

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 433
WASHINGTON, D.C. 20009
(202) 671-0550**

IN THE MATTER OF)	Date: February 22, 2013
)	
Abraham for Ward 8)	Docket No: 12C-032
Candidate, Jauhar Abraham)	
Treasurer Antoniese Starks)	
273 Newcomb Street SE)	
Washington, DC 20032)	

ORDER TO SET ASIDE THE ORDER OF THE DIRECTOR

Statement of the Case

This matter came before the Office of Campaign Finance (“OCF”) upon a recommendation by its Office of the General Counsel to set aside the Order of the Director, entered June 29, 2012 suspending a fine against the committee ABRAHAM FOR WARD 8 (“Committee”), for failure to timely file the 8 DAY PRE PRIMARY REPORT OF RECEIPTS AND EXPENDITURES by March 12, 2012 in accordance with D.C. Official Code § 1-1163.09(b) because to date, the committee still has not filed the required report and has not provided a reasonable explanation for its failure to file the report.

By Notice of Hearing, Statement of Violations and Order of Appearance dated April 6, 2012, April 25, 2012 and May 29, 2012, OCF ordered Treasurer Antoniese Starks (now Antoniese Ruffin) to appear at a scheduled hearing on April 19, 2012, May 9, 2012 and June 6, 2012, respectively and show cause why she should not be found in violation of the D.C. Official Code § 1-1163.09(b) and the Campaign Finance Act of 2011, as amended and fined accordingly.

Summary of Evidence

On June 6, 2012 Candidate Jauhar Abraham appeared pro se on behalf of the committee to answer to the above-cited allegation(s). Latia Gaskins, Clerical Assistant, appeared on behalf of OCF. Ms. Gaskins testified that the Committee failed to timely file the 8 Day Pre Primary report by March 12, 2012, pursuant to the D.C. Official Code § 1-1163.09(b).

Mr. Abraham stated that he suspended his campaign activity in February 2012 due to a death in his family. For that reason, Mr. Abraham spent a great deal of time handling family matters out of state and relied on the treasurer to file R&E reports when they were due. Mr. Abraham mistakenly assumed that the delinquent report at issue was the March 10th R&E report that the treasurer filed on March 13, 2012. OCF corrected Mr. Abraham’s confusion regarding the two reports. Mr. Abraham agreed to file the R&E Report by June 14, 2012. However, the report was not filed by the extended due date.

IN THE MATTER OF: Abraham for Ward 8

Page 2

On January 17, 2013, the committee (Treasurer Antoneise Starks and Candidate Jauhar Abraham) appeared before Campaign Finance regarding a separate matter. The committee filed a Termination Report on January 14, 2013. At that time, the committee was again notified that it had not filed the 8 Day Pre-Primary report. More importantly, the Hearing Examiner informed the committee that it could not terminate with OCF until it files the delinquent report. Again, the committee was urged to file the 8 Day Pre Primary report and submit a written, notarized statement explaining the reason(s) for the untimely filing by Friday, January 25, 2013.

On January 25, 2013, the committee submitted the requested statement; however, the committee did not file the 8 Day Pre Primary report. The committee provided an unpersuasive explanation for the untimely filing. Respondent indicated in the statement that she was unaware of the 8 Day report and unaware that the report should have been filed in addition to the March 10th report. To the contrary, respondent exchanged three email communications with the hearing examiner regarding her inability to appear at the scheduled hearing on June 6, 2012, regarding failure to file the 8 Day Pre Primary report. Respondent explained that she would be out of town for her birthday, but the candidate of the committee would appear in her stead. As stated earlier, the candidate appeared at the scheduled hearing on June 6, 2012 and gave testimony, under oath regarding the untimely filing of the 8 Day Pre Primary report. Thus, the statement of explanation was not credible.

Incidentally, the Order of the Director issued June 29, 2012 had a typographical error, which indicated that the Director suspended the fine in this matter. However, at all times pertinent herein, the committee was required to file the 8 Day Pre Primary Report of Receipts and Expenditures by March 12, 2012. To date, the committee has not filed the required report. Therefore, in consideration of the foregoing and the information included in the record on June 6, 2012 and January 17, 2013, the hearing examiner recommends that the Order of the Director entered on June 29, 2012 be set aside.

Findings of Fact

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

1. At all times pertinent herein, the committee ABRAHAM FOR WARD 8 was required to file the 8 Day Pre Primary Report of Receipts and Expenditures by March 12, 2012.
2. The committee failed to file the 8 Day Pre Primary report on March 12, 2012 and failed to file by the extended date June 14, 2012 and January 25, 2013.
3. By Notice of Hearing, Statement of Violations and Order of Appearance dated April 6, 2012, April 25, 2012 and May 29, 2012, OCF ordered Antoniese Starks, Treasurer to appear at a scheduled hearing on April 19, 2012, May 9, 2012 and June 6, 2012.
4. On June 6, 2012, Candidate Jauhar Abraham, appeared and provided credible testimony for the untimely filing, in that he assumed that the treasurer had filed the R&E report at issue and upon notice otherwise; the candidate agreed to file the required report by June 14, 2012.

IN THE MATTER OF: Abraham for Ward 8

Page 3

5. The committee did not file the 8 Day Pre Primary R&E Report by June 14, 2012 and the report is still currently delinquent.
6. On January 17, 2013, the committee appeared before OCF again on a separate matter, at which time the hearing examiner informed the committee of the delinquent filing.
7. The committee was required to file the delinquent 8 Day Pre Primary report and submit a written, notarized statement by Friday January 25, 2013.
8. The committee provided an unpersuasive and false statement of explanation in that the treasurer was unaware of the report and did not know to file the report on March 12, 2012.
9. A typographical error listed in the Order of the Director dated June 29, 2012 resulted in the erroneous suspension of a fine in this matter.
10. To date, the committee still has not filed the 8 Day Pre Primary report and has a history of untimely filings.

Conclusions of Law

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

1. Respondent has violated D.C. Official Code §1-1163.09 (a) (b) and may be assessed a civil penalty.
2. The Director may ministerially impose fines upon the committee for each separate occurrence of a violation. Each occurrence shall constitute a separate violation and assessed a separate fine for each day of noncompliance, pursuant to 3 DCMR §3711.1.
3. The civil penalty attached to the violation for failure to file a Report of Receipts and Expenditures is \$50 per day for each business day subsequent to the due date, pursuant to 3 DCMR §§ 3709.2 (k), 3711.2 (u) and 3711.4.
4. The Director may modify, rescind, dismiss or suspend any fine imposed, pursuant to 3 DCMR § 3711.6, for good cause shown.
5. The Committee has not filed the 8 Day Pre Primary report and may be fined the maximum penalty of \$2,000.

Recommendation

In view of the foregoing and information included in the record, I HEREBY RECOMMEND that the Director set aside the Order dated June 29, 2012, and impose a fine of two thousand (\$2,000) dollars in this matter for failure to file the 8 Day Pre Primary report due March 12, 2012.

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 Order dated June 29, 2012 is set aside, and a fine of \$2,000 is hereby imposed this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

I HEREBY CERTIFY that the committee Abraham for Ward 8 has been provided a copy of the foregoing Order to Modify this _____ day of February 2013, 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.