

**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
Telephone: (202) 671-0547
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IN THE MATTER OF

Barry for Council
Treasurer Robert James
3331 5th Street, SE
Washington, D.C. 20032

) Date: March 20, 2015
)
) Docket No: 15C-002
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ORDER

Statement of Case

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 (“PIRM”) that pursuant to the District of Columbia Campaign Finance Act of 2011, D.C. Official Code § 1-1163.09(b) (2012) and District of Columbia Municipal Regulations, 3 DCMR § 3017.2 (August 2013), Treasurer, Robert James of the **Barry for Council** principal campaign committee failed to timely file the January 31st Report of Receipts and Expenditures (“R&E report”), which was due by February 2, 2015, the OCF sanctioned extended deadline.

By Notice of Hearing, Statement of Violations and Order of Appearance dated February 9, 2015, OCF ordered Robert James (“Respondent”), to appear at a scheduled hearing on February 23, 2015, and show cause why he should not be found in violation of D.C. Official Code § 1-1163.09(b) and 3 DCMR § 3017.2 and fined accordingly.

Summary of Evidence

On February 23, 2015, Respondent along with candidate Mariön Christopher Barry appeared at the scheduled hearing *pro se*. Public Affairs Manager, Mr. Wesley Williams appeared on behalf of the OCF. Mr. Williams testified that Respondent failed to timely file the January 31st R&E report, which was due on February 2, 2015 in accordance with D.C. Official Code § 1-1163.09(b) and 3 DCMR § 3017.2.

Mr. Barry testified that he was aware that the R&E report was untimely filed. He stated that the committee was unable to file the report before the deadline because they were unable to obtain a complete and accurate copy of the committee’s financial records. The Committee filed the R&E report on February 5, 2015, after having received a complete and accurate copy of the committee’s financial records. The committee is now in compliance with the D.C. Official Code.

Findings of Fact

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

1. Respondent is the Treasurer for the Barry for Council principal campaign committee.
2. The Committee was required to file the January 31st Report of Receipts and Expenditures, which was due on February 2, 2015, the OCF sanctioned extended deadline.
3. The Committee failed to timely file the required R&E report by the February 2, 2015 deadline.
4. By Notice of Hearing, Statement of Violations and Order of Appearance dated February 9, 2015, OCF ordered Respondent to appear for a scheduled hearing on February 23, 2015.
5. Respondent appeared before OCF at the February 23, 2015 hearing.
6. Respondent was untimely in filing the R&E report because he was unable to obtain a complete and accurate copy of the committee's financial records.
7. Respondent subsequently filed the R&E report after having received a complete and accurate copy of the financial records.
8. The Committee is currently in compliance with applicable regulation(s).

Conclusion of Law

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

1. The Committee violated D.C. Official Code § 1-1163.09(b) and 3 DCMR § 3403.2.
2. The penalty established by 3 DCMR § 3711.2(f) for failure to file a Report of Receipts and Expenditures with OCF, as required by D.C. Official Code § 1-1163.09(b), is a fine of \$50.00 per day for each business day subsequent to the due date.
3. Under the given facts, the Committee may be fined a total of \$150.00.
4. For good cause shown pursuant to 3 DCMR § 3711.7, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. On February 5, 2015, Respondent filed the January 31st R&E report with OCF.
6. Respondent provided a credible explanation for the Committee's failure to timely file the January 31st R&E report, in that Respondent was unable to obtain a complete and accurate copy of the committee's financial records.
7. Respondent promptly filed the R&E report on February 5, 2015, after having received a complete and accurate copy of the financial records.
8. Respondent's explanation for failure to timely file the required R&E report constitutes good cause for suspension of a fine.

Recommendation

In view of the foregoing and information included in the record, **I HEREBY RECOMMEND** that the Director suspend a fine in this matter.

March 20, 2015

Date

Austin Franklin

Austin Franklin
Hearing Examiner

Concurrence

In view of the foregoing, **I HEREBY CONCUR** with the Recommendation.

March 20, 2015

Date

William O. Sanford

William O. Sanford
General Counsel

ORDER OF THE DIRECTOR

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

March 20, 2015

Date

Cecily E. Collier-Montgomery

Cecily E. Collier-Montgomery
Director

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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a true copy of the **ORDER** has been served on Treasurer Robert James, via regular mail at 3331 5th Street, SE, Washington, D.C. 20032 on this 20th day of March, 2015.

A handwritten signature in black ink, appearing to be 'A. J. K.', is written over a horizontal line.

Notice

Any party adversely affected by an Order of the Director may: (1) file a Motion for Reconsideration (Motion) with the OCF within five (5) days after receipt of an Order, provided that, relevant evidence was omitted from consideration at the hearing (3 DCMR §3709.13); or (2) 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 or Order; provided that, the Respondent does not request a **hearing de novo** with the Board of Elections. 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.*