

Diana Lin

Subject: Response- Creamer v. Gordon #1412MU14

From: Elizabeth Downey
Sent: Tuesday, February 03, 2015 11:21 AM
To: MICHAEL COARD; Maya Nayak
Cc: Hortencia Vasquez; Shane Creamer; Michael Cooke
Subject: RE: Response- Creamer v. Gordon #1412MU14

Dear Mr. Coard:

I write on behalf of Ms. Nayak to acknowledge receipt of Ms. Gordon's timely Response, which includes a request for a hearing to contest the allegations in the Notice. Thank you for letting us know that you no longer represent Ms. Gordon in this matter. Accordingly, we will not direct any further communications in this matter to you.

Sincerely,

Elizabeth W. Downey

Elizabeth W. Downey
Associate General Counsel
Philadelphia Board of Ethics
www.phila.gov/ethics
(215) 686-9450

From: MICHAEL COARD [<mailto:michaelcoard@msn.com>]
Sent: Monday, February 02, 2015 11:35 PM
To: Maya Nayak
Cc: Hortencia Vasquez; Shane Creamer; Michael Cooke; Elizabeth Downey
Subject: Response- Creamer v. Gordon #1412MU14
Importance: High

Dear Ms. Maya Nayak, Esquire:

The Response and Certificate of Service are now being submitted today, February 2, 2015, via email and postal mail. The original of these documents, which have been signed, are also being postal mailed today.

Now that the Response has been completed and submitted, my pro bono representation is officially and immediately terminated. All correspondence from the Ethics Board and elsewhere must be submitted directly to Tracey Gordon and no correspondence is to be submitted to me directly or indirectly. I am no longer involved in this matter in any capacity whatsoever.

I genuinely thank you and your entire staff for your time, consideration, accommodation, and professionalism.

Respectfully,
Michael Coard, Esquire
Pro Bono Counsel

Enc: Response

**BOARD OF ETHICS
OF THE CITY OF PHILADELPHIA**

J. Shane Creamer Jr.	:	
Executive Director	:	
Board of Ethics	:	
of the City of Philadelphia	:	
1515 Arch Street, 18 th Floor	:	
Philadelphia, PA 19102	:	
Petitioner	:	
	:	Matter No. 1412MU14
v.	:	
	:	Date of Notice: 12/11/14
Tracey Gordon	:	
6543 Windsor Street	:	
Philadelphia, PA 19142	:	
Respondent	:	

**RESPONSE TO
NOTICE OF ADMINISTRATIVE ENFORCEMENT PROCEEDING**

III. Factual Allegations

a. Gordon Solicits and Accepts a Gratuity from Leslie Miles in April of 2014

-
3. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment in Petitioner's corresponding paragraph and she therefore denies it.
 4. Admitted.
 5. Admitted.
 6. Admitted.
 7. Admitted.
 8. Respondent cannot know what Leslie Miles knew or did not know. Therefore, she is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment in Petitioner's corresponding paragraph and she therefore denies it.
-

9. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. At no time did Respondent ask, demand, suggest, intimate, imply, or otherwise mention anything whatsoever regarding payment or any other consideration. Strict proof of this averment is demanded at all hearings and other legal proceedings.
 10. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. At no time did Respondent and Ms. Miles have any discussion whatsoever regarding payment or any other consideration. Strict proof of this averment is demanded at all hearings and other legal proceedings.
 11. Admitted.
 12. Admitted in part and denied in part. While it is admitted that Respondent was not present when Ms. Miles returned with a card, Respondent cannot know who was or was not present in her absence. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment in Petitioner's corresponding paragraph and she therefore denies it.
 13. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment regarding Jasmine Winfield as set forth in Petitioner's corresponding paragraph and she therefore denies it. Also, see paragraph 12 above.
 14. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. There was no \$10 cash or any other consideration in the card to Respondent. Strict proof of this averment is demanded at all hearings and other legal proceedings.
-

15. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment regarding what Ms. Winfield did or did not do or did or did not see (about which Respondent cannot know since she was not present) as set forth in Petitioner's corresponding paragraph and she therefore denies it. Respondent again notes that she never asked for, demanded, suggested, intimated, implied, mentioned, or received any money or other consideration.
16. Admitted. But here was no \$10 or any other consideration in the card. See paragraph 14 above.

b. Gordon Solicits a Gratuity from Leslie Miles in June of 2014

17. Admitted.
18. Admitted.
19. Admitted in part and denied in part. While it is admitted that Respondent sent Ms. Miles a text message asking her to attend the fundraiser, it is denied that the message was sent exclusively to Ms. Miles. To the contrary, that particular text message was among the hundreds sent to many persons who just happened to be on Respondent's voluminous text and email listserv as part of her Public Service Announcement-type informational outreach notifications. While sending such notifications, Respondent was not at all aware that Ms. Miles was involved in any ethics investigation regarding Respondent or anyone else for that matter.
20. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. There was no telephone or other conversation wherein Respondent asked, demanded, suggested, intimated, implied, or otherwise mentioned anything

whatsoever regarding any type of quid pro quo concerning previous assistance provided by Respondent in her role as Deputy Commissioner or anything else. Strict proof of this averment is demanded at all hearings and other legal proceedings.

21. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. There was no telephone or other conversation wherein Respondent asked, demanded, suggested, intimated, implied, or otherwise mentioned anything whatsoever regarding the purchase of tickets or any type of financial or other quid pro quo. Strict proof of this averment is demanded at all hearings and other legal proceedings.

22. Admitted.

c. Gordon Recruits Susan McCall to Run as a Candidate for Committeeperson

23. Admitted.

24. Admitted in part and denied in part. While it is admitted that there was a conversation, it is denied that it was initiated by Respondent, In fact, it was Ms. McCall who approached Respondent

25. Admitted.

26. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. At no time did Respondent ever ask Ms. McCall to run for committeeperson or any other position. In fact, Respondent informed Ms. McCall that the filing deadline had already passed. Therefore, it would have been meaningless for- and accordingly impossible for- Respondent to have asked Ms. McCall to run for

anything. Strict proof of this averment is demanded at all hearings and other legal proceedings.

27. Denied. See 26 above.

d. Gordon Prevents Susan McCall from Submitting a Complaint to the Board of Ethics

28. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment regarding what Ms. McCall did or did not draft as set forth in Petitioner's corresponding paragraph and she therefore denies it. Moreover, Respondent notes that Ms. McCall came to Respondent as Ms. McCall's supervisor and said that Nora Gonzales asked Ms. McCall to file a complaint but that Ms. McCall felt uncomfortable doing so. At that time, Respondent was not aware that she was under investigation by the Ethics Board.

29. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment regarding who Ms. McCall approached or did not approach, where she approached or did not approach, whom she spoke with or did not speak with, and what was said or not said as set forth in Petitioner's corresponding paragraph and she therefore denies it. At that time, Respondent was not aware that she was under investigation by the Ethics Board.

30. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. At no time did Respondent approach Ms. McCall and ask to speak privately

with her in connection with Seth Bluestein or the ethics investigation. Strict proof of this averment is demanded at all hearings and other legal proceedings.

31. Denied. See paragraph 30 above.
32. Denied. See paragraphs 30 and 31 above.
33. Denied. See paragraphs 30, 31, and 32 above.

e. Gordon Participates in a Workshop for Committeeperson

34. Denied. The averment in Petitioner's corresponding paragraph is specifically denied. At no time did Respondent participate in the "planning and promotion" of a workshop for recently elected committeepersons. In fact, she merely supported the efforts of NOW and CLEW via limited multi-media channels during her personal time. And she did so in response to a request from a member of Councilman William Grenlee's staff. Moreover, Commissioner Stephanie Singer attended the workshop and no ethical violation was ever alleged against that staffer or the Commissioner because there was such violation by them. Accordingly, there should be no allegation against Respondent. Strict proof of this averment is demanded at all hearings and other legal proceedings.
35. After reasonable investigation, Respondent is without appropriate knowledge sufficient to form an adequate belief as to the truth of the averment regarding what actually was "instructed" at the workshop and that is because Respondent did not attend and she therefore denies it.
36. Denied. The averment in Petitioner's corresponding paragraph is specifically denied in regard to Respondent having actually agreed to be a speaker at the workshop. In

fact, she did even attend the workshop. Strict proof of this averment is demanded at all hearings and other legal proceedings.

37. Admitted.

38. See paragraph 34 above.

f. Gordon Promotes a Democratic City Committee Fundraiser

39. Admitted.

40. Admitted in part and denied in part. It is admitted that Commissioner Singer directed Respondent, as part of her job duties, to update the calendar on Patransparency.org, several other persons were directed to do the same. However, it is denied that Respondent was the only person responsible for such updates. In fact, the Commissioner's office engaged in a shared calendar process. Emails were communally shared amongst staff with each member having access to all staff calendars in order to provide a more efficient constituent service model. The particular entry at issue was made by Nora Gonzales. Respondent used that site only from February 1, 2012 until her first ethics violation.

41. See paragraph 40 above.

WHEREFORE, **respondent** specifically **requests a hearing** to present and/or refute testimony, documentation, and/or other evidence and also seeks the dismissal of all allegations against her. And Respondent requests permission to supplement (and/or revise) this Response as necessary in a timely manner prior to the requested hearing.

Michael Coard, Esquire
Pro Bono Counsel

Date: 2/1/15

CERTIFICATE OF SERVICE

I hereby certify that on the 2d day of February, 2015, the foregoing Response was served upon the following persons via email and postal mail:

Maya Nayak, Esquire
General Counsel
City of Philadelphia Board of Ethics
1515 Arch Street, 18th Floor
Philadelphia, PA 19102
maya.nayak@phila.gov

Hortencia Vasquex
Clerical Assistant
City of Philadelphia Board of Ethics
1515 Arch Street, 18th Floor
Philadelphia, PA 19102
hortencia.vasquez@phila.gov

Shane Creamer, Esquire
City of Philadelphia Board of Ethics
1515 Arch Street, 18th Floor
Philadelphia, PA 19102
Shane.creamer@phila.gov

Michael J. Cooke, Esquire
Director of Enforcement
City of Philadelphia Board of Ethics
1515 Arch Street, 18th Floor
Philadelphia, PA 19102
michael.cooke@phila.gov

Michael Coard, Esquire
Pro Bono Counsel

2/2/15
Date
