

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

**The D.C. Office of,
Campaign Finance**

Petitioner,

v.

**Morgan for DC,
Marc Morgan,
Treasurer**

Respondent.

**Administrative Hearing
Docket No. 18-048**

MEMORANDUM OPINION AND ORDER

This matter came before the Board on Wednesday, July 11, 2018 pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter “OCF”) for Enforcement of its April 24, 2015 Order (“Order”) imposing a fine of \$2,200.00 dollars against Marc Morgan, Morgan for DC, Campaign Committee. The fine was imposed for failure to respond to an Audit Notification Letter dated February 11, 2015 in accordance with D.C. Official Code § 1-1163.09(a)(1)(A), which was due on February 23, 2015.

Pursuant to D.C. Official Code § 1-1163.09(a)(1) and (b), “The Director of Campaign Finance... shall have the power to require any person to submit in writing reports and answers to questions as the Director of Campaign Finance may prescribe relating to the administration and enforcement of this subchapter; and the submission shall be made within such reasonable period and under oath or otherwise as the Director of Campaign Finance may determine.” At all times pertinent hereto, Respondent was required to respond to an Audit Notification Letter by due date. Respondent failed to respond to an Audit Notification Letter due February 23, 2015.

Pursuant to 3 DCMR §§3709.3 and 3709.4, OCF issued to the Respondent a Notice of Hearing, Statement of Violations, and Order of Appearance (“Notice of Hearing”) dated March 3, 2015, ordering him to appear at an informal hearing on March 17, 2015, and show cause why he should not be found in violation of the D.C. Campaign Finance Act of 2011, as amended by D.C. Official Code § 1-1163.01 *et seq.*, and fined accordingly. Pursuant to 3 DCMR § 3709.4(f), the Notice of Hearing was served by regular mail. The Respondent did not appear at the hearing.

Pursuant to 3 DCMR § 3709.8, OCF rescheduled the informal hearing for April 9, 2015, and issued to the Respondent an amended Notice of Hearing to reflect the rescheduled hearing date. Pursuant to 3 DCMR § 3709.8(c), the amended Notice of Hearing was served by regular mail and certified mail on March 25, 2015. The amended Notice of Hearing served by regular mail and certified mail were not returned to OCF. The Respondent failed to appear at the second hearing.

The penalty established by 3 DCMR §§ 3711.1(b) and 3711.2(e) for failure to respond to an Audit Notification Letter, required by D.C. Official Code § 1-1163.09(a)(1)(A), is a fine of \$50 per day for each business day subsequent to the due date. In accordance with D.C. Official Code § 1-1163.35(a)(3) and 3 DCMR § 3711.4, Respondent may be fined a maximum of \$4,000 for failing to timely file a Report of Receipts and Expenditures. Under 3 DCMR § 3711.7, for good cause shown, the Director of Campaign Finance may modify, rescind, dismiss, or suspend any fine. On the basis of the record and the recommendation of the Hearing Officer, the Director issued the Order imposing a fine of \$2,200.00 dollars for failure to respond to an Audit Notification Letter, in accordance with D.C. Official Code § 1-1163.09(b) on April 24, 2015. The fine of \$2,200.00 became effective on May 18, 2015 the 16th business day following the issuance of the Order of the Director, pursuant to 3 DCMR §§ 3711.5 and 3711.6; and in absence of a request for review of the penalty by Respondent to the Board of Elections, in accordance with 3 DCMR § 3709.11. The deadline for payment of the fine imposed was June 2, 2015 pursuant to 3 DCMR §§ 3711.5 and 3711.8, within 10 business days of the effective date of the issuance of the Order of the Director. To date, the Respondent has failed to pay the fine imposed by the Order.

On November 09, 2015, OCF transmitted a Petition for Enforcement of its Order to the Office of the General Counsel for the Board. The General Counsel held pre-hearing conferences in the matter on numerous occasions including November 25, 2015; January 13, 2016; and February 28, 2018. Despite being served by regular mail and electronic mail on November 17, 2015; January 6, 2016; and February 13, 2018 respectively, the Respondent failed to appear. The Board held a hearing in the matter on Wednesday, July 11, 2018. Despite being served with notice of this hearing by regular mail and electronic mail on June 26, 2018, the Respondent again failed to appear.

D.C. Code § 1-1163.35(a)(4) provides that “[i]f the person against whom a civil penalty is assessed fails to pay the penalty, the Elections Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia.” OCF has shown that the fine of \$2,200.00 imposed against the Respondent was wholly justified. Despite numerous attempts on the part of the Office of the General Counsel to meet with the Respondent and arrange to settle the matter, the Respondent has not demonstrated a willingness to do so.

Accordingly, it is this 17th day of December, 2018,

ORDERED that the Order of the Director of the Office of Campaign Finance be enforced and that a Petition for the Enforcement of Order be filed with the Superior Court.



D. Michael Bennett
Chairman,
Board of Elections