

Respondent asserted further that OCF staff told her that if she filed the report prior to the scheduled hearing date, she would not have to appear at the hearing. The hearing examiner could not corroborate said information from any OCF staff member.

Respondent provided unpersuasive testimony for the untimely filing of the December 10th Report. Furthermore, Respondent has made a habit of filing untimely R&E reports shortly after she has received a notice of hearing from OCF. Respondent filed the December 10th Report on January 17, 2013. The report was filed twenty-six (26) days past due. Respondent has filed three (3) or more untimely reports in the past six (6) months.

Findings of Fact

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

1. Respondent is the treasurer of the Committee to Elect Kathy Henderson.
2. Respondent was required to file the December 10th Report of Receipts & Expenditures by Monday December 10, 2012.
3. On January 4, 2013 and January 22, 2013, OCF sent via regular mail a Notice of Hearing, Statement of Violations and Order of Appearance, ordering Respondent to appear at a scheduled hearing on January 17, 2013 and February 6, 2013.
4. Respondent filed the December 10th Report on January 17, 2013.
5. Respondent alleged to have filed the December 10th Report electronically on December 11, 2013; however OCF has no record of said filing.
6. Respondent could not produce proof of the electronic filing, i.e., a photocopy of the report or a photocopy of the confirmation page.
7. Respondent filed the December 10th Report twenty-six (26) days past the due date.
8. Respondent currently complies with the statute; however, Respondent has a history of delinquent filings.

Conclusions of Law

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

1. Respondent violated D.C. Official Code §1-1163.09(b) and may be assessed a civil penalty.
2. 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) and 3711.2 (u).
3. The aggregate of penalties imposed under the Director's authority cited by D.C. Official Code §§ 1-1163.35, may not exceed two thousand dollars (\$2,000) for each violation.
4. Respondent failed to file the December 10th Report of Receipts and Expenditures when due on Monday December 10, 2012.
5. The Director may modify, rescind, dismiss or suspend any fine imposed, pursuant to 3 DCMR § 3711.6, for good cause shown.
6. Respondent filed the December 10th Report on January 17, 2013.
7. Respondent provided unpersuasive testimony for the untimely filing of the December 10th Report.
8. Respondent filed the December 10th Report twenty-six (26) days past due and may be fined (\$50) for each day of noncompliance (excluding weekends and holidays).
9. Respondent currently complies with the statute; however, Respondent has a history of delinquent filings.

Recommendation

In view of the foregoing and information included in the record, I HEREBY RECOMMEND that the Director impose a fine on One Hundred Fifty Dollars (\$150) 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 a fine of One Hundred Fifty Dollars (\$150) shall be imposed in this matter.

Date

Cecily E. Collier-Montgomery
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order has been furnished to the Kathy Henderson by regular and/or certified mail on this _____ day of April 2013.

NOTICE

Any party adversely affected by any Order of the Director may obtain review of the Order by filing a request for a hearing de novo with the Board of Elections within fifteen (15) days from the date of issuance of an Order. Any fine imposed by the Director, pursuant to §3711.2 shall become effective on the sixteenth (16th) day following the issuance of a decision and/or Order; provided that, the Respondent does not request a hearing de novo, pursuant to §3709.11. Fines imposed shall be paid within ten (10) days of the effective date of the issued Order of the Director. Make payment by check or money order, payable to: *District of Columbia Treasurer*. Send payment to the *Office of Campaign Finance, Frank D. Reeves Municipal Building, 2000 14th Street NW, Suite 433, Washington, DC 20009*.