

LEWIS, CLIFTON & NIKOLAIDIS, P.C.
Daniel E. Clifton, Esq. (DC 0632)
275 Seventh Avenue, Suite 2300
New York, New York 10001-6708
Telephone: (212) 419-1500
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BRENDA STOKELY, CHUCK MOHAN
and GLORIA JACKSON,

Plaintiffs,

- against-

COMPLAINT

RAGLAN GEORGE, JR., individually and as
Executive Director of District Council 1707,
AFSCME, AFL-CIO, and DISTRICT COUNCIL
1707, AFSCME, AFL-CIO,

JURY DEMAND

Defendants.

-----X
Plaintiffs Brenda Stokely, Chuck Mohan and Gloria Jackson, by their attorneys,
Lewis, Clifton & Nikolaidis, P.C., as and for their Complaint against defendants, allege as
follows:

NATURE OF ACTION

1. This is an action for injunctive relief and damages. Plaintiff Brenda Stokely is a member of District Council 1707, American Federation of State, County and Municipal Employees, AFL-CIO (“District Council 1707” or “the Union”) who was summarily removed from her elected position as president of District Council 1707 by reason of her political opposition to the policies of the Executive Director of District Council 1707, in violation of the District Council constitution, the International constitution and the Labor-

Management Reporting and Disclosure Act of 1959 (“LMRDA”), 29 U.S.C. § 411 et seq.

Plaintiffs seek the immediate reinstatement of Stokely to her position as president.

JURISDICTION

2. Jurisdiction is conferred on this court pursuant to Section 301(a) of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185(a) and Section 102 of the LMRDA, 29 U.S.C. § 412. Venue lies in the U.S. District Court for the Southern District of New York because the principal office of District Council 1707 is located in New York County.

PARTIES

3. Plaintiff Brenda Stokely is a member in good standing of Local 215, American Federation of State, County and Municipal Employees, AFL-CIO (“Local 215”), which is affiliated with District Council 1707. Stokely resides at 116 Cambridge Street, Brooklyn, New York.

4. Plaintiff Chuck Mohan is a member in good standing of Local 253, American Federation of State, County and Municipal Employees, AFL-CIO (“Local 253”), which is affiliated with District Council 1707. Mohan resides at 1245 Park Avenue, New York, New York.

5. Plaintiff Gloria Jackson is a member in good standing of Local 205, American Federation of State, County and Municipal Employees, AFL-CIO (“Local 205”), which is affiliated with District Council 1707. Jackson resides at 620 Lenox Avenue, New York, New York.

6. Defendant District Council 1707 is a labor organization as that term is defined in Section 2(5) of the LMRA, 29 U.S.C. § 152(5) and Section 3(i) of the LMRDA, 29 U.S.C. § 402(i). The principal office of District Council 1707 is located at 75 Varick Street, New York, New York.

7. Defendant Raglan George, Jr. is the Executive Director of District Council 1707, and resides in New Jersey.

FACTUAL ALLEGATIONS

8. District Council 1707 is comprised of, and oversees the operation of, seven local unions which represent employees of non-governmental social service agencies in New York State and New Jersey. The District Council and its seven local unions are affiliated with the American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME” or “International Union”).

9. District Council 1707 is governed in its operations by the District Council constitution and the constitution of the International Union. The District Council constitution and the International Constitution are both “contracts between ... labor organizations” within the meaning of Section 301(a) of the LMRA, 29 U.S.C. § 185(a).

10. Pursuant to Article VI of the District Council constitution, four District Council officers are directly elected by the entire membership – President, Secretary, Executive Director, and Treasurer. The presidents of the constituent local unions are elected by the members of their own locals, and by reason of their office in the local unions, serve as Vice Presidents of the District Council. The Executive Board of the District Council consists of the four officers elected by the entire membership and the Vice Presidents (local union presidents). The District Council is governed by a Delegate Assembly which is comprised of delegates who are elected by the seven local unions affiliated with the District Council.

