

**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 433
WASHINGTON, D.C. 20009
(202) 671-0550**

IN THE MATTER OF)	Date: August 26, 2011
)	
Juan Amaya)	Docket No.: 11F-008
Public Space Manager)	
District Department of Transportation)	

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 pursuant to D.C. Official Code §1-1106.02 (2001 Edition), JUAN AMAYA, Public Space Manager within the District Department of Transportation, failed to timely file a Financial Disclosure Statement (hereinafter FDS) for calendar year 2010 on or before May 15, 2011 as required by D.C. Official Code §1-1106.02, and by the extended filing date sanctioned by OCF on June 10, 2011.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 1, 2011, OCF ordered JUAN AMAYA to appear at a scheduled hearing on August 11, 2011 and show cause why he 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 August 11, 2011, Juan Amaya (hereinafter Respondent), appeared pro se to answer to the above-cited allegation(s). Latia Gaskins, Clerical Assistant, PIRM appeared on behalf of OCF. Ms. Gaskins testified that the Respondent failed to timely file the required FDS for calendar year 2010 on or before May 15, 2011 and failed to file by the extended filing date June 10, 2011; and therefore, Respondent is in violation of the D.C. Official Code §1-1106.02 (2001 Edition).

Respondent testified that he has been employed with DC government for the past six (6) years and has filed an FDS in person with OCF each year until recently. Respondent asserts that this year, there was a change in procedure and he was instructed to submit his financial form to the HR manager, who would then submit all financial forms to OCF. Respondent was under the mistaken belief that he had satisfied his FDS filing duty and was unaware of his noncompliance until he received Notice from OCF. Consequently, Respondent took action to correct his noncompliance and filed the required FDS on August 11, 2011 when he appeared for a scheduled hearing.

IN THE MATTER OF: Juan Amaya
Page 2

For that reason, Respondent is currently in compliance with the statute and has been a timely FDS filer for the past three (3) years, notwithstanding the matter at issue.

Findings of Fact

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

1. Respondent is a Public Space Manager within the Real Estate Commission.
2. Respondent failed to file an FDS with OCF for calendar year 2010 on or before the extended date June 10, 2011.
3. Respondent filed the required FDS on August 11, 2011.
4. Respondent provided a credible explanation for the untimely filing, in that Respondent mistakenly believed that he had satisfied the FDS filing requirement for calendar year 2010 when he submitted the financial form to the HR manager for submission to OCF.
5. Respondent does not have a history of FDS filing delinquencies and is currently in compliance with the statute.

Conclusions of Law

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

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3 DCMR §§3711.2(aa), 3711.2 and 3711.4 (March 2007, as amended) for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 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 may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3 DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.

5. Respondent provided credible testimony for the untimely filing in that Respondent mistakenly believed that he had satisfied the FDS filing requirement for calendar year 2010 when he submitted the financial form to the HR manager for submission to OCF; and upon notice to the contrary, Respondent took action to correct his noncompliance by filing when he appeared for a scheduled hearing on August 11, 2011.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of a fine in this matter.

Date

Kalvanetta K. Peete
Hearing Officer

Concurrence

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

Date

William O. SanFord
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine is hereby suspended in this matter.

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 JUAN AMAYA by regular and certified mail, on August 26, 2011.

NOTICE

Pursuant to 3DCMR §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, Suite 433, 2000 Fourteenth Street, N.W., Washington, D.C. 20009.