

**BEFORE THE OFFICE OF CAMPAIGN FINANCE  
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS  
FRANK D. REEVES MUNICIPAL BUILDING  
SUITE 420, 2000 14<sup>TH</sup> STREET, N.W.  
WASHINGTON, D.C. 20009  
(202) 671-0550**

<b>IN THE MATTER OF</b>	)	DATE: March 4, 2011
	)	
James Fournier, Candidate	)	DOCKET NO.: OCF 11C-002
ANC 5C07	)	
69 Bryant Street, NW	)	
Washington, DC 20001	)	

ORDER

**Statement of the Case**

This matter comes before the Office of Campaign Finance (OCF) upon a complaint filed by Barrie R. Daneker, on November 4, 2010, which alleged that James Fournier, candidate for Advisory Neighborhood Commission 5C07 in the November 2010 General Election (hereinafter respondent candidate), failed to place notices required by D.C. Official Code §§1-1102.01 and 1-1102.10 on campaign literature.

By Notice of Hearing, Statement of Violation and Order of Appearance (hereinafter Notice of Hearing) dated January 20, 2011, OCF ordered the respondent candidate to appear at a scheduled hearing on January 31, 2011, and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

**Summary of Evidence**

On January 31, 2011, the respondent candidate requested a brief continuance until February 1, 2011, to appear at the hearing. The respondent candidate's request was granted. On February 1, 2011, respondent candidate appeared pro-se. OCF was represented by Laura McQueen, Legal Instruments Examiner.

Ms. McQueen stated that it was alleged that the respondent candidate had failed to include the notices required by the Act on campaign literature which state that: "A copy of our report is on file with the Director of the Office of Campaign Finance..." and "paid for by" and the name of the treasurer on campaign literature as required by D.C. Official Code §§1-1102.01 and 1-1102.10 respectively. Respondent candidate admitted that he might have unintentionally violated the provisions of D.C. Official Code §1-1102.10.

OCF examined the literature Mr. Daneker attached to his complaint, which consisted of two photographs of two posters entitled "James Fournier for ANC 5C07 Working to Really Solve Your Problems ... Everyday." However, he did not provide any examples of the respondent candidate's literature that solicited funds which would required a notice that a copy of the committee's report is on file with OCF. Thus, no evidence that the respondent candidate violated the provisions of D.C. Official Code §1-1102.01 was presented.

With regard to the failure of the respondent committee to comply with the provisions of D.C. Official Code §1-1102.10 by including the words “paid for by” and the name of the treasurer and the address of the committee, respondent candidate stated that he did not intentionally fail to include the required notices on the campaign literature in question. He additionally stated that he did not become aware of the infraction until he received the Notice of Hearing from OCF in January of 2011, over two months after the November 2, 2010 General Election. He further stated that he was a first time candidate who was not certain that the notice requirement applied to ANC candidates. Respondent candidate concluded that had he known about the requirement or the infraction prior to the conclusion of election, he would have rectified the mistake.

### **Findings of Fact**

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

1. The respondent candidate was required to include notices required by the Act on all campaign literature in accordance with D.C. Official Code §1-1102.10.
2. The respondent candidate failed to include the notices on all campaign literature.
3. The respondent candidate was a first time candidate for elective office in the District of Columbia who has no prior history of non compliance with OCF.
4. The respondent candidate timely filed a Summary Financial Statement and is currently in compliance with the statute.

### **Conclusions of Law**

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

1. Respondent committee violated D.C. Official Code §1-1102.10.
2. The penalty established at D.C. Official Code §1-1103.05(b) (3), 3DCMR §§3711.2(n), 3711.3 and 3711.4 for failure to place notices required by the Act on campaign literature as required by D.C. Official Code § 1-1102.10 is a fine of \$500.00 per violation.
3. In accordance with D.C. Official Code §1- 1103.05(b)(3), the respondent committee may be fined a maximum of \$1,000.00 for failing to place notices required by the Act on campaign literature.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of the Office of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent candidate’s status as a first time candidate who has no prior history of non-compliance combined with his timely adherence to OCF filing requirements, warrants favorable consideration.

**Recommendation**

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine this matter.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William O. SanFord  
General Counsel

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cecily Collier-Montgomery  
Director

This Order may be appealed to the Board of Elections and Ethics within 15 days from the date of issuance.

**SERVICE OF ORDER**

This is to certify that I have served a true copy of the foregoing Order on James Fournier by first class postage pre-paid mail on March 4, 2011.

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**NOTICE**

Pursuant to 3DCMR §3711.5 (March 2007), any fine imposed by the Director shall become effective on the 16<sup>th</sup> 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, Suite 420, 2000-14<sup>th</sup> Street, N.W., Washington, D.C. 20009.