

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

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

Petitioner,

v.

**Nyasha Harley,
Candidate, ANC 7C01**

Respondent.

**Administrative Hearing
Docket No. 18-016**

MEMORANDUM OPINION AND ORDER

This matter came before the Board on Monday, May 2, 2018 pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter “OCF”) for Enforcement of its May 17, 2016 Order (“Order”) imposing a fine of \$2000.00 dollars against Nyasha Harley, ANC 7C01 Campaign Committee. The fine was imposed for failure to timely file the Summary Financial Statement of Candidate for the Office of Advisory Neighborhood Commission (ANC Summary Financial Statement) in accordance with 3 DCMR § 3002.6 which was due on Monday, March 16th, 2015.

Pursuant to 3 DCMR § 3002.6,

[t]he Summary Financial Statement form of the Candidate for the Office of Member of an Advisory Neighborhood Commission (ANC) shall be filed no later than sixty (60) days after the certification by the Board of Elections (the Board) of the election results by the following individuals: (a) ANC candidates who qualified for the ballot through the write-in process; (b) ANC candidates who qualified for the ballot through the nominating petition process; (c) ANC candidates who accepted contributions or made expenditures and did not qualify for the ballot; and (d) ANC candidates who qualified as candidates for selection in the ANC

At all times pertinent hereto, Respondent was required to file the ANC Summary Financial Statement by the required due date. Respondent failed to timely file the ANC Summary Financial Statement by Monday, March 16th, 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 April 17, 2015, ordering her to appear at an informal hearing on April 29, 2015, and show cause why she 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 on April 17, 2015. The Respondent did not appear at the hearing.

Pursuant to 3 DCMR § 3709.8, OCF rescheduled the informal hearing for May 12, 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 April 30, 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 file the ANC Summary Financial Statement, required by 3 DCMR § 3002.6, 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. 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 \$2000.00 dollars for failure to timely file the ANC Summary Financial Statement, in accordance with 3 DCMR § 3002.6. Because the Respondent did not seek review of the penalty with the Board of Elections, the fine of \$2000.00 became effective on June 8, 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 Thursday, June 22, 2016, 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 Monday, November 1st, 2016, 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 November 30th, 2016 and February 14, 2018. Despite being served by regular mail and electronic mail on November 16th, 2016 and January 30, 2018 respectively, the Respondent failed to appear. The Board held a hearing in the matter on Wednesday, December 7th, 2016 and Wednesday, May 2, 2018. Despite being served with notice of these hearings by regular mail and electronic mail on November 16th, 2016, and April 17, 2018 respectively, 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 \$2000.00 imposed against the Respondent was wholly justified. Despite attempts on the part of the Office of the General Counsel to meet with the Respondent and make arrangements to settle the matter, the Respondent has not demonstrated a willingness to do so.

Accordingly, it is this 6th day of August, 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