

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

IN THE MATTER OF	}	DATE: May 9, 2007
	}	
Citizens for the VLT Initiative of 2006	}	DOCKET NO: 07Int- 01
Barry Jerrels, Treasurer	}	HEARING OFFICER: William O. SanFord
1500 Massachusetts Ave., NW	}	
Washington, DC 20005	}	

ORDER

Statement of the Case

This matter comes before the Office of Campaign Finance (OCF) upon an inquiry conducted by the Office of Campaign Finance which determined that the Citizens for the Video Lottery Terminal Initiative of 2006 (hereinafter respondent initiative) for which Barry Jerrels serves as Treasurer, failed to timely file on January 31, 2007, a January 31, 2007 Report of Receipts and Expenditures (January 31, 2007 Report), pursuant to D.C. Official Code §1-110.06(a) (2001 Edition).

By Notice of Hearing, Statement of Violations and Order of Appearance dated April 12, 2007, OCF ordered Barry Jerrels (hereinafter respondent treasurer) to appear at a scheduled hearing on April 20, 2007 and show cause why the Citizens for the VLT Initiative of 2006, 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. (Act) and fined accordingly.

On April 20, 2007, respondent treasurer appeared at the scheduled hearing. He was accompanied by Jeffrey Robinson, Esq. and Mathew Carney, Legal Assistant for Mr. Robinson. OCF was represented by Sonya Lake, Financial Reporting and Legal Instruments Examiner.

Summary of Evidence

Ms Lake alleged that the Citizens for the VLT Initiative of 2006, failed to timely file the statutorily required January 31, 2007 Report by the due date of January 31, 2007. Respondent treasurer through counsel denied that the respondent initiative was under a statutory obligation to file the report in question on or before the due date. Counsel however stated that even though he does not believe the respondent initiative was obligated to file the Report, the document was submitted to OCF on February 9, 2007, nearly three weeks prior to the issuance of a Notice of Non-Compliance

on February 27, 2007. As evidence, counsel provided a copy of a January 31, 2007 Report and a cover letter which were both dated February 9, 2007 and addressed for hand-delivery to OCF General Counsel. Counsel additionally stated that despite his belief that the respondent initiative was not currently obligated to file any Reports because the proponents of the initiative are seeking ballot access for the 2008 General Election, he has complied with prior filing deadlines and filed timely reports for all previous reporting periods. In addition Mathew Carney, Legal Assistant testified that he personally hand delivered the documents to an employee at the front desk in the reception area of OCF on February 9, 2007.

A review of the case file indicated that the respondent initiative's January 31, 2007 Report was not recorded on February 9, 2007. Nonetheless, Counsel maintained that the Report was indeed filed with OCF on that date. Further examination of the case file revealed that OCF has not issued any prior Notices of Non-Compliance to the respondent initiative.

Findings of Fact

Having reviewed the allegations and OCF records, I find:

1. Respondent initiative was required to file a January 31, 2007 Report with OCF on or before January 31, 2007.
2. Respondent initiative was issued a Notice of Non-Compliance on February 27, 2007 that accorded an additional 15 day period to file the January 31, 2007 Report.
3. OCF records indicate that the respondent initiative's January 31, 2007 Report which was dated February 9, 2007, was recorded by OCF on April 20, 2007, at the conclusion of the scheduled hearing.
4. Respondent initiative is currently in compliance with the statute.
5. Respondent initiative has no prior filing delinquencies with OCF.
6. Based on the record of compliance it is more likely than not that the Respondent initiative's report was delivered to OCF on February 9, 2007, prior to the issuance of the Notice of Non-Compliance on February 27, 2007.

Conclusion of Law

Based upon the record and evidence, I therefore conclude:

1. The Respondent initiative did violate D.C. Official Code Section 1-1102.06(a).

2. The penalty established at 3DCMR Sections 3711.2(f) and 3711.4 for failure to timely file a January 10, 2006 Report required by D.C. Official Code Section 1-1102.06(a) is a fine of \$30.00 per day for each business day subsequent to the due date.

3. In accordance with D.C. Official Code Section 1-1103.05(b)(3) and 3DCMR Sections 3711.2(f) and 3711.4, Respondent initiative is not subject to a fine for failing to timely file a January 31, 2007 Report.

Recommendation

In view of the foregoing and information included in the case file, I hereby recommend that the Director dismiss this matter.

Date

William O. SanFord
Hearing Officer

Concurrence

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

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED this matter is hereby dismissed.

Date

Cecily E. Collier-Montgomery
Director

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

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), 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, Suite 420, and 2000 14th Street, NW, Washington, D.C. 20009.

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

April Williams

