

**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: August 23, 2013
)	
Mr. Erling Bailey)	DOCKET No.: 13A-016
ANC SMD #1B12)	
1335 T Street, NW)	
Washington, DC 20009)	

ORDER

This matter came before the Office of Campaign Finance (OCF), Office of the General Counsel, following a determination by its Public Information and Records Management Division, that pursuant to 3DCMR §3002.5 (August 2013), Mr. Erling Bailey, failed to timely file, a Summary Financial Statement of Candidate for the Office of Member of an Advisory Neighborhood Commission (ANC Summary Financial Statement) for the 2012 General Election, on or before February 11, 2013, the OCF sanctioned extended filing deadline.

By Notice of Hearing, Statement of Violations and Order of Appearance dated July 24, 2013, OCF ordered Mr. Erling Bailey (hereinafter respondent), to appear at a scheduled hearing on August 14, 2013, and show cause why he should not be found in violation of Title 3, District of Columbia Municipal Regulations, §3002.5, and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the required ANC Summary Financial Statement for the 2012 General Election, on or before February 11, 2013.

On August 13, 2013, OCF received a notarized affidavit from respondent detailing the circumstances regarding the untimely filing of the ANC Summary Financial Statement. Respondent's notarized affidavit states that respondent mailed the ANC Summary Financial Statement to OCF via the United States Postal Service (USPS) on two separate occasions but was notified by OCF that the statements were not received. Respondent does not recall the exact date in which he mailed the statements to OCF. Respondent subsequently hand delivered the required ANC Summary Financial Statement on March 5, 2013.

Findings of Fact

1. Respondent ran as a candidate for ANC Commissioner of SMD 1B12 in the 2012 General Elections.
2. Respondent was required to file an ANC Summary Financial Statement with OCF on or before February 11, 2013.
3. Respondent failed to file an ANC Summary Financial Statement with OCF on or before February 11, 2013.
4. Respondent filed the required ANC Summary Financial Statement with OCF on March 5, 2013.
5. Respondent has no history of non-compliance.
6. Respondent is currently in compliance with applicable regulation(s).

Conclusions of Law

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

1. Respondent violated 3DCMR §3002.5.
2. The penalty established at 3DCMR §3711.2(s) for failure to timely file an ANC Summary Financial Statement, as required by 3DCMR §3002.5, is a fine of \$30.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1163.35(a)(3), the respondent may be fined a maximum of \$2,000 for failing to timely file an ANC Summary Financial Statement.
4. For good cause shown pursuant to 3DCMR §3711.7, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's testimony for failing to timely file, in that he hand-delivered the ANC Summary Financial Statement late, only after having attempted unsuccessfully to mail the statement to OCF, constitutes good cause for suspension of the fine.

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Recommendation

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

August 23, 2013
Date

/s/
Austin Franklin
Hearing Examiner

Concurrence

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

August 23, 2013
Date

/s/
William O. SanFord
General Counsel

ORDER OF THE DIRECTOR

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

August 23, 2013

Date

/s/

Cecily E. Collier-Montgomery

CERTIFICATE OF SERVICE

This is to certify that I have served a true copy of the foregoing Order on Erling Bailey by regular mail at 1335 T Street, NW, Washington, DC 20009 on August 23, 2013.

/s/

NOTICE

Any party adversely affected by any Order of the Director may obtain review of the Order by filing, with the Board of Elections, a request for a hearing *de novo* pursuant to 3 DCMR §3709.11. Pursuant to 3DCMR §3711.6 (August 2013), 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 – 14th Street, N.W., Washington, D.C. 20009.