

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
FRANK D. REEVES MUNICIPAL BUILDING
1015 HALF STREET, S.E., SUITE 775
WASHINGTON, D.C. 20003
(202) 671-0550**

IN THE MATTER OF:

Brooke Pinto and
Re-Elect Brooke Pinto 2024
Principal Campaign Committee
Respondents

Docket No.: OCF FI 2023-005

ORDER

I. Introduction

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel pursuant to a complaint filed by Edward Hanlon and docketed December 29, 2023. Mr. Hanlon alleged that, Ward 2 Council Member Brooke Pinto and the Re-Elect Brooke Pinto 2024 Principal Campaign Committee, used government resources to support her 2024 Re-Election Political. Campaign in violation of the D.C. Official Code § 1-1163.36(a) and 3 DCMR § 3301.1(a).

As evidence of the violation, Mr. Hanlon stated that “on June 13, 2023, after her Re-Election committee began accepting political donations, “she lined up all 13 members of her Council staff and had a photo taken, then Pinto or one of her government staffers immediately posted it on her election campaign Twitter page and Instagram page. She identified everyone in the photo as her “team” who worked on the DC budget together.

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All 13 individuals in the photo with CM Pinto are on her paid council or Committee staff.” Mr. Hanlon (Complainant) further alleged that “In a similar situation CM Pinto met the Mayor of Richmond in her office in the Wilson Building in September 2023, which in itself is fine. But, then someone believed to be on Pinto’s office staff took the photo of Pinto and the Mayor standing in Pinto’s government office. Pinto herself or someone on Pinto’s office staff, using Pinto’s election campaign twitter handle @brookepintodc, then posted the photo on Pinto’s reelection social media sites.”

On December 29, 2023, the Office of Campaign Finance acknowledged Mr. Hanlon’s complaint and transmitted copies of the complaint and acknowledgement to Councilmember Pinto.

II. Findings of Fact

It is alleged that the Councilmember Brooke Pinto violated the following provisions of the D.C. Campaign Finance statute and its implementing regulations: D.C. Official Code §1-1163.36 (a) which provides in pertinent part that:

“ **(a)** Except as provided in [[part C-i of this subchapter](#)], no resources of the District of Columbia government, including the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, and telephones and other utilities, shall be used to support or oppose any candidate for public office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted in accordance with [§ 1-203.03](#).

(b)(1) This section shall not prohibit the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education from expressing their views on a District of Columbia election as part of their official duties.

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(2) This subsection shall not be construed to authorize any member of the staff of the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education, or any other employee of the executive or legislative branch to engage in any activity to support or oppose any candidate for public office, whether partisan or nonpartisan, an initiative, referendum, or recall measure during their hours of work, or the use of any nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, to support or oppose an initiative, referendum, or recall matter.

It is also alleged that Councilmember Pinto violated Title 3 of the District of Columbia

Municipal Regulations (3DCMR) §3301 which provides in pertinent part that:

3301.1 No District of Columbia government resources shall be used to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.2 Resources of the District of Columbia government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.3 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;
- (d) Office space;
- (e) Facilities;

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- (f) Utilities, for example, telephone, gas, and electric services; and
- (g) District government accounts, including, but not limited to the following:
 - (1) Email accounts;
 - (2) Social media accounts;
 - (3) Webpages; and
 - (4) Internet domains.

3301.4 Prohibited use, whether intended or unintended, of District government accounts, prescribed under § 3301.3(g), shall include, but not be limited to, the following:

- (a) Linking to or sharing a link to an elected candidate's or political group's website, whether partisan or nonpartisan, advocating in support or opposition of the candidate elected for office or political group; or
- (b) Tweeting or retweeting a link to an article of a candidate elected for office or political group, whether partisan or nonpartisan, in support or opposition to the candidate elected for office or political group, or
- (c) Linking to or sharing a link to a post in a social media account of a candidate elected for office or a political group; and
- (d) Posting a picture, photograph, or cartoon to a District government account of a candidate elected for office or political group, in support or opposition of the candidate or political group.

