

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

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

Petitioner,

v.

**Darrell Gaston,
Candidate, ANC 8B02**

Respondent.

**Administrative Hearing
Docket No. 17-005**

MEMORANDUM OPINION AND ORDER

This matter came before the Board on Wednesday, December 7th, 2016 pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter “OCF”) for Enforcement of its December 3rd, 2015 Order (“Order”) imposing a fine of \$500.00 dollars against Darrell Gaston, Candidate, ANC 8B02 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) for the 2014 General Election accordance with D.C. Official Code § 1-1163.09(b), 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.

On November 24th, 2015, Respondent filed a Motion for Reconsideration of the Director's Order issued June 8th, 2015. In the Motion, the Respondent stated that he filed the required Statement on November 6th, 2014 with the Board of Elections (BOE). On November 24th, 2015, Respondent re-filed the required Statement with OCF.

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 \$500.00 dollars for failure to timely file the ANC Summary Financial Statement, required by 3 DCMR § 3002.6. Because the Respondent did not seek review of the penalty with the Board of Elections, the fine of \$500.00 became effective on Saturday, December 19th, 2015, the 16th 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 Monday, January 4th, 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 a pre-hearing conference in the

matter on November 30th, 2016. Despite being served by regular mail and electronic mail on November 16th, 2016, the Respondent failed to appear. The Board held a hearing in the matter on Wednesday, December 7th, 2016. Despite being served with notice of this hearing by regular mail and electronic mail on November 16th, 2016, 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 \$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 11th day of January, 2017,

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.

A handwritten signature in blue ink, appearing to read "D. Michael Bennett", is written over a horizontal line.

Michael Bennett, Esq.
Chairman, Board of Elections