

**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: September 11, 2009
)	
Ward Seven Democrats)	DOCKET NO.: 09P-009
Virgil C. McDonald, Treasurer (Former))	
2548 – 36 th Street, SE)	
Washington, DC 20020)	

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 Ward Seven Democrats (hereinafter respondent PAC), Virgil C. McDonald, Treasurer, failed to timely file a January 31, 2009 Report of Receipts and Expenditures (hereinafter January 31, 2009 Report) as required by D.C. Official Code §1-1102.06(a)(2001 Edition), on or before January 31, 2009, and also failed to file on or before the OCF sanctioned extended filing deadline of February 20, 2009.

By Notice of Hearing, Statement of Violations and Order of Appearance dated July 16, 2009, OCF ordered Virgil C. McDonald (hereinafter respondent treasurer), to appear at a scheduled hearing on July 27, 2009 and show cause why the respondent PAC 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 July 22, 2009, Virgil C. McDonald, respondent treasurer, contacted the Hearing Officer to advise that he had scheduled travel on the date of the hearing, and that he no longer serves as treasurer of the respondent PAC. Mr. McDonald further advised that he filed the January 31, 2009 Report in March 2009. The Hearing Officer advised the respondent treasurer to file an affidavit in explanation of the filing delinquency, and to file a Statement of Withdrawal of Position of Treasurer form to reflect his resignation as treasurer. On March 3, 2009, respondent PAC filed a January 31, 2009 Report with OCF. On July 23, 2009, the respondent treasurer filed an affidavit stating that his

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resignation as treasurer and the delinquent filing of the required report, were due to health and job-related issues. Mr. McDonald further stated that he intended to resign effective the Fall of 2008; however, he was asked by respondent PAC officials to remain in office until a new treasurer could be identified and elected.

Findings of Fact

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

1. Respondent PAC was required to file a January 31, 2009 Report of Receipts and Expenditures on or before January 31, 2009 in accordance with D.C. Official Code §1-1102.06(a).
2. Respondent PAC failed to timely file a January 31, 2009 Report with OCF.
3. Respondent treasurer filed the required January 31, 2009 Report on March 3, 2009.
4. Respondent treasurer provided a credible explanation for the filing delinquency in that health and job-related issues prevented the timely filing of the required report; notwithstanding, the respondent treasurer filed as soon as practicable.
5. Respondent PAC is currently in compliance with the statute.

Conclusions of Law

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

1. Respondent PAC 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 January 31, 2009 Report of Receipts and Expenditures 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 PAC may be fined a maximum of \$300.00 for failing to timely file a January 31, 2009 Report of Receipts and Expenditures.

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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 treasurer's explanation for the filing delinquency, in that health and job-related issues prevented the timely filing of the required report; notwithstanding, the respondent treasurer filed as soon as practicable, constitutes good cause for suspension of the fine.

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

Jean Scott Diggs
Hearing Officer

Concurrence

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

Date

William O. Sanford
Acting General Counsel

ORDER OF THE DIRECTOR

IT IS 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 Ward Seven Democrats, c/o Virgil C. McDonald, by regular mail, on September 11, 2009.

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.