

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

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

Petitioner,

v.

James Powell,

Respondent.

**Administrative Hearing
Docket No. 01-017**

MEMORANDUM OPINION AND ORDER

This matter came before the Board on Wednesday, March 7, 2001 at 10:30a.m. pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter "OCF") for Enforcement of its October 21, 1999 Order ("Order") imposing a fine of five hundred (\$500.00) dollars against James Powell, Board Member, Real Property Assessments and Appraisals. The fine was imposed as a result of the Respondent's failure to timely file a Financial Disclosure Statement ("FDS") by the due date required by D.C. Code § 1-1462(a).

The Respondent served as a Board Member with the Real Property Assessments and Appraisals during calendar year 1998. D.C. CODE § 1-1462(a) requires each public official—including members of certain boards and commissions and excepted service employees, paid at a rate of GS-13 or above, to file an FDS by May 15th of each year. See D.C. CODE § 1-1462(a), (d). Accordingly, the Respondent was required to file such Statement by May 15, 1999. The Respondent failed to do so.

By Notice of Hearings, Statements of Violations and Orders of Appearance dated July 6, 1999 and October 12, 1999, the Office of Campaign Finance ordered the Respondent to appear at hearings scheduled on July 15, 1999 and October 20, 1999, 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. CODE § 1-1401 et seq. ("the Act") and fined accordingly. The Respondent failed to appear at either of these hearings.

The penalty established at 3 DCMR § 3711.2(y) for failure to file the FDS as required by D.C. Code § 1-1462(a) is a fine of \$30.00 per day for each business day subsequent to the due date for each violation. On October 22, 1999, the Director of OCF issued the Order imposing a fine of \$500.00 against the Respondent for failure to file the FDS by the due date in violation of D.C. Code § 1-1462(a). This Order became effective on November 6, 1999, in the absence of a request for review of the penalty by the Respondent to the Board, pursuant to 3 DCMR § 3711.5.¹ Payment of the fine was due no later than November 16, 1999, pursuant to 3 DCMR § 3711.7.² As of January 26, 2001, the Respondent had failed to pay the fine imposed by the Order of the Director issued October 22, 1999.

On February 1, 2001, OCF transmitted a Petition for Enforcement of its Order to the Office of the General Counsel for the Board. The General Counsel held a pre-hearing conference in the matter on Tuesday, February 27, 2001. Despite being served

¹ 3 D.C.M.R. § 3711.5 provides that "[a]ny fine imposed by the Director under § 3711.2 shall become effective on the sixteenth (16th) day following the issuance of a decision and order; Provided that the respondent does not request a hearing under § 3709.12."

² 3 D.C.M.R. § 3711.7 provides that "[f]ines imposed under [Chapter 37, "Investigations and Hearings"] shall be paid within ten (10) days of the effective date."

with notice of this conference by regular, first-class mail on Thursday, February 15, 2001, the Respondent failed to appear. A hearing in this matter was held before the Board on Wednesday, March 7, 2001. Despite being served with notice of this conference by regular, first-class mail on Thursday, February 15, 2001, the Respondent again failed to appear.

D.C. CODE § 1-1435 provides that “[i]f the person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for the enforcement of its order assessing the penalty in the Superior Court of the District of Columbia.” OCF has shown that the fine of \$500.00 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 19th day of March 2001,

ORDERED that the Order of the Director of be enforced and that a Petition for the Enforcement of Order be filed in Superior Court forthwith.

March 19, 2001

Benjamin D. Wilson
Benjamin Wilson
Chairman, Board of Elections
and Ethics