

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14th STREET, NW SUITE 420
WASHINGTON, DC 20009
(202) 671-0550**

IN THE MATTER OF

**Committee to Elect Nate Bennett-Fleming
Nate Bennett-Fleming, Treasurer
1394 Morris Road, SE
Washington, DC 20020**

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**DATE: May 13, 2011
DOCKET NO.: 011 C- 007**

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to D.C. Official Code §1-1106.06 (a) (2001 Edition) and 3 DCMR § 3017.1, Committee to Elect Nate Bennett-Fleming (hereinafter respondent PCC), Nate Bennett-Fleming, Treasurer, failed to timely file, a January 1, 2011 Report of Receipts and Expenditures (hereinafter R&E), on or before January 31, 2011, as required by D.C. Official Code §1-1106.02, and also failed to file on or before the OCF sanctioned extended filing deadline of February 17, 2011.

By Notice of Hearing, Statement of Violations and Order of Appearance dated March 9, 2011, OCF ordered Nate Bennett-Fleming (hereinafter respondent treasurer), to appear at a scheduled hearing on March 21, 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 March 21, 2011, Respondent filed an R&E Report for January 1, 2011, and appeared for the scheduled hearing and explained the reason for the untimely filing. The respondent admitted that he failed to file the report in a timely manner. He stated that this occurred because he has been attending law school at the University of California-Berkley and prior to his departure the treasurer of the principal campaign committee resigned thus, his residence in California during the school year made it difficult to receive records because the records were not maintained electronically. The respondent also testified that he has since re-established contact with the former treasurer and will submit in a letter terminating the campaign in the near future.

Findings of Fact

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

1. Respondent became the Treasurer, Committee to Elect Nate Bennett-Fleming on September 21, 2010.
2. Respondent committee was required to file a January 1, 2011 R&E Report on or before January 31, 2011.
3. The Respondent committee did not timely file a January 1, 2011 R & E Report with OCF.
4. Respondent's explanation for failing to timely file is credible in that Respondent testified that his treasurer resigned immediately after the campaign, and shortly thereafter he left the city to attend law school in California.
5. Respondent took immediate action to correct his noncompliance by filing the R&E Report for his campaign. Although the filing was untimely and failed to meet the statutory deadline, he hand delivered and filed the report when he appeared for the scheduled March 21, 2011 hearing.

Conclusions of Law

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

1. Respondent PCC violated D.C. Official Code §1-1102.06(a).
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), 3 DCMR §§3711.2(f), 3711.3 and 3711.4 for failure to timely file a January 1, 2011 R&E Report required by D.C. Official Code §1-1102.06 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent PCC may be fined a maximum of \$2,000.00 for failing to timely file a January 1, 2011 Report of Receipts and Expenditures.
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.

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5. Respondent treasurer's explanation for the filing delinquency is the campaign treasurer resigned immediately after the campaign and he has not been able to communicate with her because he also departed the city and went to the University of California-Berkley to resume his legal studies.

6. The respondent committee complied with the D.C. Official Code 1-1102.06 and 3DCMR 3008.2 by filing the January 1, 2011 R&E Report on March 21, 2011 immediately prior to the hearing.

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.

Date

Leonard G. Muhammad
Hearing Officer

Concurrence

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

Date

William O. SanFord
General Counsel

ORDER OF THE DIRECTOR

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

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on Nate Bennett Fleming, by regular mail, on _____.
