

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
1015 HALF STREET, S.E., SUITE 775
WASHINGTON, D.C. 20003**

IN THE MATTER OF

Cmte to Elect Claudia Barragan Cty Council
Jose Valcarcel, Treasurer
230 Varnum Street, NW #1A
Washington, DC 20011
jose.valcarcel@howard.edu

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) Date: October 29, 2021
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) Docket No: 21C-039
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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 and Records Management Division that: **Jose Valcarcel, Treasurer** of the Cmte to Elect Claudia Barragan Cty Council Principal Campaign Committee (“committee”), failed to timely file the July 31st Report of Receipts and Expenditures that was due by the extended filing date on Friday, August 20, 2021, in violation of the Campaign Finance Act of 2011, District of Columbia Official Code § 1-1163.09(b) (March 2019) and the District of Columbia Municipal Regulations, 3 DCMR § 3017.2 (July 2019).

By Notice of Hearing, Statement of Violations and Order of Appearance dated September 14, 2021 and September 28, 2021, OCF ordered Jose Valcarcel, Treasurer (“Respondent”) to appear at a scheduled hearing on September 24, 2021 and October 8, 2021 and show cause why the Respondent should not be found in violation of the D.C. Official Code § 1-1163.09(b) (March 2019) and 3 DCMR § 3017.2 (July 2019), and fined accordingly.

Summary of Evidence

Between July 13, 2021 and July 16, 2021, the Public Information and Records Management (“PIRM”) Division emailed a Reminder Letter to the Respondent that reminded the Respondent to file the July 31st Report of Receipts and Expenditures on Monday, August 2, 2021. However, the Respondent failed to file the July 31st Report. Therefore, on August 5, 2021, PIRM emailed a Notice of Non-Compliance Letter to the Respondent that informed the Respondent to file the Report by August 20, 2021. Again, the Respondent failed to comply. Consequently, the Respondent’s apparent failure to file the required Report gave reason to refer the violation to the Office of the General Counsel (“OGC”) for possible enforcement.

On September 14, 2021, OGC issued a Notice of Hearing, Statement of Violations and Order of Appearance to the Respondent, via electronic mail that ordered the Respondent to file the July 31st Report, as well as submit a typed-written Statement of Explanation (detailing the reason(s) why the Report was untimely filed) and submit an Affirmation Statement (“Statements”), which was due on September 24, 2021. However, the Respondent failed to file the Report or submit the Statements, as requested.

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Once again, on September 28, 2021, OGC issued a second Notice of Hearing, Statement of Violations and Order of Appearance, via electronic mail to the Respondent that instructed the Respondent to file the July 31st Report and submit both Statements by an extended date on October 8, 2021. Repeatedly, the Respondent failed to comply. As a result, the July 31st Report filing became twenty-four (24) past due on October 8, 2021. Consequently, the Respondent remains noncompliant with the reporting requirements under the Campaign Finance laws and has a recurring history of delinquent report filings.

Findings of Fact

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

1. The Respondent is the treasurer of the Cmte to Elect Claudia Barragan Cty Council Principal Campaign Committee.
2. At all times pertinent, the Respondent was required to file the July 31st Report of Receipts and Expenditures on the extended filing date on Friday, August 20, 2021.
3. Between July 13, 2021 and July 16, 2021, the Respondent received a Reminder Letter by email that reminded the Respondent to file the Report on August 2, 2021 but the Respondent failed to comply.
4. Again, the Respondent failed to file the Report on the extension date of Friday, August 20, 2021.
5. The Respondent also neglected to adhere to OGC's Notices issued via email on September 14, 2021 and September 28, 2021, in which the Respondent did not file the Report or Statements by September 24, 2021 or October 8, 2021.
6. On August 24, 2020, the Respondent attended the in-person OCF Mandatory Training Program, wherein the Respondent learned and affirmed by oath and signature to adhere to the rules under the Campaign Finance Act.
7. As of October 8, 2021, the Report became twenty-four (24) days past due.
8. The Respondent remains noncompliant with the July 31st Report filing and has a repeated history of delinquent report filings.

Conclusions of Law

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

1. The Respondent violated D.C. Official Code § 1-1163.09)(b) (March 2019) and 3 DCMR § 3017.2 (July 2019).
2. 3 DCMR § 3711.2(f) established a fifty-dollar (\$50) fine, per day, for failure to timely file a Report of Receipts and Expenditures.
3. 3 DCMR § 3711.1 maintains that a fine shall attach for each day of noncompliance; up to a maximum of **\$\$1,200.00** (in this matter), pursuant to D.C. Official Code § 1-1163.35(a)(3).

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1. The Director may ministerially impose fines upon the candidate, treasurer, committee, or designated agent, pursuant to 3 DCMR § 3711.1.
2. For good cause shown pursuant to 3 DCMR § 3711.7, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
3. At all times pertinent, the Respondent was required to file the July 31st Report of Receipts and Expenditures by the extended filing date on Friday, August 20, 2021.
4. The Respondent overlooked PIRM's letters that required the Respondent to file the July 31st Report on August 2, 2021 and August 20, 2021.
5. The Respondent disregarded OGC's Notices to file the July 31st Report and Statements on September 24, 2021 or October 8, 2021.
6. The Director may impose a civil penalty of \$1,200.00 (equal to 24 days of noncompliance), as of October 8, 2021.
7. At present, the Respondent remains noncompliant with the July 31st Report filing and has a repeated history of delinquent report filings.
8. The Respondent attended the in-person OCF Mandatory Training Program, wherein the Respondent learned and affirmed by oath and signature to adhere to the rules under the Campaign Finance Act

Recommendation

In view of the foregoing and information included in the record, I HEREBY RECOMMEND that the Director IMPOSE the maximum fine of \$1,200.00 against Claudia Barragan, Candidate of the Committee in this matter.

October 29, 2021

Date

Kalvanetta K. Peete /s/

**Kalvanetta K. Peete
Hearing Officer**

Concurrence

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

October 29, 2021

Date

William O. SanFord /s/

**William O. SanFord
General Counsel**

ORDER OF THE DIRECTOR

IT IS ORDERED that a fine in the amount of ***\$1,200.00*** SHALL BE IMPOSED against Claudia Barragan, Candidate of the Committee in this matter.

October 29, 2021

Date

Cecily E. Collier-Montgomery /s/

Cecily E. Collier-Montgomery
Director

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a true copy of the **ORDER** has been served on Jose Valcarcel, Treasurer, via electronic mail to: jose.valcarcel@howard.edu on this 29th day of October 2021.

Kalvanetta K. Peete /s/

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.*