11. The only District Council officer who is paid as a full-time employee by the District Council is the Executive Director. The other officers are employed by various agencies with whom the District Council has collective bargaining agreements. Stokely has been an employee of the New York Association for New Americans (“NYANA”) and a member of

Local 215 since 1990.

12. In May 2002, Stokely ran for president of District Council 1707 as part of a reform slate which challenged the incumbent officers, and, pursuant to Article VI, Section 1(a) of the District Council constitution, was elected to a three year term of office which was supposed to expire on May 17, 2005. Plaintiffs Mohan and Jackson supported and voted for Stokely in the May 2002 election.

13. On December 3, 2003, Stokely was laid off from NYANA. The Union filed a class action grievance against NYANA challenging Stokely's layoff and the layoff of approximately 60 other NYANA employees. The Union is seeking the reinstatement of all the laid off employees. The last arbitration hearing in this matter was held in September 2004, and a decision is pending. The Union also filed unfair labor practice charges with the National Labor Relations Board ("the Board") concerning the layoffs. The Board deferred its investigation of the charges pending the outcome of the arbitration.

14. At a meeting held on January 6, 2004, the District Council Executive Board passed a motion granting Stokely an allowance while the arbitration concerning the NYANA layoff was pending, in the amount of three days' pay per week.

15. Commencing January 7, 2004, Stokely began receiving the said allowance from the District Council in accordance with the aforesaid motion, and she continued to perform her duties as president.

16. Payment of such an allowance to a District Council officer is specifically provided for in the District Council constitution. Article VIII, Section 2 of the District Council constitution provides, in pertinent part, as follows:

Except as specifically provided in this constitution, the acceptance of any full-time salaried employment with the council or with the International Union by any board

member shall automatically and immediately vacate such office. Reimbursement of lost time, stipends or per diem allowances for functioning on any council or International Union instrumentality shall not be deemed salaried employment but must be promptly reported to the executive board and recorded in its minutes. The executive board may make such allowances to the board members for their service on the board as it deems proper and pay compensation to the executive director as authorized in this constitution and such payments shall not bar them from their respective offices.

17. Payment of an allowance to officers of District Council 1707 while they continue to serve in their respective offices has been a past practice of the Union. In the 1980's and 1990's, two District Council officers – Bettye Roberts, a former president, and Michael Melrod, a former treasurer – each received a five-day per week allowance from the District Council after they had separated from their agency employment, and they both continued to serve as District Council officers.

18. On January 14, 2005, Stokely was given a memorandum from George advising her that by accepting compensation from the District Council she had vacated the office of president. In the said memorandum, George incorrectly asserted that Article VIII, Section 2 of the District Council constitution required that Stokely vacate the office of president, when, in fact, Article VIII, Section 2 expressly permits an officer to accept an allowance if granted by the Executive Board.

19. At a meeting of the Delegate Assembly on January 25, 2005, a motion was made by Zela Scott, a delegate, that Stokely remain in office on the grounds that her removal as president was illegal and unconstitutional. By a vote of 18 in favor and 21 against, with 2 abstentions, the motion was defeated.

20. By letter dated January 26, 2005, George advised Stokely that the Executive Board, at a meeting on January 22, 2005, and the Delegate Assembly, at a meeting on

January 25, 2005, had “declared that the office of President is vacant.” In his letter, George further advised Stokely that she was “no longer President of the Council and no longer a member of the Delegate Assembly;” that she was “not to be involved in any negotiations for any agency except for those pertaining to NYANA;” and that she was “not to represent to any organizations that [she had] the authority to represent DC 1707.”

21. The actual reason for Stokely’s removal from office was based solely on politics. As president of District Council 1707, Stokely was outspoken and frequently questioned actions taken by George as Executive Director. Prior to her removal as president, speculation had arisen that she was going to run against George in the May 2005 election. Removing Stokely from office was a preemptive act on George’s part to harm her politically and make her a less effective candidate in the 2005 election.

