

**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**

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|---|---|---------------------|
| IN THE MATTER OF |) | November 30, 2011 |
| |) | |
| Kelly Brinkley |) | Docket No.: 11F-035 |
| Chief Operations Officer |) | |
| Office of State Superintendent of Education |) | |

ORDER IN RESPONSE TO A MOTION FOR RECONSIDERATION

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF), Office of the General Counsel following a Motion for Reconsideration by KELLY BRINKLEY (hereinafter Respondent) of an Order of the Director dated October 21, 2011 which imposed a \$2,000 fine for failure 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.

Summary of Evidence

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 2, 2011, August 16, 2011 and September 15, 2011 (respectively), OCF ordered KELLY BRINKLEY (hereinafter Respondent) to appear at a scheduled hearing August 16, 2011, August 24, 2011 and September 27, 2011, and show cause why she 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. Respondent failed to appear or file the required FDS. Accordingly, OCF issued an Order on October 21, 2011 imposing a \$2,000 fine against Respondent for failure to timely file.

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On November 7, 2011, Respondent submitted a Motion for Reconsideration of the Order of the Director dated October 21, 2011 to the Office of Campaign Finance, detailing her grounds for reconsideration. Respondent asserts that she separated from DC Government in June 2011 and was not provided an exit interview nor was she informed by her Agency administrator that she had a duty to file a FDS with the OCF following her separation.

Respondent further asserts in her motion that, she did not receive information necessary to satisfy the filing obligation or appear at the scheduled hearings documented above. Respondent alleges that she moved to a new residence in Northwest Washington, DC in December 2010; however, OCF mailed its notices to Respondent's former address in Southeast Washington, DC. OCF relied on the address and contact information provided by Respondent's Agency employer, which listed Respondent's address as Southeast Washington, DC. However, by some means, Respondent did receive the Order of the Director, dated October 21, 2011 that was forwarded by certified mail, which prompted Respondent's written request for reconsideration of the imposed fine of \$2,000.

Respondent provided persuasive mitigating reasons for not timely filing an FDS with OCF. However, more importantly, Respondent has yet to file the required FDS for calendar year 2010; and therefore, Respondent remains in noncompliance with the statute.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director deny Respondent's motion and uphold the Order dated October 21, 2011.

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 Respondent's motion is deny and the Order dated October 21, 2011 will stand.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

I HEREBY CERTIFY that a copy of the foregoing has been furnished to KELLY BRINKLEY this _____ day of November, 2011 by US Mail and/or Certified Mail.

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.