

**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 Elect Villareal Johnson SBOE
Timothy Lewis, Treasurer
3018 M Place, SE
Washington, DC 20019**

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**Docket No: 012 C-119
Docket No: 012 C-127
Date: April 5, 2013**

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 (PIRM) Division, that pursuant to The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform and Amendment Act (The Act), codified in DC Official Code 1-1163.09(b), Timothy Lewis, Treasurer for the campaign Committee to Elect Villareal Johnson SBOE failed to timely file the 8 Day Pre-General Election Report of Receipts and Expenditures that was due on Monday October 29, 2012 and the Receipts and Expenditures Report (hereafter R&E Report) due on or before December 10, 2012.

By Notice of Hearing, Statement of Violations and Order of Appearance dated November 15, 2012 and January 18, 2013 OCF ordered Villareal Johnson (hereafter Respondent), to appear at a scheduled hearing on Thursday November 29, 2012 and on Tuesday January 29, 2013 respectively and show cause why he should not be found in violation of Title III of the Campaign Finance Act of 2011, and fined accordingly.

Summary of Evidence

Respondent appeared for the scheduled hearing on Tuesday January 29, 2013. He was not represented by legal counsel, and acted pro se in this matter. Villareal Johnson was a candidate for the State Board of Education in the 2012 general election.

Respondent admitted to the failure to timely file the 8 Day Pre-General Election R&E Report due on October 29, 2012 and the failure to file the report due on December 10, 2012. Respondent attributed the failure to file the report as negligence on his part. Respondent also stated that he lost track of the filing dates because he was engaged in acting as treasurer for 2 campaign committees. That coupled with his employment obligations; he stated that he simply forgot when the R&E reports were due.

Respondent stated he immediately filed the December 10th R&E Report after receiving the Notice to Appear at the OCF for a hearing. Respondent stated he filed the December 10th R&E Report on or about January 14, 2013. Respondent stated he would have to "go back" and file the 8 Day Pre-General Election Report for the campaign committee.

Findings of Fact

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

1. Respondent is the treasurer of record for the Committee to Elect Villareal Johnson SBOE.
2. Respondent was required to file the 8 Day Pre-General Election R&E Report **(Docket No. 012 C-119)** on or before October 29, 2012 in accordance with D.C. Official Code § 1-1163.09
3. Respondent was required to file the December 10th R&E Report **(Docket No. 012 C-127)** on or before December 10, 2012 in accordance with D.C. Official Code § 1-1163.09
4. Respondent admitted his failure to timely file both of the outstanding R&E Reports. He attributed the failure to being negligent. He stated that the filing was overlooked because he is the treasurer of record for 2 campaign committees. Coupled that responsibility with his obligations to his employer his attention was divided and this affected his ability to timely file the reports.
5. Respondent stated that he would file the outstanding 8 Day Pre-General Election Report **(Docket No. 012 C-119)**. As of this date that report has not been filed at OCF.
6. Respondent filed the December 10th R&E Report **(Docket No. 012 C-127)** on or about January 14, 2013.
7. The December 10th R&E Report **(Docket No, 012 C-127)** when received in OCF was twenty three (23) days past due.
8. Respondent is not a novice participant in the public elections arena. He has appeared and been summoned to appear several times in the past three years and defend against filing violations.

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 the 8 Day Pre-General Election R&E Report (**Docket No. 012 C-119**) is a fine of \$50.00 per day for each business day subsequent to the due date.
3. 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 the December 10th R&E Report (**Docket No. 012 C-127**) is a fine of \$50.00 per day for each business day subsequent to the due date.
4. District of Columbia Municipal Regulations (DCMR) 3711.7 makes it a mandatory fine for the failure to file the 8 day pre-election report.
5. In accordance with DC Official Code 1-1163.35 the respondent PCC may be fined a maximum of \$1,150.00 for failing to timely file the 8 day pre-election R&E Report (**Docket No. 012 C-119**).
6. In accordance with DC Official Code 1-1163.35 the respondent PCC may be fined a maximum of \$2000.00 for failing to timely file the December 10th R&E Report (**Docket No. 012 C-127**).
7. 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

During the hearing Respondent admitted failing to timely file the 8 Day Pre Election Report. Respondent stated that he would “go back” and get the report done and filed with OCF. As of this date, Respondent has failed to complete such a task, and has not communicated with the OCF regarding this issue. The hearing officer can only conclude that what was simply neglect on the Respondent’s part has now turned into gross neglect of duty. The 8 Day Pre Election Report is more than forty (40) days past due. In view of the foregoing and information included

in the record, I recommend that the Director impose a fine in the amount of Two Thousand Dollars (\$2,000.00) for failure to file the 8 day pre-election R&E Report (**Docket No: 012 C-119**).

The Respondent attempted to cooperate with OCF upon receipt of the hearing notice for failure to file the December 10, 2012 R&E Report. He filed the report on or about January 14, 2013. On the date of filing the report was twenty three (23) days past due. During the hearing Respondent stated that the campaign received little money for the candidate. Thus, the hearing officer believes that a substantial fine would not be feasible for this infraction. Therefore, it is recommended that the Director impose a reduced fine of Three Hundred Fifty Dollars (\$350.00) (**Docket No: 012 C-127**).

Date

Hearing Officer

Concurrence

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

Date

William O. SanFord
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter (**Docket No: 012 C-119**) is hereby Two Thousand Dollars (\$2,000.00) for failure to file the 8 day pre-election R&E Report.

IT IS FURTHER ORDERED that the fine in this matter (**Docket No: 012 C-127**) is hereby Three Hundred Fifty Dollars (\$350.00) for failure to file the R&E Report due on December 10, 2012.

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 Timothy Lewis at timlewis73@gmail.com and via by regular mail, on _____.

NOTICE

Any party adversely affected by and 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, 2000 Fourteenth Street, N.W., Suite 433 Washington, DC 20009.