22. With respect to George, Stokely has, among other things:

a. Opposed George’s proposal in 2003 to increase his own salary from \$70,000 per year to \$150,000 per year, and to make it retroactive to May 2002.

b. Criticized George for his “inaction” at an AFSCME Executive Council meeting in September 2004, at which George was supposed to urge the Council to endorse the Million Worker March (“MWM”).

c. Openly questioned George’s termination of two staff employees, Chuck Mohan and Gloria Jackson, in December 2004; and

d. Challenged George’s mistaken belief that Stokely, as Union President, is subordinate to the Executive Director.

23. With respect to Stokely, George has, in recent months:

Called a special meeting of various officers and delegates in November 2004, without Stokely’s prior knowledge, to discuss bringing charges against her for

making “inappropriate” credit card charges in connection with the rental of buses for the MWM. After Stokely was “summoned” to the meeting and presented documentation demonstrating that nothing inappropriate had been done, no charges were brought against her.

b. Falsely accused Stokely, in a memorandum dated December 15, 2004, of indicating in a flier that District Council 1707 was a contact for the MWM organizing committee, and purported to “instruct” her not to use the District Council’s name and address without authorization.

24. Stokely’s removal as president of the District Council deprives Stokely, Mohan, Jackson and all other Union members of the services of the individual who they elected as president – without a vote by the members, without any allegation of misconduct on her part, without any disciplinary charges having been filed, and without any due process at all.

25. Stokely’s removal from office will have a deleterious effect on the specific matters in which she was involved as president, including the negotiation of a new collective bargaining agreement with the Federation of Employment Guidance Services (“FEGS”), the largest agency with which Local 215 has a contract, and whose contract sets the precedent for the industry.

26. As a result of her removal from office, Stokely will have far less ability to communicate with the members and, in the eyes of many members, her image will be tarnished as having been summarily “removed” from office. Stokely’s removal from office has harmed , and will continue to harm, her as a prospective candidate in officer elections scheduled for May 2005.

AS AND FOR A FIRST CAUSE OF ACTION

27. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 26 as if fully set forth herein.

28. By removing Stokely from her elected position as president of District Council 1707 prior to the expiration of her term of office, defendants violated Articles VI and VIII of the District Council constitution.

AS AND FOR A SECOND CAUSE OF ACTION

29. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 28 as if fully set forth herein.

30. By removing Stokely from her elected position as president of District Council 1707 in retaliation for her political views, defendants violated the rights of Stokely, Mohan, Jackson, and the entire membership of District Council 1707, under Section 101(a)(2) of the LMRDA, 29 U.S.C. § 411(a)(2).

31. By their aforesaid actions, defendants acted in wanton disregard of plaintiffs' rights under the LMRDA.

AS AND FOR A THIRD CAUSE OF ACTION

32. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 31 as if fully set forth herein.

33. The "Bill of Rights for Union Members" incorporated into the AFSCME constitution provides, in pertinent part, that "Members shall suffer no impairment of freedom of speech concerning the operations of this union."

34. By removing Stokely from her elected position as president of District Council 1707 in retaliation for her political views, defendants violated the "Bill of Rights for Union Members," as set forth in the AFSCME constitution.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this court enter judgment against

defendants Raglan and District Council 1707 as follows:

a. Voiding the action taken by defendants in removing Stokely as president of District Council 1707;

Ordering defendants to reinstate Stokely as president of District Council 1707 for the remainder of her three year term of office;

c. Granting compensatory damages to Stokely for the monetary allowance she lost by reason of defendants' actions;

d. Granting plaintiffs an award of punitive damages;
Granting plaintiffs an award of attorney's fees and litigation expenses; and
Granting plaintiffs such other and further relief as the court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues herein.

Dated: February 14, 2005
New York, New York

LEWIS, CLIFTON & NIKOLAIDIS, P.C.

By: _____
Daniel E. Clifton (DC 0632)
Attorneys for Plaintiffs

275 Seventh Avenue, Suite 2300
New York, New York 10001-6708
(212) 419-1500