3301.5 With exception to the members of the ANC Commission, prohibition set forth in § 3301.3, shall not apply to the following public officials who may, as part of their official duties, express their views on a District of Columbia election:

- (a) The Mayor;
- (b) The Chairman of the Council;

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- (c) Each Member of the Council;
- (d) The Attorney General;
- (e) The President of the State Board of Education; and
- (f) Each Member of the State Board of Education.

On February 21, 2024, Councilmember Pinto filed a response in which she stated the following:

- **Photograph of my team on my personal account:** Following the passage of the FY 2024 budget, my Council team and I went to a bar to celebrate. I posted a photo of this event on my personal social media page. While Tweets promoting a campaign cannot be promoted from a government account; the same is not true for posts made from a personal account that deal with the government ○ DC Municipal Regulations 3301.1 and 3301.4 lay out the prohibitions government officials have on using their government accounts to promote a candidate or political activity. It does not say anything about prohibitions of a personal account promoting the government. In fact, that would be antithetical to running for office. See link to DCMR here: <https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=3-33>
 - If the Office of Campaign Finance were to rule that a personal social media account cannot post about government business or activities, then that logic would mean that any incumbent officeholder would not be able to post in support of their *own* re-election campaign. Of course, that logic would not be sensible.

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- **Photograph of the Mayor of Richmond on my personal account:** The Mayor of Richmond came to my office for a meeting. In an abundance of caution, posted this photo from my personal account (from my personal phone) instead of my government account due to a possible pending political campaign.
 - DC Municipal Regulations 3301.1 and 3301.4 lay out the prohibitions government officials have on using their government accounts to promote a candidate or political activity. It does not say anything about prohibitions of a personal account promoting a government account. In fact, that would be antithetical to running for office. See link to DCMR here: <https://dcregs.dc.gov/Common/DCMR/RuleList.aspx?ChapterNum=3-33>

VI. USE OF GOVERNMENT RESOURCES

(a) GENERALLY. Employees shall not:

(1) Use Council time or government resources for purposes other than official business or other government-approved or government-sponsored activities, with the exception of de minimis use that does not interfere with an employee's official duties and responsibilities, including the incidental use of Council time or resources for purposes of scheduling;

(2) Order, direct, or request an employee to perform, during regular working hours, any personal services not related to official Council functions and activities, with the exception of incidental use of Council time or resources for purposes of scheduling; or

(3) Use or permit the use of government resources to support or oppose any candidate for elected office, to promote a political committee, or to support or oppose any initiative, referendum, or recall measure

(d) DEFINITIONS. For the purposes of this Rule, the term:

(1) "Government Resources" means any property, equipment, or material of any kind, including that acquired through lease, and the personal services of an employee during his or her hours of work.

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(2) "Usual and customary constituent services" includes an employee's representational activities, such as advocacy, communications, inquiry, oversight, and other actions, made on another person's behalf; provided, that the employee does not, directly or indirectly:

(A) Threaten reprisal or promise favoritism for the performance or nonperformance of another person's duties; or

From DC Municipal Regulations - Elections and Ethics
[- DCRegs](#)

3301 PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES

3301.1 No District of Columbia government resources shall be used to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.2 Resources of the District of Columbia government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.3 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;
- (d) Office space;
- (e) Facilities;

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- (f) Utilities, for example, telephone, gas, and electric services; and
- (g) District government accounts, including, but not limited to the following:
 - (1) Email accounts;
 - (2) Social media accounts;
 - (3) Webpages; and
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3301.4 Prohibited use, whether intended or unintended, of District government accounts, prescribed under § 3301.3(g), shall include, but not be limited to, the following:

- (a) Linking to or sharing a link to an elected candidate's or political group's website, whether partisan or nonpartisan, advocating in support or opposition of the candidate elected for office or political group; or
- (b) Tweeting or retweeting a link to an article of a candidate elected for office or political group, whether partisan or nonpartisan, in support or opposition to the candidate elected for office or political group, or
- (c) Linking to or sharing a link to a post in a social media account of candidate elected for office or a political group; and
- (d) Posting a picture, photograph, or cartoon to a District government account of a candidate elected for office or political group, in support of opposition of the candidate or political group.

