

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

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

Petitioner,

v.

Jacque Patterson,

Respondent.

**Administrative Hearing
Docket No. 23-004
Enforcement of OCF
Order In 21C-018**

MEMORANDUM OPINION AND ORDER

This matter came before the Board on January 4, 2023 pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter “OCF”) for Enforcement of its May 11, 2021 Order (“Order”) imposing a fine of \$1,650.00 dollars against Patterson for Ward 8, principal campaign committee, and Jacque Patterson, candidate/treasurer (“Respondent”). The fine was imposed for failure to timely file the January 31st Report of Receipts and Expenditures (“R&E Report”) due, in accordance with D.C. Official Code § 1-1163.09(b).¹

Pursuant to D.C. Official Code § 1-1163.09(a), each treasurer of a political committee that supports a candidate “shall file with the Director of Campaign Finance ... reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance.” Such reports “shall be filed ... by the 31st day of January of each year.”²

¹ OCF extended the deadline for the submission of the R & E Report to February 19, 2021.

² D.C. Code § 1-1163.09(b).

OCF's Director is authorized to address noncompliance with campaign finance reporting and disclosure requirements through informal hearing proceedings.³ OCF's regulations require notice of an informal hearing and establish the content of such notice, including that "an alleged violator of the reporting requirements shall be informed of ... [t]he fact that service of process shall be by regular mail."⁴ If the alleged violator (or respondent) fails to appear at the informal hearing, OCF's Director must, under the applicable regulation, reschedule the informal hearing and "[s]erve the respondent both by certified and regular mail."⁵ Where the respondent violator fails to appear at a rescheduled hearing, OCF may proceed in the absence of that party and shall issue a determination as to whether a violation has occurred and as to any fine.⁶ A motion for reconsideration by OCF of an order finding a violation must be filed within five (5) days of OCF's order.⁷ A party adversely affected by such order may also, within fifteen (15) days of the order or of any OCF decision on reconsideration, seek from the Board *de novo* review of OCF's order or decision on reconsideration.⁸ "If the person against whom a civil penalty is assessed fails to pay the penalty, the [Board] shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia."⁹

In its Petition for Enforcement, OCF advises that the Respondent did not file the R & E Report. Accordingly, OCF issued to the Respondent a Notice of Hearing, Statement of Violations,

³ 3 DCMR § 3709.1.

⁴ 3 DCMR §§ 3709.3 and 3709.4(f).

⁵ 3 DCMR § 3709.8.

⁶ 3 DCMR §§ 3709.9 and 3 DCMR § 3709.10.

⁷ 3 DCMR § 3709.13.

⁸ 3 DCMR § 3709.12.

⁹ D.C. Code § 1-1163.35(a)(5).

and Order of Appearance (“Notice of Hearing”) dated March 1, 2021, ordering him to appear at an informal hearing on March 16, 2021, and show cause why he 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.¹⁰ The Respondent did not appear at the March 16, 2021 informal hearing.

The Petition for Enforcement explains that OCF then rescheduled the informal hearing for April 7, 2021, and issued to the Respondent an amended Notice of Hearing to reflect the rescheduled hearing date.¹¹ Once again, the Respondent did not appear.

OCF convened each hearing in the Respondent’s absence, issued the Order imposing the \$1,650.00 fine, and when the fine went unpaid, transmitted to the Board the pending Petition for Enforcement so as to obtain ultimately an order from the D.C. Superior Court enforcing the fine.

On September 30, 2022, the Board’s Office of General Counsel sent by certified mail and by email, a notice to the Respondent that, on October 26, 2022, the Board’s General Counsel would convene a pre-hearing conference on OCF’s Petition for Enforcement.¹²

Thereafter, the Respondent and a representative of OCF appeared at the pre-hearing conference. At that time, the Respondent acknowledged that the January 31, 2021 report had not been timely filed and he indicated that he wished to make arrangements for payment. The parties discussed a payment plan that involved payment of a significant portion of the fine before the end

¹⁰ Despite the regulation requiring that this notice be sent by regular mail, OCF sought to notify the Petitioner *via* an email only.

¹¹ While the regulations required that notice of the rescheduled informal hearing be sent by certified mail, OCF only emailed the notice.

¹² 3 DCMR § 415.1 (authorizing the Board’s General Counsel to convene pre-hearing conferences).

of the year and it was left for the Respondent and OCF to work out the precise terms of a settlement along those lines.¹³

On December 12, 2022, OCF's representative indicated in an email sent to the Board's Office of General Counsel that the Respondent had not followed through on a settlement and that OCF wished to pursue enforcement of the fine against the Respondent.

As a result, on December 15, 2022, the Board's Office of General Counsel sent, by certified and electronic mail, a notification that the Board would hear OCF's Petition on January 4, 2023.

The Respondent did not appear at the January 4, 2023 Board hearing. OCF's General Counsel, William SanFord, was present and confirmed that the fine imposed on the Respondent remains unpaid.

It is undisputed that, at all times pertinent hereto, Respondent was required to file the R & E Report by the required due date. OCF has shown, by substantial evidence,¹⁴ the Respondent's failure to comply with the campaign finance laws. Further, the fine of \$1,650.00 imposed by OCF against the Respondent is wholly justified. Despite attempts on the part of the Office of the General Counsel to settle the matter, the Respondent has failed to avail himself of those opportunities.¹⁵ As noted above, the law provides that "[i]f the person against whom a civil penalty is assessed fails

¹³ During the pre-hearing conference, the Respondent was informed that another reporting noncompliance matter was also being pursued by OCF against Lamont Harrell, treasurer of the Committee to Elect Jacque Patterson 2016 (OCF Case No. 21C-016). The Respondent stated that he did not wish to burden Mr. Harrell and advised that he would also settle that matter by agreeing to an installment plan to pay down the fine. No payments have been made in that other matter and no settlement was reached. Accordingly, as in the instant case, OCF indicated on December 12, 2022 that it wished the Board to pursue enforcement against Mr. Harrell. Concurrent with the issuance of our order in this matter, we are also, in the case under Mr. Harrell's name, granting OCF's request for enforcement action.

¹⁴ 3 DCMR § 423.5 (requiring OCF to prove violations by substantial evidence).

¹⁵ We find OCF's failure to comply with the service requirements that applied to its hearing proceedings to be harmless where, as here, the Respondent acknowledged that he was aware of the Board proceedings against him by appearing at the prehearing conference and the Board's Office of General Counsel has sent Respondent two notices by certified mail of the existence of Board proceedings in this matter and he has been sent numerous e-mail notifications.

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.” D.C. Code § 1-1163.35(a)(5) (emphasis added).

Accordingly, it is hereby

ORDERED that the OCF’s Petition for Enforcement in this matter is granted and that the General Counsel shall promptly commence an action in the D.C. Superior Court for judicial enforcement of the \$1,650 civil penalty against Jacque Patterson.

The Board issues this written order today, which is consistent with its oral ruling rendered on January 4, 2023.

Date: January 9, 2023



Gary Thompson
Chair
Board of Elections