



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

BOARD OF ELECTIONS

50 Branch Avenue
Providence, R.I. 02904
(401) 222-2345 Telephone
(401) 222-3135 Fax

Representative Kenneth A. Marshall
Campaign Finance Investigation

Investigation Conducted By: Richard E. Thornton, Director of Campaign Finance

BACKGROUND

On May 14, 2018, five (5) weeks prior to the receipt of Nate Carpenter's ("Carpenter") verified complaint, Campaign Finance staff, upon its review of Representative Kenneth A. Marshall's ("Marshall") filed 2018 Q1 campaign finance report, sent Marshall an email seeking to clarify the purpose of the \$956.36 expenditure to Delray Sands Resort.

Also on May 14, 2018, Marshall's campaign Treasurer and Accountant Edward Galvin ("Galvin"), after speaking with Marshall, contacted Director of Campaign Finance Richard E. Thornton ("Thornton") and explained that Marshall accidentally used the wrong debit card because of their similarity in appearance.

1. Thornton instructed Galvin that Marshall was required to personally reimburse his campaign account \$956.36 and to provide evidence thereof.

In a review of Marshall's filed 2018 Q1 campaign finance report, Thornton recognized that Marshall reported fundraising expenditures on March 5, 2018, but did not report the receipt of any contributions. (Note: This discovery was originally missed by Campaign Finance staff during its review and therefore not communicated to Marshall in the May 14 email.) Galvin explained that Marshall failed to deposit the contribution checks or provide him copies of the contribution checks/deposit from the March 5 fundraiser until after the close of the 2018 Q1 reporting period (March 31), so no contributions were reported.

1. Thornton instructed Galvin that Marshall's 2018 Q1 campaign finance report must be amended to include the receipt of the contributions from the March 5 fundraiser.

COMPLAINT

On June 20, 2018, Carpenter filed a verified complaint against Marshall, alleging violations of RI campaign finance law, specifically that Marshall "may have used campaign funds for personal expenses as barred in 17-25-7.2":

1. 2018 Q1 Campaign Finance Report: \$956.36 expended on a multi-day stay at the Delray Sands Resort in Palm Beach, FL.
2. Marshall expended over \$15,000 on Food, Beverage and Meals since 4Q 2012, including:
 - a. \$895.36 at Roberto's (5/18/16),
 - b. \$563.84 at Terrazza (5/11/16), and
 - c. \$456.65 at Public Kitchen and Bar (3/5/16).
3. August 2016, expended \$204.09 for travel to a conference in Quebec, with stops in Fall River, MA, NH, VT and Quebec.

COMPLAINT INVESTIGATION

REQUEST 1: On June 21, 2018, Thornton sent to Marshall via certified mail and e-mail, a copy of the complaint with a request for Marshall to respond to each allegation no later than June 29, 2018.

RESPONSE 1: On June 29, 2018, the Board received a response from Marshall in which he:

1. States the \$956.36 was an accidental personal charge to his campaign which was recognized immediately upon filing and brought to the attention of his Treasurer/Accountant for correction and to the Board. States that on June 26, 2018, he paid back his campaign account with a personal check.
2. States all food and beverage expenses aggregated during his 6 years as State Rep. recognizes that he complies with the "\$25.00 rule" (Ethics) which requires that no one pay or give more than \$25.00 at any given time to an officeholder as food or gifts. So, when meeting with others, he has always paid for his food and drink.
 - a. \$895.36 at Roberto's: Speaker, Leader and several Reps to discuss Main St. economic development;
 - b. \$563.84 at Terrazza: met with northern RI Reps discussing district initiatives important to North Providence, Smithfield and Lincoln.
 - c. \$456.65 at Public Kitchen: fundraiser whose contributions were reported in an amended 2018 Q1 report.
3. August 2016 travel expenses related using his personal vehicle to drive to Quebec City for a Council Conference related to his official capacity of being on the Executive Committee of Council of State Governments Eastern Division.

REQUEST 2: On July 2, 2018, Thornton sent to Marshall via email a selection of the Food and Beverage expenditures identified in Carpenter's complaint, seeking 1) a copy of the receipt associated with each expense and 2) an explanation of how the expense incurred is part of a campaign activity or as part of a function that is related to his responsibilities as an officeholder. Thornton also requested proof that the \$956.36 mistakenly expended from his campaign account was paid back to his campaign with a personal check on June 26.

RESPONSE 2: On July 8-9, 2018, Marshall provided documentation by email to Thornton as requested.

REQUEST 3: On July 11, 2018, Thornton requested an image of each debit card to confirm the similarity in appearance of, and names on, the two cards.

RESPONSE 3: On July 11, 2018, Marshall provided documentation by email to Thornton as requested.

FINDINGS:

The documentation and explanation received from a representative sampling of Marshall's campaign expenditures related to Food and Beverage suggest campaign funds were used for valid and legal campaign expenses and not for personal use.

Evidence was provided by Marshall that on June 26, 2018, he reimbursed his campaign account \$956.36 from personal funds for the Delray Sands Resort accidental charge to his campaign account.

Evidence was provided by Marshall that his campaign debit card and personal debit card are similar in appearance and bear the identical cardholder name.

Marshall's 2018 Q1 campaign finance report was amended on July 2, 2018 to include \$10,650.00 in contributions not originally reported.

