary L. Gaffney	Raffle winner
0004	August 13, 1998	Mr. Gregory Gray	200.00	Mary L. Gaffney	D. J.- music for Festival *
0005	Check did not clear bank				
0006	August 21, 1998	Classic Framing, Art & Engraving	242.90	Ethel M. Campbell Mary L. Gaffney	Plaque for former city official*
0007	August 23, 1998	Murry's	55.20	Ethel M. Campbell Mary L. Gaffney	Food for Festival
101	September 4, 1998	Mrs. Samantha Bost	25.00	Mary L. Gaffney	Soloist *
102	September 9, 1998	Mary L. Gaffney	240.00	Mary L. Gaffney	Permits from DCRA
103	November 20, 1998	Amusement by Iron Horse	200.00	Mary L. Gaffney	Entertainment
N/A	Various	Chevy Chase Bank	143.25	N/A	Fees*
Total			\$1,556.35		

Source: Copies of checks and bank statements obtained by the Auditor directly from Chevy Chase Bank.

The Auditor found that several provisions of the Advisory Neighborhood Commission Act of 1975, as amended, were violated when these funds were disbursed. These violations will be discussed later in this section. Additionally, some of the disbursements did not comply with opinions issued by the Office of the Corporation Counsel or Financial Guidelines and Procedures issued by the Office of the District of Columbia Auditor. The violations are discussed below.

* The disbursements documented by an invoice or receipt are represented by an asterisk. For check number 102, only \$158 of the \$240 appeared to be supported by documentation. Commissioner Gaffney did not provide documentation for any of the remaining checks listed in Table I.

**Disbursements from the ANC-SMD7C06 Account
Were Not Supported by Adequate Documentation**

Financial Guidelines and Procedures issued by the Office of the District of Columbia Auditor state in relevant part the following:

"Prior to disbursing funds, the Treasurer must ensure that a voucher package is prepared which contains the following:

An original invoice or receipt from the supplier of goods or a contract or agreement from a provider of services.. ."

The Auditor found that Commissioner Gaffney did not provide receipts, invoices or other supporting documentation for approximately 51 percent, or \$790, of the \$1,556 in disbursements made from the Chevy Chase bank account.

**Funds Disbursed from the ANC-SMD7C06
Account Were Not Used for a Public Purpose**

District of Columbia Code, Section 1-264(l) states, in relevant part, the following:

"A Commission shall expend funds received through the annual allocation received pursuant to subsection (a) of this section, or other donated funds, for public purposes within the Commission area or for the functioning of the Commission office, including staff salaries and nominal refreshments at Commission meetings...."[Auditor's Emphasis]

Further, a March 13, 1991 opinion issued by the Office of the Corporation Counsel stated the following regarding the determination of public purpose expenditures.

"The phrase "public purpose" or public purposes" is common in state laws dealing with the expenditure of public funds. Thus, the phrase has been construed by state courts in many different factual contexts. See 15 McQuillin, Municipal Corporations, § § 39.19 and 39.21 (1985). One frequently enunciated test is "whether the expenditure confers a direct public benefit of a reasonably general character, that

is to say, to a significant part of the public, as distinguished from a remote and theoretical benefit." Opinion of the Justices, 384 So.2d 1051, 1053 (Ala. 1980), citing Opinion of the Justices, 347 Mass. 797, 197 N.E. 2d 691 (1964)."

Several disbursements totaling approximately \$693 did not appear to serve a public purpose. A total of \$450 were disbursed to individual raffle winners and \$242.90 were disbursed for the purchase of a plaque for a former City official. For the raffle, tickets were sold and the raffle winners were selected from those individuals who purchased tickets. Thus, only individuals who paid for tickets were eligible to win. This did not confer a public benefit to the residents of ANC 7C and therefore violated the public purpose requirement.

The purchase of a plaque for an individual also did not confer a public benefit to the residents of the ANC 7C community and therefore did not meet the public purpose test.

**Disbursement Made to ANC Chairperson
Instead of the Supplier of Goods and Services**

The Office of the Auditor has informed ANCs in written correspondence, training sessions, and audit reports that the preferred procedure for purchasing goods and services with ANC funds is for the ANC to obtain a receipt or invoice from the vendor and pay the vendor directly for goods and services provided to the ANC.

Commissioner Gaffney did not follow this preferred procedure when she disbursed \$240 to herself by check number 102. According to Commissioner Gaffney, she paid this amount to the Department of Consumer and Regulatory Affairs (DCRA) for items, such as permits and fees, needed for the festival. She provided an invoice from DCRA in the amount of \$158. The invoice is marked "paid" but contains no indication of how or by whom payment was made. Commissioner Gaffney indicated that she paid this amount with her personal funds and then reimbursed herself from the ANC-SMD7C06 account. The preferred procedure would have been for Commissioner Gaffney to write the check directly to DCRA. Finally, Commissioner Gaffney did not provide documentation to support the reimbursement of the remaining \$82.

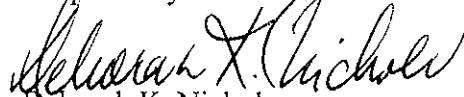
CONCLUSION

This examination concerned the improper solicitation and use of approximately \$1,556 in donated funds by ANC 7C's chairperson and the improper use of an additional \$1,547 of ANC appropriated funds by ANC 7C commissioners.

Advisory Neighborhood Commission 7C's chairperson improperly solicited donations to fund a community festival. Further, without the ANC's approval, she used ANC 7C's name and tax identification number to improperly establish a bank account at Chevy Chase Bank to deposit the donated funds. The ANC already maintained a bank account at Industrial Bank, therefore, the opening of a second account violated the ANC Law. Funds deposited in the account were improperly used to pay for food and entertainment. The actions of the chairperson violated several provisions of the ANC Law and Corporation Counsel opinions and did not comply with provisions of the Financial Guidelines and Procedures issued by the Office of the District of Columbia Auditor. The Auditor recommended that the ANC 7C chairperson reimburse the ANC \$1,556 for the improper solicitation of funds and the subsequent improper use of those funds.

Advisory Neighborhood Commission 7C commissioners violated provisions of the ANC Law and Corporation Counsel opinions when it approved the disbursement of appropriated funds totaling approximately \$1,547 for festival related expenses. Further, the ANC commissioners approved the disbursement at an executive meeting rather than a public meeting which also violated the ANC Law. The Office of the District of Columbia Auditor has recommended that \$1,547 as well as the \$1,556 be withheld from subsequent ANC 7C quarterly allotments.

Respectfully submitted



Deborah K. Nichols

District of Columbia Auditor

ADVISORY NEIGHBORHOOD COMMISSION 7C

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SINGLE MEMBER DISTRICT
7C06

Mary L. Gaffney
Chairperson-7C06

May 21, 1998

On Sunday, August 23, 1998 we will again our NINTH ANNUAL COMMUNITY DAY FESTIVAL from 2:00 P.M. until 6:00 P.M.

We are soliciting your support with a contribution to make the event successful.

The purpose of our event is to bring the community together to promote, educate and celebrate healthy community living. We will have a variety of Health Prevention programs and information such as Blood Pressure Screening, Alcohol & Drug Abuse, Prostate and Breast Cancer, Voter Registration, Finger Print Identification, back to school supplies, Recreational activities, Yard Beautification and Service Awards.

A member of our planning committee will be contacting you ~~at~~ follow up to this letter of request. In order to complete our planning for this event for approximately six hundred persons, we would appreciate hearing from you by July 1, 1998.

Your support will be greatly appreciated.

Sincerely,

Mary L. Gaffney
Chairperson of Event