

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

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The D.C. Office of Campaign Finance)	
)	
Petitioner,)	
)	
v.)	Administrative Hearing
)	Docket No. 02-007
)	
)	
Kenneth Thomas)	
)	
Respondent.)	
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MEMORANDUM OPINION AND ORDER

This matter came to be heard by the Board on Wednesday, April 3, 2002 at 10:30 a.m. pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter "OCF") for Enforcement of its August 30, 2001 Order ("Order") imposing a fine of \$1,740.00 against Kenneth Thomas, Computer Specialist, Department of Human Services. 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 employed at the Department of Human Services during calendar year 2000. 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. See D.C. CODE § 1106.02(a), (d). Accordingly, the Respondent was required to file such Statement by May 15, 2001. The Respondent failed to do so.

By Notice of Hearings, Statements of Violations and Orders of Appearance dated June 28, 2001 and August 13, 2001, the Office of Campaign Finance ordered the Respondent to appear at hearings scheduled on July 6, 2001 and August 22, 2001, 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.

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 \$30.00 per day for each business day subsequent to the due date for each violation. On August 30, 2001, the Director of OCF issued the Order imposing a fine of \$1,740.00 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 September 16, 2001, in the absence of a request for review of the penalty by the Respondent Committee to the Board, pursuant to 3 DCMR § 3711.5.¹ Payment of the fine was due no later than September 26, 2001, pursuant to 3 DCMR § 3711.7.² As of December 20, 2001, the Respondent had failed to pay the fine imposed by the Order of the Director issued August 30, 2001.

On December 20, 2001, 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 Thursday, March 28, 2002. Despite being served

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.”

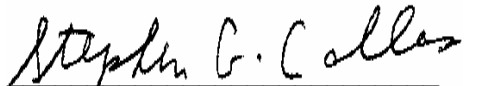
with notice of this conference by certified mail on Monday, March 25, 2002, the Respondent failed to appear. A hearing in this matter was held before the Board on Wednesday, April 3, 2002. Despite being served with notice of this conference by certified mail on Monday, March 25, 2002, and by regular first-class mail on Friday, March 29, 2002, 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 \$1,740.00 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 5th day of April 2002,

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 5, 2002
Date


Stephen G. Callas, Acting Chairman
Board of Elections and Ethics

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing order was mailed this 10th day of April 2002 to Kenneth Thomas, 1050 North Taylor Street, #102, Arlington, VA 22201 and Kathy Williams, Esq., Office of Campaign Finance, 2000 14th Street, NW, Washington, DC 20009.

Terri Stroud