

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

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

Petitioner,

v.

Marlena Edwards,

Respondent.

**Administrative Hearing
Docket No. 23-005
Enforcement of OCF
Order In 21C-021**

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 (“OCF”) for Enforcement of its May 14, 2021 Order (“Order”) imposing a fine of \$1,650.00 dollars against Edwards for Ward 4 2020, principal campaign committee, and Marlena Edwards, 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

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).

In its Petition for Enforcement, OCF advises that the Respondent did not file the R & E Report. Accordingly, OCF issued a Notice of Hearing, Statement of Violations, and Order of Appearance (“Notice of Hearing”) dated March 1, 2021, ordering the Respondent to appear at an informal hearing on March 16, 2021, and show cause why she 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 The Respondent again failed to 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 25, 2022, the Board’s Office of General Counsel would convene a pre-hearing conference on OCF’s Petition for Enforcement.¹² The Respondent did not appear at the pre-hearing conference.

On December 15, 2022, the Board’s Office of General Counsel sent, by electronic mail, a notification that the Board would hear OCF’s Petition on January 4, 2023. On December 23, 2022, certified mail notices were also sent to the address for Respondent in OCF’s record and to another address for the Respondent that appears on the Board’s voter roll.

¹⁰ Although the regulations require that notice be sent by regular mail, the notice of the informal hearing was sent by email only.

¹¹ While the regulations required that notice of the rescheduled hearing be sent by certified mail, that notice was sent *via* email.

¹² *See* 3 DCMR § 415.1 (authorizing the Board to convene pre-hearing conferences in matters before the Board).

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

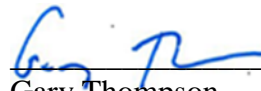
At all times pertinent hereto, the Respondent was required to file the R & E Report by the required due date. OCF has shown, by substantial evidence,¹³ the Respondent's failure to comply with the campaign finance laws. Further, the fine imposed on the Respondent of \$1,650.00 is wholly justified. Despite attempts on the part of the Office of the General Counsel to meet with the Respondent and arrange to settle the matter, the Respondent has not demonstrated a willingness to do so.¹⁴ As noted above, the law 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." D.C. Code § 1-1163.35(a)(5) (emphasis added).

Accordingly, it is hereby

ORDERED that 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 Marlena Edwards.

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

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

¹⁴ We find OCF's failure to comply with the service requirements that applied to its hearing proceedings to be harmless where, as here, the Board's Office of General Counsel has sent Respondent three notices by certified mail of the existence of Board proceedings in this matter and she has been sent numerous e-mail notifications.