

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
1015 HALF STREET, SE SUITE 775
WASHINGTON, DC 20003
(202) 671-0550**

IN THE MATTER OF

**Franklin Garcia Statehood Fund
Theodora Brown, Treasurer
1350 Pennsylvania Ave., NW Room C-09
Washington, DC 20004**

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**DOCKET NO: 2018 C-023
July 23, 2018**

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to The Campaign Finance Act of 2011 (The Act), codified in DC Official Code 1-1163.01, Theodora Brown, Treasurer, for the Franklin Garcia Statehood Fund (Committee) failed to timely file, a Receipt and Expenditure Report (hereafter R&E) for April 1, 2018 on or before the OCF sanctioned extended deadline of April 17, 2018.

By Notice of Hearing, Statement of Violations and Order of Appearance dated April 24, 2018 and May 23, 2018 respectively, OCF ordered Theodora Brown (hereinafter Respondent), to appear at a scheduled hearing on Tuesday May 8, 2018 and Tuesday June 19, 2018 respectively and show cause why she should not be found in violation of Title III of the Campaign Finance Act of 2011, and fined accordingly.

Summary of Evidence

On April 22, 2018, Respondent filed an R&E Report for April 1, 2018. At the time the report was filed no explanation was given to explain the reason (s) for it being untimely.

On June 20, 2018 a hearing was held in this matter. Mr. Frank Barr appeared on behalf of the Committee. Mr. Barr stated that he is the newly appointed treasurer for the Committee. He was unable to explain the reason(s) for the late filing of the April Report. He stated that he was transitioning into the position and was not aware that the April report was delinquent. In addition, he stated that he had not filed a Statement of Acceptance of Position of Treasurer for the Committee. He was advised that he must file the Statement of Acceptance before he could be formally recognized as the committee's treasurer.

A review of the Committee's file indicated that Theodora Brown, the former treasurer, withdrew from the position in December 2016.

Findings of Fact

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

1. Respondent (Frank Barr) appeared for the hearing and represented the Committee.
2. Upon examination, Mr. Barr stated that he was the newly appointed treasurer for the Committee.
3. Respondent committee was required to file a April 1, 2018 Report on or before April 17, 2018 in accordance with D.C. Official Code § 1-1163.09
4. Respondent Committee filed an April 1, 2018 Report on April 22, 2018. The report was four (4) business days past due.
5. Respondent on the date of the hearing had filed the Statement of Acceptance of Position of Treasurer. He was advised to file that statement with the OCF, Public Information and Records Management division.
6. Respondent's explanation for failing to timely file is credible in that Respondent was of the belief that the committee had filed the report. He stated that at the time the report was due he was transitioning into the position and was unaware that the report was delinquent.
7. Respondent committee is currently in compliance with the statute.

Conclusions of Law

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

1. Respondent PCC violated DC Official Code §1-1163.09(b).
2. The penalty established at DC Official Code §1-1163.09, §1-1163.35, 3 DCMR §§3711.2(f), 3711.3 and 3711.4 for failure to timely file a April 1, 2018 R&E Report is a fine of \$50.00 per day for each business day subsequent to the due date up to \$4,000 for the first offense and not more than \$10,000 for the second and each subsequent offense. (DC Law 20-0076) (2015).

3. In accordance with DC Official Code 1-1163.35, the respondent PCC may be fined a maximum of \$200.00 for failing to timely file a April 1, 2018 R&E Report.
4. For good cause shown pursuant to 3 DCMR 3711.6, the Director of the Office of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter. Mr. Frank Barr the "newly" appointed treasurer was instructed to register his acceptance as the Committee's treasurer and he was admonished that he and/or the Committee may be held liable for future violations for failure to comply with the campaign finance laws for the District of Columbia.

Date July 23, 2018

Leosana Muhammad
Hearing Officer

Concurrence

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

Date July 23, 2018

William O. Sanford
William O. Sanford
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter is hereby suspended.

Date July 23, 2018

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

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on Franklin Garcia Statehood Fund C/o Franklin Garcia 1350 Pennsylvania Avenue, NW Room C-09 Washington, DC 20004 by regular mail, on July 23, 2018.

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NOTICE

Any party adversely affected by any order of the Director may obtain review of the order by filing, with the Board of Elections and Ethics, a request for a hearing *de novo*. Pursuant to 3 DCMR §3711.5, any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, 1015 Half Street, SE Washington, DC 20003.