

**BEFORE THE OFFICE OF CAMPAIGN FINANCE  
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS  
FRANK D. REEVES MUNICIPAL BUILDING  
2000 14<sup>TH</sup> STREET, N.W., SUITE 433  
WASHINGTON, D.C. 20009  
TELEPHONE: (202) 671-0547  
FAX: (202) 671-0658**

<b>IN THE MATTER OF</b>	)	Date: April 5, 2016
	)	
Derek J. Ford, Treasurer	)	Docket No.: 16R-001
Re-Elect Yvette Alexander 2016	)	
4508 B Street, SE	)	
Washington, DC 20019	)	

**ORDER**

**Statement of Case**

This matter came before the Office of Campaign Finance (“OCF”), Office of the General Counsel, based upon Respondent’s Motion for Reconsideration (“Motion”) of the Order of the Director issued to Derek J. Ford, Treasurer of the Re-Elect Yvette Alexander 2016 Principal Campaign Committee on March 9, 2016. The Director entered an Order in this matter imposing a fine of \$1,850 against the Re-Elect Yvette Alexander 2016 Principal Campaign Committee after finding that the Committee was untimely in responding to a Request for Additional Information in violation of D.C. Official Code § 1-1163.03 (a)(1)(A). On March 14, 2016, Respondent submitted a Motion for Reconsideration regarding the March 9, 2016 Order.

**Summary of Evidence**

The Re-Elect Yvette Alexander 2016 principal campaign committee was fined \$1,850 for failing to timely respond to the Audit Division’s Request for Additional Information (RFAI). The Committee was required to file a response to the RFAI by January 1, 2016. An informal hearing was held on February 24, 2016, where Counsel for the Respondent gave testimony. Respondent’s Counsel conceded that the Committee was untimely in responding to the RFAI. In fact, it was brought to Counsel’s attention that as of the date of the hearing, the Committee had not fully complied with the request. The Committee was granted leave to submit the remaining document(s) on February 26, 2016. The Committee came into compliance with the request on February 26, 2016.

Respondent’s Motion for Reconsideration argues that Respondent was under the belief that the Audit Division granted his committee an extended deadline to respond to the RFAI after the January 1, 2016 deadline. Specifically, Respondent alleges that he received communications before January 1, 2016, indicating that the Audit Division would grant the Committee an extension to January 19, 2016, to submit a response to the RFAI.

**In the Matter of: Derek J. Ford - Re-Elect Yvette Alexander 2016**  
**Docket No.: 16R-001**  
**Page 2**

Remarkably, this is the first time that Respondent or his Counsel has alleged that he was under the belief that his committee was granted an extension prior to the January 1, 2016 deadline. Prior to the February 24, 2016 hearing, Respondent was given the opportunity to prepare a notarized affidavit explaining the untimeliness of the Committee's response. Respondent chose not to file an affidavit with OCF. Further, during the February 24, 2016 hearing, Counsel for the Respondent failed to testify that the Committee was granted an extension prior to the January 1, 2016 deadline.

Moreover, both Managers of the Audit Division were present and gave testimony during the hearing held on February 24, 2016. Neither Manager testified that they granted the Committee an extension prior to the January 1, 2016 deadline. In fact, it was the Audit Manager's testimony that she met with Respondent on January 14, 2016, nearly two weeks after the Committee's response was due and requested that the Committee file their response by January 19, 2016. It was the Audit Manager's testimony that she never granted Respondent a formal extension of time to file a response with OCF. The Manager's testimony was not refuted by Counsel.

Furthermore, Respondent's Motion for Reconsideration concedes the fact that the Committee failed to file a response on January 19, 2016. Respondent argues that an unforeseen health issue prevented him from submitting the response on January 19, 2016 and that he submitted some of the requested documents on January 20, 2016.

Additionally, Respondent alleges that he submitted a second production of documents on February 19, 2016 that was also incomplete. However, Respondent alleges in his motion that there was a misunderstanding between he and the Audit division regarding what documents were still missing from the committee's response. The Audit staff agrees with Respondent's assertion that there was a genuine misunderstanding regarding which remaining documents were needed to complete the Request for Additional Information. Thus, the Committee cannot be held at fault for the incomplete production of documents that was submitted on February 19, 2016.

Respondent has failed to present any evidence that suggests that his Committee was granted an extension by the Audit Division prior to the January 1, 2016 deadline. It was the Audit Manager's testimony during the informal hearing that she never granted Respondent a formal extension of time to file a response with OCF. However, there was a credible and genuine misunderstanding between the Audit division and Respondent as to which remaining documents needed to be filed with the Audit Staff so that the Committee could come into compliance with the Audit request.

