

**BEFORE 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: August 8, 2008
)	
Clarence Cherry for At Large Council)	DOCKET NO.: 08C-015
Andrea Cherry, Treasurer)	
3312 22 nd Street, NE)	
Washington, DC 20018)	

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 the Clarence Cherry for At Large Council Principal Campaign Committee (hereinafter respondent committee), failed to timely file, on or before June 10, 2008, a June 10, 2008 Report of Receipts and Expenditures (hereinafter June 10, 2008 Report), as required by D.C. Official Code §1-1102.06(a) (2001 Edition).

By Notice of Hearing, Statement of Violations and Order of Appearance dated June 24, 2008, OCF ordered Andrea Cherry (hereinafter respondent treasurer), to appear at a scheduled hearing on July 2, 2008 and show cause why the respondent committee 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 June 30, 2008, the respondent treasurer submitted a notarized written statement in lieu of appearing at the scheduled hearing.

OCF has alleged that the respondent committee failed to timely file the statutorily required June 10, 2008 Report on or before June 10, 2008. Respondent treasurer stated in her written submission that she was not aware that the respondent committee was required to file a June 10, 2008 Report until she received the Notice of Hearing from OCF. She also stated that she filed the delinquent report immediately after OCF informed her of the infraction. Respondent treasurer also submitted an OCF Submission Report which indicated that the report in question was filed electronically on June 27, 2008.

Findings of Fact

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

1. Respondent committee was required to file a June 10, 2008 Report on or before June 10, 2008 in accordance with D.C. Official Code §1-1102.06(a).
2. Respondent committee did not timely file a June 10, 2008 Report with OCF.
3. Respondent treasurer filed a June 10, 2008 Report electronically on June 27, 2008.
4. Respondent candidate is a first time contender for elective office in the District with no prior filing history with OCF.
5. Respondent committee 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 §1-1102.06(a).
2. The penalty established at D.C. Official Code §1-1103.05(b) (3), 3DCMR §§3711.2(f), 3711.3 and 3711.4 for failure to timely file a June 10, 2008 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 committee may be fined a maximum of \$600.00 for failing to timely file a June 10, 2008 Report.
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 contender for elective office in the District of Columbia coupled with his treasurer' immediate submission of the outstanding report provides a basis for favorable consideration.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the fine in 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 that a 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 Andrea Cherry 2008, by regular mail, on August 8, 2008.

NOTICE

Pursuant to 3DCMR §3711.5 (March 2007), 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, 2000-14th Street, N.W., Washington, D.C. 20009.