


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

The D.C. Office of Campaign Finance)	
)	
Petitioner,)	
)	
v.)	Administrative Hearing
)	Docket No. 04-005
)	
Eric K. Foster)	
)	
)	
Respondent.)	
)	


MEMORANDUM OPINION AND ORDER

This matter came to be heard by the Board on Wednesday, April 9, 2004 at 9:30 a.m. pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter "OCF") for Enforcement of its October 28, 2003 Order ("Order") imposing a fine of \$500.00 against Eric K. Foster. The fine was imposed as a result of the Respondent's failure to timely file a Financial Disclosure Statement ("FDS") by the due date as required by D.C. Code § 1106.02 (2001 ed.).

The Respondent was the Deputy Director of the Office of Community Outreach in the Executive Office of the Mayor during calendar year 2003. D.C. Code § 1106.02 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 subsequent to the year of service. See D.C. CODE § 1106.02(a), (d). Accordingly, the Respondent was required to file such statement by May 15, 2003. The Respondent failed to do so.



By Notice of Hearings, Statements of Violations and Orders of Appearance dated August 11, 2003 and September 3, 2003, the Office of Campaign Finance ordered the Respondent to appear at hearings scheduled on August 22, 2003 and September 15, 2003, 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 § 1-1106.01 et seq. (“the Act”) and fined accordingly. The Respondent failed to appear at either of these hearings. However, he did subsequently file his FDS on September 16, 2003.



The penalty established at 3 DCMR §§ 3711.2(y) for failure to file the FDS as required by D.C. Code § 1-1106.2(a) is a fine of \$50.00 per day for each business day subsequent to the due date for each violation. On October 23, 2004, the Director of OCF issued the Order imposing a fine of \$1,000.00 against the Respondent for failure to file the FDS by the due date in violation of D.C. Code § 1-1106.2(a). This Order became effective on November 10, 2003, 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 20, 2003 pursuant to 3 DCMR § 3711.7.² As of March 9, 2004, the Respondent had failed to pay the fine imposed by the Order of the Director.

On March 9, 2004, 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 Monday, March 22, 2004. Despite being served with notice

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.”

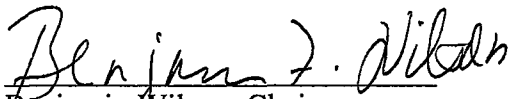
of this conference by hand-delivered mail on Thursday, March 11, 2004, the Respondent failed to appear. A hearing in this matter was held before the Board on Friday, April 9, 2004. Despite being served with notice of this hearing by hand-delivered mail on March 31, 2004, the Respondent again failed to appear.

D.C. Code § 1-1103.05(b)(4) 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 \$1,000.00 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 9th day of April, 2004,


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

April 9, 2004
Date


Benjamin Wilson, Chairman
Board of Elections and Ethics

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing order was hand-delivered this 12th day of April, 2004 to Eugene Adams, 5020 Klinge Street, NW, Washington, DC 20016 and Kathy Williams, Esq., Office of Campaign Finance, 2000 14th Street, NW, Washington, DC 20009.



Terri Stroud