



**OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
WASHINGTON, D.C. 20009**

IN THE MATTER OF

Service Employees International Union)
MD/DC State Council)
Merle Cuttitta, Treasurer)
901 Russell Avenue)
Gaithersburg, MD 20879)

Date: April 26, 2013

Docket No.: 13P-016

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (“OCF”) Office of the General Counsel following a determination by its Public Information & Records Management (“PIRM”) Division that pursuant to the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform and Amendment Act of 2011, MERLE CUTTITTA, Treasurer for the Service Employees International Union MD/DC State Council, failed to timely file the March 10th Report of Receipts and Expenditures due on Monday March 11, 2013, in accordance with D.C. Official Code § 1-1163.09(b).

By Notice of Hearing, Statement of Violations and Order of Appearance dated April 8, 2013, OCF ordered MERLE CUTTITTA (“Respondent”) to appear at a scheduled hearing on April 25, 2013 and show cause why she should not be found in violation of the D.C. Official Code §1-1163.09(b) and the Campaign Finance Act of 2011, as amended and fined accordingly.

Summary of Evidence

On April 25, 2013, Respondent and Terrence Cavanagh, Executive Director appeared pro se to answer to the allegation(s) cited above. Latia Gaskins, Clerical Assistant, appeared on behalf of the Office of Campaign Finance. Ms. Gaskins testified that Respondent failed to timely file the March 10th Report of Receipts and Expenditures due on March 11, 2013, pursuant to the D.C. Official Code §1-1163.09(b).

Mr. Cavanagh acknowledged that the March 10th Report was not filed by the due date, March 11, 2013. Mr. Cavanagh explained the general practice of how the financial reports are prepared, approved and submitted for filing with OCF. He stated that the organization (“committee”) has two offices: the State Council office, located in Baltimore, MD; and the Administrative office, located in Gaithersburg, MD.

IN THE MATTER OF: Service Employees International Union
Page 2

First, the staff of the State Council office electronically prepares the report. Then, the State Council staff transmits the report to the Administrative office for review and approval. Once approved, the report is submitted for filing with OCF.

In a written statement dated April 11, 2013, Respondent indicated that she signed and emailed the report to the State Council on March 5, 2013. At that time, the State Council staff and the Administrative staff assumed that the other had filed the report with OCF. Respondent did not realize the mistake until receipt of the hearing notice from OCF, dated April 8, 2013. Respondent took immediate action to correct the noncompliance and filed the March 10th report on April 10, 2013.

Currently, the committee complies with the statute and does not have a history of filing delinquencies.

Findings of Fact

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

1. Respondent is the treasurer of the Service Employees International Union MD/DC State Council political action committee.
2. Respondent was required to file the March 10th Report of Receipts and Expenditures by Monday March 11, 2013.
3. On April 8, 2013, OCF sent via regular mail a Notice of Hearing, Statement of Violations and Order of Appearance, ordering Respondent to appear at a scheduled hearing on April 25, 2013.
4. Via a written statement by Respondent and verbal testimony by Mr. Cavanagh, both mistakenly assumed that the March 10th report was timely filed, since the report had been approved and signed off on by Respondent on March 5, 2013.
5. Respondent took immediate action to correct the noncompliance and filed the March 10th report on April 10, 2013.
6. The committee is now in compliance with the statute and does not have a history of noncompliance.

Conclusions of Law

Based on the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1163.09(b) and may be assessed a civil penalty.
2. The civil penalty for failure to file a Report of Receipts and Expenditures is \$50 per day for each day of noncompliance, excluding holidays and weekends; not to exceed \$2,000 for each violation, pursuant to D.C. Official Code §1-1163.35.
3. The Director may modify, rescind, dismiss or suspend any fine imposed, pursuant to 3 DCMR § 3711.6, for good cause shown.
4. Respondent failed to file the March 10th Report by March 11, 2013.
5. Via a written statement by Respondent and verbal testimony by Mr. Cavanagh, both mistakenly assumed that the March 10th report was timely filed, since the report had been approved and signed off on by Respondent on March 5, 2013.
6. Respondent took immediate action to correct the noncompliance and filed the March 10th report on April 10, 2013.
7. The committee is now in compliance with the statute and does not have a history of noncompliance.

Recommendation

In view of the foregoing and information included in the record, I HEREBY RECOMMEND that the Director suspend any fine in the matter.

April 26, 2013
Date

/s/
Kalvanetta K. Peete
Hearing Officer

Concurrence

In view of the foregoing, I HEREBY CONCUR with the Recommendation.

April 26, 2013

Date

/s/

William O. SanFord
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the imposition of any fine shall be suspended in this matter.

April 26, 2013

Date

/s/

Cecily E. Collier-Montgomery
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order has served to Merle Cuttitta by regular and/or certified mail on this 26th day of April 2013.

/s/

NOTICE

Any party adversely affected by any Order of the Director may 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 and/or Order; provided that, the Respondent does not request a hearing de novo, pursuant to §3709.11. 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, Frank D. Reeves Municipal Building, 2000 14th Street NW, Suite 433, Washington, DC 20009.