3301.5 With exception to the members of the ANC Commission, prohibition set forth in §

3301.3, shall not apply to the following public officials who may, as part of their official duties, express their views on a District of Columbia election:

- (a) The Mayor;
- (b) The Chairman of the Council;
- (c) Each Member of the Council;

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- (d) The Attorney General;
- (e) The President of the State Board of Education; and
- (f) Each Member of the State Board of Education.

III Conclusions of Law

The Complainant has cited two photographs which he alleges were posted on the Councilmember's "election sites" and has characterized as inappropriate uses of government resources, including a group photograph of the Councilmember and her staff at a restaurant for what she described as an acknowledgement of the staff's hard work during the budget session. The second photograph submitted in the complaint shows the Councilmember and an individual who has been identified as the Mayor of Richmond, Virginia.

Although the photographs may have been taken after the Councilmember commenced her Re-Election campaign, it has not been established that the purpose of the photographs was to advance the campaign. In addition, it is doubtful whether a photograph of the Councilmember and her staff taken eight months prior to the Primary Election in which the Councilmember is a candidate will serve any useful purpose for the campaign. Moreover, the photograph was taken away from the Councilmember's office and possibly during non-work hours.

The photograph of the Councilmember and the Mayor of Richmond may have been taken in the Councilmember's office, but it does not include any information regarding what it is supposed to represent.

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Furthermore, it does seem usual that an elected official from another jurisdiction who visits the District of Columbia would meet with and pose for photographs with District of Columbia elected officials.

Thus, it is unclear what government resources were expended to create both photographs. During the investigation of the complaint by the Office of the General Counsel, it was not established that government resources were inappropriately used for campaign purposes. Therefore, the evidence provided does not establish a basis to determine that any violations of the Campaign Finance Act have been committed by Councilmember Pinto or her staff with regard to the two photographs cited in the complaint.

Accordingly, the Office of Campaign finance has not found sufficient evidence to sustain the complaint.

IV. Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director Dismiss the complaint.

March 25, 2024

Date

/s/ William O. SanFord

**William O. SanFord
Hearing Officer**

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V. Order

Based upon the foregoing findings of fact and conclusions of law, it is this 25th day of March 2024:

ORDERED, that the complaint before the Office of Campaign Finance alleging that Council Member Brooke Pinto violated the Campaign Finance Act is hereby Dismissed.

March 25, 2024

Date

/s/ Cecily E. Collier-Montgomery

Cecily E. Collier-Montgomery

Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on the Honorable Brooke Pinto by email at brookecpinto@gmail.com and Anthony Field by email at athony@brookepinto2024.com on March 25, 2024.

NOTICE

Any party adversely affected by any Order of the Director may: (1) file a Motion for Reconsideration (Motion) with OCF within five (5) days after receipt of an Order, provided that, relevant evidence was omitted from consideration at hearing (3DCMR §3709.13)(May 2015); or obtain review of the Order by filing a request for a **hearing de novo** with the Board of Elections within fifteen (15) days from the date of issuance of an Order. Any fine imposed by the Director, pursuant to 3DCMR §3711.2, shall become effective on the 16th day following the issuance of a decision and order (3DCMR§3711.6); provided that, the Respondent does not request a **hearing de novo**, pursuant to 3DCMR §3709.11. Fines imposed shall be paid within ten (10) days of the effective date of the issued Order of the Director. Make a payment by check or money order payable to the District of Columbia Treasurer. Send payment to the Office of Campaign Finance, 1015 Half Street, SE, Suite 775, Washington, D.C. 20003.