RECOMMENDATION

Consent Order (to follow)

BOARD ACTION:

On August 22, 2018, the Board voted unanimously to accept the Recommendation.

State of Rhode Island
Board of Elections

CONSENT ORDER

In Re: Representative Kenneth A. Marshall

Representative Kenneth A. Marshall ("Marshall") hereby agrees to the entry of this Order and to each term and condition set forth herein:

1. At all times relevant hereto Marshall has been subject to the reporting requirements set forth in Title 17, Chapter 25 of the General Laws, pertaining to campaign contributions and expenditures.
2. In May 2018, the Board of Elections ("Board") conducted a review of the 2018 1st Quarterly campaign finance report filed by Marshall when it noted a campaign expenditure for \$956.36, payable to Delray Sands Resort, resulting in a request by the Board for information to clarify the purpose of the expenditure and to determine whether it was a valid and legal campaign expense.
3. Marshall hereby acknowledges the \$956.36 expenditure to Delray Sands Resort was personal, but states that it resulted from the accidental use of his personal debit card which is similar in appearance and bears the identical cardholder name as his campaign account debit card.
4. Marshall, at the direction of the Board, reimbursed his campaign account \$956.36 from personal funds for the Delray Sands Resort charge on June 26, 2018, and provided the Board evidence thereof.
5. Also in May 2018, during its review of the 2018 1st Quarterly campaign finance report filed by Marshall (See Item # 2), the Board noted Marshall reported fundraising expenditures on March 5, 2018, but did not report the receipt of any contributions.

6. Marshall hereby acknowledges that he failed to deposit the contributions received at the March 5 fundraiser into his campaign bank account and failed to provide his campaign treasurer copies of the contribution checks until after the close of the 2018 1st Quarterly reporting period (March 31), resulting in unreported contributions of \$10,650.00.
7. Marshall, at the direction of the Board, amended his 2018 1st Quarterly campaign finance report on July 2, 2018 to properly disclose the \$10,650.00 in previously unreported contributions.
8. Marshall hereby acknowledges that in January 2016, he entered into a Consent Order with the Board for misreporting \$5,525.00 in campaign contributions, which resulted in a personal fine of \$100.00, a forfeiture of campaign funds of \$250.00, and an agreement to properly supervise his campaign treasurer and review his campaign reports.
9. Marshall hereby waives his right to any further hearing before the Board, and his right to bring any legal challenge before any state or federal court and expressly consents to a finding by the Board that his actions, as more fully described above, violated provisions of Title 17, Chapter 25.
10. Marshall has at all times been cooperative with the Board and has timely responded to all inquiries.
11. The Board determined the 2018 1st Quarterly report was “materially amended” by Marshall on July 2 (See Item # 7), pursuant to the *Rules and Regulations-Contributions and Expenditures Reporting*, adopted by the Board in 2010, resulting in a late filing fine and fees of \$49.00.
12. Marshall further consents to the entry of this Order and the imposition of a late filing fine and fees in the amount of \$49.00 (See Item # 11) to be paid personally by him; and consents to a forfeiture of campaign funds of \$1,000.00 to the State of RI for unreported contributions, pursuant to RI Gen Law 17-25-16.

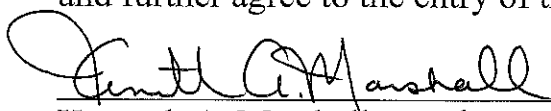
13. Marshall hereby agrees to make the following payments of fines and forfeitures to the Board:

- 1) \$49.00 fine to be paid personally by Marshall within thirty (30) days of the execution of this Consent Order; and
- 2) \$1,000.00 forfeiture to be paid from Marshall's campaign account within thirty (30) days of the execution of this Consent Order.

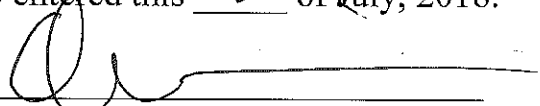
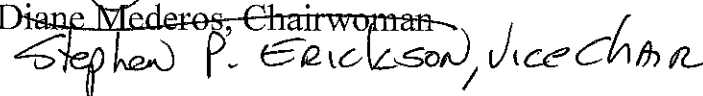
14. Marshall agrees to make the payments described above on or before the Due Date. In the event Marshall fails to make any payment by the corresponding Due Date, the Board shall notify Marshall both by U.S. Mail First Class and electronically at the residence and email address set forth below ("Delinquency Notice"). Marshall shall be afforded ten (10) calendar days from the date of the Delinquency Notice to make the overdue payment. In the event the aforesaid payment is not made within the ten (10) day notice period, Marshall agrees that the entire amount shall immediately become due and payable to the Board. Marshall consents to the personal jurisdiction and entry of this Order as a final judgment in the superior court and waives any and all defenses that he may have to its enforcement and collection. In the event of a lawsuit filed to enforce any term or payment required by this Order, Marshall agrees to fully reimburse the Board for all costs and reasonable legal fees incurred as a result therefrom.

The fines and forfeitures contained herein relate only to the violations identified in this Order and do not cover any violations not listed.

I, Kenneth A. Marshall, agree to each and every term set forth above and further agree to the entry of this Order.


Kenneth A. Marshall _____ 7/24/18
Date

So entered this 24th of August, 2018.


Diane Mederos, Chairwoman

Stephen P. Erickson, Vice Chair