

**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 420
WASHINGTON, D.C. 20009
(202) 671-0550**

IN THE MATTER OF)	DATE: February 25, 2010
)	
Brian Baker)	DOCKET NO.: F09-020
Chief of Plans & Preparedness Division)	
DC Homeland Sec. & Emer. Mgmt Agency))	
200 S. Eads Street, Apt. 1129)	
Alexandria, VA 22202)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to D.C. Official Code §1-1106.02 (2001 Edition), Brian Baker, Chief of Plans & Preparedness Division, DC Homeland Security & Emergency Management Agency, failed to timely file, a Financial Disclosure Statement (hereinafter FDS) for calendar year 2008, on or before May 15, 2009, as required by D.C. Official Code §1-1106.02, and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2009.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 13, 2009, OCF ordered Brian Baker (hereinafter Respondent), to appear at a scheduled hearing on August 31, 2009, and show cause why he 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.

Summary of Evidence

On August 31, 2009, Respondent filed an FDS for calendar year 2008, and attended the scheduled hearing to explain the untimely filing. Respondent testified that he did not file in a timely manner because he no longer worked for the District government. Respondent admitted to receiving notices to file; however, he testified that he ignored them because he knew he was leaving his position and did not know that he was still required to file. Respondent's file shows that this was the first time he was required to file.

Findings of Fact

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

1. Respondent was a Chief of Plans & Preparedness Division, DC Homeland Security & Emergency Management Agency.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2008, on or before June 19, 2009.
3. Respondent filed the required Financial Disclosure Statement on August 31, 2009.
4. Respondent has no history of FDS filing delinquencies.
5. Respondent provided a credible explanation for the filing delinquency in that, as a first-time filer, Respondent did not file because he knew he was leaving the position and did not think that he had to file after the separation; and upon being advised, Respondent took action to correct his noncompliance by filing.
6. Respondent is currently in compliance with the statute.

Conclusions of Law

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

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3 DCMR §§3711.2(aa), 3711.2 and 3711.4 (March 2007, as amended) for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.

4. For good cause shown pursuant to 3 DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file is credible in that, as a first-time filer, Respondent did not file because he knew he was leaving the position and did not think that he had to file after the separation; and, upon being advised, Respondent took action to correct his noncompliance provide credible bases for Respondent's failure to timely file.

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.

02/25/10
Date

Cecelia N. Townes
Hearing Officer

Concurrence

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

02/25/10
Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

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

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on Brian Baker, by regular mail, on February 25, 2010.

cc: Director Darrell L. Darell
DC Homeland Security & Emergency Management Agency
2720 Martin Luther King, Jr. Avenue, SE
Washington, DC 20032

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 420, 2000 Fourteenth Street, N.W., Washington, D.C. 20009.