

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS**

1015 Half Street, SE Suite 775

WASHINGTON, D.C. 20003

Telephone: (202) 671-0547

Fax: (202) 671-0658

IN THE MATTER OF)

Butler for Mayor 2022)

James Butler, Candidate)

Pernetha Smith, Treasurer)

200 Rhode Island Avenue, NE#316)

Washington, DC 20002)

DOCKET NO.: 2023 C-019

December 12, 2023

ORDER

This matter came before the Office of Campaign Finance (“OCF”) Office of the General Counsel following a determination by its Public Information and Records Management Division that James Butler, Candidate and Pernetha Smith, Treasurer (“Respondents”) of the Principal Campaign Committee, Butler for Mayor 2022 (“Committee”), failed to timely file the January 31, 2023, Report of Receipts and Expenditures (“January 31, 2023, Report”) that was due by January 31, 2023, and extended until February 17, 2023, in violation of the Campaign Finance Act of 2011, District of Columbia Official Code § 1-1163.09(a) and (b) and the District of Columbia Municipal Regulations, 3 DCMR § 3017.2.

Summary of Evidence

By Notice of Hearing, Statement of Violations and Order of Appearance dated March 22, 2023, and November 14, 2023, sent by email and regular mail to Respondents, OCF ordered Respondents to show cause why they should not be found in violation of the District of Columbia Official Code § 1-1163.09(a) and (b) and 3 DCMR § 3017.2 and fined accordingly.

On or about January 20, 2023, the Public Information and Records Management Division (“PIRM”) emailed a “Reminder Letter” to Respondents to file the January 31, 2023, Report by January 31, 2023. A Notice of Non-Compliance was emailed on February 3, 2023, extending the filing deadline to February 17, 2023. Respondents failed to timely file the January 31, 2023, Report. Based upon Respondents’ failure to timely file the required January 31, 2023, Report, the PIRM Division referred the violation to the OCF’s Office of the General Counsel (“OGC”) for enforcement. On March 22, 2023, and November 14, 2023, OGC issued a Notice of Hearing, Statement of Violations and Order of Appearance (Notices) to Respondents via email and regular mail ordering Respondents to show cause why they should not be found in violation of the D.C. Official Code § 1-1163.09(a) and (b) and 3 DCMR § 3017.2.

A virtual hearing on this matter was scheduled by OGC for April 4, 2023. Respondents failed to appear, at the April 4, 2023, scheduled hearing. On April 4, 2023, Respondent Butler sent an email to OGC and indicated that he declined to attend the scheduled hearing and stated that he had “no good cause for not filing besides what has already been proffered”. Settlement discussions were held with Respondent Butler, during the months of March through October 2023, at which time he shared the fact that his mother was gravely ill, and his treasurer had to move to California unexpectedly. An offer of settlement was made on October 20, 2023, which Respondent Butler expressed a strong interest in, however, it expired on October 27, 2023, and was rescinded by OGC on November 14, 2023.

Thereafter, on November 14, 2023, OGC issued a Notice of Hearing, Statement of Violations and Order of Appearance (Notice) to Respondents, via regular mail and email ordering Respondents to show cause why they should not be found in violation of the D.C. Official Code § 1-1163.09(a) and (b) and 3 DCMR § 3017.2 and fined accordingly. A virtual hearing on this matter was scheduled by OGC for November 29, 2023. A show cause virtual hearing in this matter was conducted on November 29, 2023, and Respondent Butler appeared and testified, at the scheduled hearing on behalf of the Committee. Ms. Laura McQueen was present as a witness on behalf of PIRM.

Respondent’s Testimony

1. Respondent Butler apologized and testified that his failure to timely file the January 31, 2023, Report was due to his unavailability while caring for his mother, who is in the advanced stage of Dementia, coupled by the fact that his Treasurer was summoned to California for personal matters unexpectedly. As a result, the January 31, 2023, Report was filed late on March 2, 2023, accompanied by a Termination Report.
2. Respondent Butler testified that he did attend the OCF mandatory training entrance conference.
3. Respondent Butler stated that he suffers from financial hardship, because he is solely responsible for the care of his mother’s health and finances and was unable to enter the settlement agreement because the proposed payment amount was beyond his financial means, but he expressed an interest in the future, when he is no longer experiencing a hardship.
4. Respondent was remorseful and forthright throughout all his communications with OGC.

