

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

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

**Petitioner**

**v.**

**Frank Sewell,  
for Mayor 2014  
Respondent.**

**Administrative Hearing**

**Docket No. 14-012**

**MEMORANDUM OPINION AND ORDER**

This matter came before the Board on Wednesday, July 2, 2014 pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter "OCF") for Enforcement of its December 5, 2013 Order ("Order") imposing a fine of \$1,700 against the Frank Sewell for Mayor 2014 Principal Campaign Committee. The fine was imposed as a result of: 1) failure to file a complete Statement of Organization; 2) failure to timely file a Statement of Candidacy; and 3) failure to display proper campaign literature in violation of D.C. Official Code §§ 1-1163.07(1); 1-1163.12(a); and 1-1163.15(a). At all times pertinent hereto, the Respondent was subject to these specific provisions of the D.C. Code.

Pursuant to D.C. Official Code §§ 1-1163.07(1) and (2),

Each committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization. The statement of organization shall include: (A) The name and address of the committee; (B) The name, address, and position of the custodian of books and accounts; (C) The name, address, and position of other principal officers, including officers and members of the finance committee, if any; (D) The name and address of the bank or banks designated by the committee as the committee's depository or depositories, together with the subchapter and number of each account and safety deposit box

used by that committee at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of each account or box; and (E) Other information as shall be required by the Director of Campaign Finance. (2) Any change in information previously submitted in a statement of organization shall be reported to the Director of Campaign Finance within the 10-day period following the change.

Pursuant to D.C. Official Code §§ 1-1163.12(a) and (b),

Each individual shall, within 5 days of becoming a candidate, or within 5 days of the day on which he or she, or any person authorized by him or her to do so, has received a contribution or made an expenditure in connection with his or her campaign or for the purposes of preparing to undertake his or her campaign, file with the Director of Campaign Finance a registration statement in a form prescribed by the Director of Campaign Finance. In addition, candidates shall provide the Director of Campaign Finance the name and address of the campaign depository or depositories designated by that candidate, together with the title and number of each account and safety deposit box used by that candidate at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of the account or box, and other information as shall be required by the Director of Campaign Finance.

Pursuant to 3 DCMR § 3002.2,

[W]ith the exception of candidates for Advisory Neighborhood Commission (ANC) member, each candidate shall, within five (5) days after becoming a candidate under §3002.1, file a Statement of Candidacy form that indicates: (a) whether spending is anticipated at less than five hundred dollars (\$500); and (b) whether a principal campaign committee will be designated.

Pursuant to D.C. Official Code § 1-1163.15(a)

All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, initiative, referendum or recall petitions, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office, or for the support or defeat of any initiative, referendum, or recall measure, shall be identified by the words "paid for by" followed by the name and address of the payer or committee or other person and its treasurer on whose behalf the material appears.

On or around September 11, 2013, OCF became aware that the Respondent was placing campaign literature throughout the District of Columbia. While some of this literature did

contain the “paid for by” notice required by D.C. Official Code § 1-1163.15(a), OCF is in possession of other campaign literature that was posted which did not have the required notice.

Pursuant to 3 DCMR § 3002.1(b), an individual shall be considered a candidate when he or she makes a campaign expenditure. Accordingly, the Respondent was considered a candidate when the *Sewell for Mayor Committee* purchased the campaign literature at issue, which was on or before September 11, 2013. Because he was a candidate, the Respondent was required to file a complete Statement of Organization and Statement of Candidacy with OCF pursuant to D.C. Official Code §§1-1163.12 and 1-1163.07, 3 DCMR §3002.2. The Respondent refused to submit the name, address, and account number of the Committee’s bank account pursuant to D.C. Official Code § 1-1163.07(1) on his Statement of Organization, which rendered it incomplete. Additionally, because the Respondent became a candidate on or about September 11, 2013, he was required to file a Statement of Candidacy by September 18, 2013 pursuant to D.C. Official Code § 1-1163.12(a). He failed to do so.

Pursuant to 3 DCMR §§ 3709.3 and 3709.4, OCF issued to the Respondent Notices of Hearing, Statement of Violations, and Order of Appearances (“Notice of Hearing”), dated September 23, 2013, ordering him to appear at an informal hearing on October 7, 2013 and show cause why he should not be found in violation of D.C. Official Code §§ 1-1163.07(1), 1-1163.12(a), and 1-1163.15(a), and fined accordingly. The Respondent did not appear at the hearing.

Pursuant to 3 DCMR § 3709.8, OCF rescheduled the informal hearing to October 28, 2013, 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 October 10, 2013. Neither of the amended Notices of Hearing were returned to OCF. The Respondent did not appear at the rescheduled hearing.

The penalty established by 3 DCMR § 3711.2(d) for failure to timely file a Statement of Organization as required by D.C. Official Code § 1-1163.07(1) is a fine of \$30 per day for each business day subsequent to the due date, resulting in a \$1,140 fine. The penalty established by 3 DCMR § 3711.2(e) for failure to timely file a Registration Statement of Candidacy as required by D.C. Official Code § 1-1163.12 is a fine of \$30 per day resulting in a \$60 fine. The penalty established by 3 DCMR § 3711.2(k) for failure to place a proper Identification Notice on campaign literature is \$500. The aggregate of fines assessed amounts to a total of \$1,700.

As stated by 3 DCMR § 3711.7, the Director of Campaign Finance may, upon a showing of good cause, 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 \$1,700. Because the Respondent did not seek review of the penalty with the Board of Elections, it became effective on December 30, 2013 pursuant to 3 DCMR § 3711.6. The deadline for payment of the fine imposed was January 15, 2014, pursuant to 3 DCMR § 3711.8. To date, the Respondent has failed to pay the fine imposed by the Order.

On February 28, 2014, OCF transmitted a Petition for Enforcement of the Order to the Office of the General Counsel for the Board. The General Counsel held a pre-hearing conference in the matter on Monday, May 19, 2014. By telephone, Mr. Sewell expressed that he would not participate in either the pre-hearing conference or a hearing before the Board. The Board held a hearing in this matter on July 2, 2014 *ex parte* pursuant to 3 DCMR §403.4.


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 \$1,700 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 10<sup>th</sup> day of September, 2014,

**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.

September 10, 2014  
Date

  
Deborah K. Nichols, Esq.  
Chairman  
Board of Elections