**Findings of Fact**

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

1. Respondent is the Treasurer for the Re-Elect Yvette Alexander 2016 Principal Campaign Committee.
2. Respondent was required to file additional information with the Audit Division on or before January 1, 2016.
3. Respondent failed to timely respond to the request by the given deadline.
4. On March 9, 2016, the Director entered an Order in this matter imposing a fine of \$1,850 against the Re-Elect Yvette Alexander 2016 Principal Campaign Committee after finding that the Committee was untimely in responding to a Request for Additional Information in violation of D.C. Official Code § 1-1163.03 (a)(1)(A).
5. On March 14, 2016, Respondent submitted a Motion for Reconsideration regarding the March 9, 2016 Order.
6. After a complete review of the record, it appears that Respondent has failed to present any evidence that suggests that his Committee was granted an extension by the Audit Division prior to the January 1, 2016 deadline.
7. The Audit staff agrees with Respondent's assertion that on February 19, 2016, there was a genuine misunderstanding regarding which remaining documents were needed to complete the Request for Additional Information.

**Conclusions of Law**

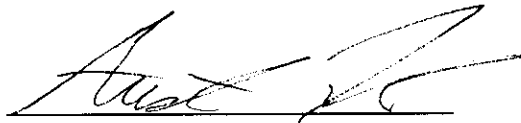
1. Respondent violated D.C. Official Code § 1-1163.03(a)(1)(A) and 3 DCMR § 3403.2.
2. The penalty established at 3 DCMR § 3711.2(q) for failure to file additional information requested by the OCF, as required by D.C. Official Code § 1-1163.03(a)(1)(A), is a fine of \$50.00 per day for each business day subsequent to the due date.
3. Under the given facts, the Respondent / Committee may be fined a maximum of \$1,850.00 for failing to timely file additional information requested by the OCF.
4. For good cause shown pursuant to 3 DCMR § 3711.7, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent attended OCF Entrance Conference Training on July 9, 2015 and was certified as having completed the training.

6. Respondent failed to present any evidence that suggests that his Committee was granted an extension by the Audit Division prior to the January 1, 2016 deadline.
7. Prior to the February 24, 2016 hearing, Respondent was given the opportunity to prepare a notarized affidavit explaining the untimeliness of the Committee's response. Respondent chose not to file an affidavit with OCF. Further, during the February 24, 2016 hearing, Counsel for the Respondent failed to testify that the Committee was granted an extension prior to the January 1, 2016 deadline. Moreover, both Managers of the Audit Division were present and gave testimony during the February 24, 2016. Neither Manager testified that they granted the Committee an extension prior to the January 1, 2016 deadline. In fact, it was the Audit Manager's testimony that she met with Respondent on January 14, 2016, nearly two weeks after the Committee's response was due and requested that the Committee file their response by January 19, 2016. It was the Audit Manager's testimony that she never granted Respondent a formal extension of time to file a response with OCF.
8. However, on February 19, 2016, there was a credible and genuine misunderstanding between the Audit division and Respondent as to which remaining documents needed to be filed with the Audit Staff so that the Committee could come into compliance with the Audit request.

**Recommendation**

In view of the foregoing and information included in the record, **I HEREBY RECOMMEND** that the Director vacate the prior Order dated March 9, 2016, and impose a reduced fine in the amount of \$300 in this matter and that Respondent, Derek Ford, be held personally liable for the imposed fine. The councilmember was not served with either the RFAI or the Notice of Hearings and therefore will not be liable for the fine.


April 5, 2016  
Date

  
Austin Franklin  
Hearing Examiner

**Concurrence**

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

April 5, 2016  
Date

  
William O. Sanford  
General Counsel

**ORDER OF THE DIRECTOR**

**IT IS ORDERED** that the prior Order dated March 9, 2016 is vacated and a reduced fine in the amount of \$300 is hereby imposed in this matter.

Apr. 15, 2016  
Date

Cecily E. Collier-Montgomery  
Cecily E. Collier-Montgomery  
Director

**CERTIFICATE OF SERVICE**

**THIS IS TO CERTIFY** that a true copy of the **ORDER** was served on Derek J. Ford, Treasurer for Re-Elect Yvette Alexander 2016, via regular mail at 4508 B Street, SE, Washington, DC, 20019 and by electronic mail at [derek@ums-dc.com](mailto:derek@ums-dc.com) on this 6<sup>th</sup> day of April 2016.

[Signature]

**Notice**

Any party adversely affected by 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 (16<sup>th</sup>) 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, Frank D. Reeves Municipal Building, 2000 14<sup>th</sup> Street NW, Suite 433, Washington, DC 20009.*