Findings of Fact

Having reviewed the allegations, evidence, testimony, and record herein, I find:

1. Respondent Butler was a Candidate and Pernetha Smith was the Treasurer, of the Principal Campaign Committee, Butler for Mayor 2022.
2. Respondents were required to file the January 31, 2023, Report, with OCF, by the extended deadline of February 17, 2023.
3. On or about January 20, 2023, a “Reminder Letter” was sent from OCF by email, to file the January 31, 2023, Report. A Notice of Non-Compliance was mailed by OCF on February 3, 2023, extending the filing deadline to February 17, 2023.
4. At all times pertinent, Respondents were required to file the January 31, 2023, Report by the extended filing date on February 17, 2023. Respondents have a history of filing reports untimely. Respondent Butler filed the January 31, 2023, Report, on March 2, 2023, along with a Termination Report, which reflected a zero balance.
5. The Director may impose a civil penalty for eight (8) days of noncompliance, as of February 17, 2023, to March 2, 2023, in this matter.

Conclusions of Law

Based on the record, I therefore conclude:

- 1 Respondents violated D.C. Official Code § 1-1163.09(a) and (b) and 3 DCMR § 3017.2.
2. 3 DCMR § 3711.2(f) establishes a Fifty (\$50.00) Dollar fine, per day, excluding weekends and holidays, for failure to timely file a Report of Receipts and Expenditures.
3. 3DCMR § 3711.1(b) maintains that a fine shall attach for each day of noncompliance for a maximum amount of Four Hundred (\$400.00) Dollars, equal to Eight (8) days of noncompliance.
4. The Director of Campaign Finance (“Director”) may ministerially impose fines upon the candidate, treasurer, committee, or designated agent, pursuant to 3 DCMR § 3711.1.
5. For good cause shown, pursuant to 3 DCMR § 3711.8, the Director may modify, rescind, dismiss, or suspend any fine.

Recommendation

In view of the foregoing information included in the record, and for good cause shown, coupled with the fact that the Committee filed the January 31, 2023, Report and is now in compliance and filed a Termination Report, with a zero balance, I hereby recommend that the Director impose a fine against James Butler, Candidate and Pernetha Smith, Treasurer and Butler for Mayor 2022, the Principal Campaign Committee, for the maximum amount of Four Hundred (\$400.00) Dollars. I further recommend that the fine should be reduced to Two Hundred (\$200.00) Dollars.

December 12, 2023
Date

/s/ Belinda Kittles Perry
Belinda Kittles Perry, Attorney Advisor

Concurrence

In view of the foregoing, I hereby **CONCUR** with the Recommendation.

December 12, 2023
Date

/s/ William O. SanFord
William O. SanFord, General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that in view of the foregoing information included in the record, and for good cause shown, coupled with the fact that the Committee filed the January 31, 2023, Report and is now in compliance and filed a Termination Report, with a zero balance, a fine be imposed against James Butler, Candidate and Pernetha Smith, Treasurer, and Butler for Mayor 2022, the Principal Campaign Committee in the amount of Four Hundred (\$400.00) Dollars. And it is.

FURTHER ORDERED that the fine in this matter, imposed against James Butler, Candidate and Pernetha Smith, Treasurer, and the Principal Campaign Committee, Butler for Mayor 2022, for Four Hundred (\$400.00) Dollars, shall be reduced to Two Hundred (\$200.00) Dollars.

December 12, 2023
Date

/s/ Cecily E. Collier Montgomery
Cecily E. Collier-Montgomery, Director

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a true copy of the **ORDER** has been served via email on, James Butler, at, jqbutler1@hotmail.com and Pernetha Smith, at pernethasmith@gmail.com and, by mail to James Butler, Candidate and Pernetha Smith, Treasurer, of Butler for Mayor 2022, Principal Campaign Committee at, 200 Rhode Island Avenue, NE, # 316, Washington DC, 20022, on this 12th day of December, 2023.

/s/ Belinda Kittles Perry

Notice

Any party adversely affected by an Order of the Director may: (1) file a Motion for Reconsideration (Motion) with the OCF within five (5) days after receipt of an Order, provided that, relevant evidence was omitted from consideration at the hearing (3 DCMR § 3709.13); or (2) 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 § 3711.2 shall become effective on the sixteenth (16th) day following the issuance of a decision or Order; provided that, the Respondent does not request a hearing *de novo* with the Board of Elections. Fines imposed shall be paid within ten (10) days of the effective date of the issued Order of the Director. Make payment by check or money order, payable to: *District of Columbia Treasurer*. Send payment to the *Office of Campaign Finance, 1015 Half Street S.E., Suite 775, Washington, DC 20003*.

