

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

The D.C. Office of Campaign Finance)	
)	
Petitioner,)	
)	
v.)	Administrative Hearing
)	Docket No. 00-004
)	
)	
People to Elect Bill Lewis)	
Esther Bagley, Treasurer)	
)	
Respondent.)	
)	

MEMORANDUM OPINION AND ORDER

This matter came to be heard by the Board on Wednesday, February 2, 2000 at 10:00 a.m. pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter "OCF") for Enforcement of its July 7, 1999 Order ("Order") imposing a fine of \$90.00 against the People to Elect Bill Lewis ("the Respondent Committee"). The fines were imposed as a result of the Respondent Committee's failure to timely file a December 10, 1998 Report of Receipts and Expenditures ("Report") by the due date as required by D.C. Code § 1-1416(a)(1999 Repl. Vol.).

The Respondent Committee was established as a political committee for the purpose of supporting Bill Lewis' campaign for the office of Ward 8 Member of the Board of Education in the November 3, 1988 General Election. Accordingly, its treasurer, Esther Bagley, was required to submit a Report on December 10, 1998 on its behalf.¹ The treasurer failed to timely file such Report.

¹ D.C. Code § 1-1416 provides that, "[t]he treasurer of each political committee supporting a candidate . . . shall file with the Director, and with the applicable principal campaign committee, reports of

By Notice of Hearing, Statement of Violations and Order of Appearance dated December 23, 1998, the Office of Campaign Finance ordered Respondent Candidate and Respondent Committee's treasurer to appear at a hearing scheduled on January 12, 1999, and show cause why the Respondent Committee 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. (hereinafter "the Act") and fined accordingly. The Respondent Candidate appeared at that hearing *pro se* and testified that he was a write-in candidate who collected no funds during the campaign and inadvertently missed the filing date for the Report. The Respondent candidate also filed the Report on that date.

The penalty established at 3 D.C.M.R. §§ 3711.2(f) and 3711.4 for failure to timely file the December 10, 1998 Report required by D.C. Code § 1-1416(a) is a fine of \$30.00 per day for each business day subsequent to the due date. On July 7, 1999, the Director of OCF issued the Order imposing a fine of \$90.00 against the Respondent Committee for failure to timely file the Report in violation of D.C. Code § 1-1416(a).² This Order became effective on July 23, 1999, in the absence of a request for review of the penalty by the Respondent Committee to the Board, pursuant to 3 D.C.M.R. §

receipts and expenditures on forms to be prescribed or approved by the Director. Except for the 1st such report which shall be filed on the 21st day after August 14, 1974, such reports shall be filed on the 10th day of March, June, August, October, and December in each year during which there is held an election for the office such candidate is seeking, and on the 8th day next preceding the date on which such election is held, and also by the 31st day of January of each year."

² Pursuant to D.C. Code § 1-1435(a)(3) and 3 D.C.M.R. § 3711.3, the aggregate of the penalties imposed under the Director's authority may not exceed five hundred dollars (\$500) for each violation. Because the Report was filed twenty (20) business days after the filing deadline, OCF was entitled to impose penalties in the amount of \$500 against the Respondent Committee. However, as a result of the Respondent Candidate's showing of good cause made at the January 12, 1999 hearing, the Director of OCF modified the penalty, ultimately imposing a fine of only \$90.00. See 3 D.C.M.R. § 3711.6 (providing that "Director [of OCF] may modify, rescind, dismiss, or suspend any fine imposed ... for good cause shown."

3711.5.³ Payment of the fine was due no later than August 2, 1999, pursuant to 3 D.C.M.R. § 3711.7.⁴ As of October 20, 1999, the Respondent Committee had failed to pay the fine imposed by the Order.

On October 28, 1999, 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, December 21, 1999. Despite being served with notice of this conference by mail on November 26, 1999 and by hand delivery on December 8, 1999, the Respondent Candidate failed to appear. A hearing in this matter was held before the Board on Wednesday, February 2, 2000. Despite being served with notice of this hearing by certified mail on December 22, 1999 and by regular mail on January 28, 2000, the Respondent Candidate again failed to appear.

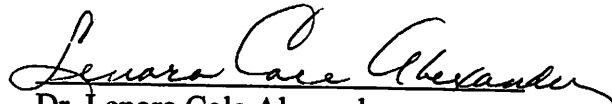
D.C. Code § 1-1435 provides that “[i]f the person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for the enforcement of its order assessing the penalty in the Superior Court of the District of Columbia.” OCF has shown that the fine of \$90.00 imposed 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.

³ 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.”

Accordingly, it is this 4th day of February, 2000,

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.

February 4, 2000
DATE


Dr. Lenora Cole Alexander
Acting Chair, D.C. Board of Elections and
Ethics

⁴ 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.”