

**BEFORE THE OFFICE OF CAMPAIGN FINANCE  
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS  
FRANK D. REEVES MUNICIPAL BUILDING  
2000-14<sup>th</sup> STREET, N.W., SUITE 420  
WASHINGTON, D.C. 20009  
(202) 671-0550**

**IN THE MATTER OF**

Donald J. Baxter  
Superintendent  
District Department of Transportation

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DATE: September 2, 2010

DOCKET NO.: F10-012

**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), Donald J. Baxter, Superintendent, District Department of Transportation, failed to timely file, a Financial Disclosure Statement (hereinafter FDS) for calendar year 2009, on or before May 17, 2010, 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 18, 2010.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 17, 2010, OCF ordered Donald J. Baxter (hereinafter Respondent), to appear at a scheduled hearing on September 17, 2010, 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 September 1, 2010, Respondent filed an FDS for calendar year 2009, and submitted an affidavit explaining the untimely filing. In the affidavit, Respondent testified that he did not file in a timely manner because he erroneously believed that he was compliant after filing the Form D-35. Respondent stated that he had only been working for his Agency for a year and a half and was not completely familiar with all of the required filings. Respondent immediately rectified the situation upon realizing that he had not filed his FDS. Respondent's file shows a record of timely filing since 2009.

**Findings of Fact**

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

1. Respondent was a Superintendent, District Department of Transportation.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2009, on or before June 18, 2010.
3. Respondent filed the required Financial Disclosure Statement on September 1, 2010.
4. Respondent has no history of FDS filing delinquencies.
5. Respondent provided a credible explanation for the filing delinquency in that Respondent believed he was compliant when, in fact, he filed a similar Form D-35; and upon being advised, Respondent took immediate 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 Respondent believed he was compliant when, in fact, he filed a similar Form D-35; and Respondent took immediate 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.

\_\_\_\_\_  
09/02/10

**Date**

\_\_\_\_\_  
**Cecelia N. Townes**  
**Hearing Officer**

**Concurrence**

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

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09/02/10

**Date**

\_\_\_\_\_  
**William O. SanFord**  
**Acting General Counsel**

**ORDER OF THE DIRECTOR**

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

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09/02/10  
**Date**

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**Cecily E. Collier-Montgomery**  
**Director**

**SERVICE OF ORDER**

This is to certify that I have served a true copy of the foregoing Order on Donald J. Baxter, by regular mail, on September 2, 2010.

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cc: Gabe Klein  
Director  
District Department of Transportation  
2000 14<sup>th</sup> Street, NW 5<sup>th</sup> Floor  
Washington, DC 20009

**NOTICE**

Pursuant to 3DCMR §3711.5, any fine imposed by the Director shall become effective on the 16<sup>th</sup> 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.