

**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 15, 2010
)	
District of Columbia PAC of MSDC)	DOCKET NO.: 10P-031
Byron S. Cooper, M.D.)	
Treasurer)	
1115 – 30 th Street, NW, Suite 100)	
Washington, DC 20007)	

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 District of Columbia PAC of MSDC (hereinafter respondent PAC), Byron S. Cooper, M.D., Treasurer, failed to timely file an August 10, 2010 Report of Receipts and Expenditures as required by D.C. Official Code §1-1102.06(a)(2001 Edition), on or before August 10, 2010.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 25, 2010, OCF ordered Byron S. Cooper, M.D. (hereinafter respondent treasurer), to appear at a scheduled hearing on September 7, 2010 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 September 2, 2010, the respondent treasurer filed an affidavit with OCF stating that the required report was prepared by the PAC's controller, signed by the treasurer, and postmarked for mailing on August 5, 2010. Further, the respondent treasurer determined that the staffer assigned to mail the report did not do so timely. To evidence this fact, a copy of an envelope addressed to OCF, bearing a metered postmark dated August 5, 2010, was transmitted. Moreover, a written statement prepared by the staffer responsible for the oversight confirmed same and candidly admitted responsibility for the filing delinquency. On August 23, 2010, the respondent PAC filed the required August 10, 2010 Report of Receipts and Expenditures with OCF.

Findings of Fact

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

1. Respondent PAC was required to file an August 10, 2010 Report of Receipts and Expenditures on or before August 10, 2010 in accordance with D.C. Official Code §1-1102.06(a).
2. Respondent PAC filed the required report on August 23, 2010.
3. Respondent PAC has no history of prior filing delinquencies.
4. Respondent treasurer provided a credible explanation for the filing delinquency in that a verified, staffer error accounted for the late filing; notwithstanding, the required report was filed with OCF 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 an August 10, 2010 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 PCC may be fined a maximum of \$400.00 for failing to timely file an August 10, 2010 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 in that a staffer's oversight prevented the timely filing of the report; notwithstanding, the required report was filed immediately upon discovery of the error, constitute good cause to suspend the fine in this matter.

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

_____/s/_____
Jean Scott Diggs
Senior Hearing Officer

Concurrence

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

Date

_____/s/_____
William O. Sanford
Acting General Counsel

ORDER OF THE DIRECTOR

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

Date

_____/s/_____
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 Byron S. Cooper, M.D., Treasurer, District of Columbia PAC of MSDC by regular mail on September 15, 2010.

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.