

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

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

Petitioner,

v.

**Cheeks for Council 2016,
John Cheeks, Treasurer**

Respondent.

**Administrative Hearing
Docket No. 19-013**

MEMORANDUM OPINION AND ORDER

This matter came before the Board on Wednesday, October 03, 2018 pursuant to the submission of a Petition by the Office of Campaign Finance (hereinafter “OCF”) for Enforcement of its March 31, 2017 Order (“Order”) imposing a fine of \$2,850.00 dollars against John Cheeks, Cheeks for Council 2016, Campaign Committee. The fine was imposed for failure to timely respond to a Request for Additional Information in accordance with D.C. Official Code § 1-1163.03(a)(1)(A), which was due on October 17, 2016.

Pursuant to D.C. Official Code § 1-1163.09(a)(1)(A), “The Director of Campaign Finance... shall have the power to require any person to submit in writing reports and answers to questions as the Director of Campaign Finance may prescribe relating to the administration and enforcement of this subchapter; and the submission shall be made within such reasonable period and under oath or otherwise as the Director of Campaign Finance may determine.” At all times pertinent hereto, Respondent was required to respond to a

Request for Additional Information by the required due date. Respondent failed to timely respond to a Request for Additional Information by August 15th, 2016.

Pursuant to 3 DCMR §§3709.3 and 3709.4, OCF issued to the Respondent a Notice of Hearing, Statement of Violations, and Order of Appearance (“Notice of Hearing”) dated January 27, 2017, ordering him to appear at an informal hearing on February 13, 2017, 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. Pursuant to 3 DCMR § 3709.4(f), the Notice of Hearing was served by regular mail. The Respondent did not appear at the hearing.

Pursuant to 3 DCMR § 3709.8, OCF rescheduled the informal hearing for February 27, 2017, and issued to the Respondent an amended Notice of Hearing to reflect the rescheduled hearing date. Pursuant to 3 DCMR § 3709.8(c), the amended Notice of Hearing was served by regular mail and certified mail on February 14, 2017. The amended Notice of Hearing served by regular mail and certified mail were not returned to OCF. The Respondent appeared at the hearing and gave testimony.

In response to the Respondent submitting a Motion for Reconsideration on April 7, 2017, the Director entered a second order upholding the March 31st decision on April 13, 2017. On June 15, 2017, the Respondent appeared before OCF and entered into an Agreed Payment Plan, which the Respondent failed to comply with by failing to make any of the agreed upon payments.

The penalty established by 3 DCMR §§ 3711.1(b) and 3711.2(e) for failure to timely respond to a Request for Additional Information by October 17, 2016, required by D.C. Official Code § 1-1163.09(b), 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 for failing to timely file a Report of Receipts and Expenditures. 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

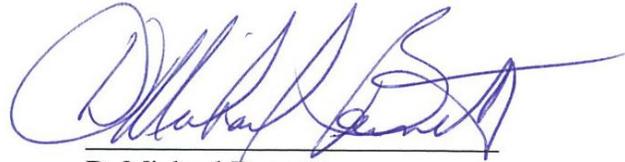
\$2,850.00 dollars for failure to timely respond to a Request for Additional Information, in accordance with D.C. Official Code § 1-1163.03(a)(1)(A) on March 31, 2017. The fine of \$2,850.00 became effective on April 24, 2017 the 16th business day following the issuance of the Order of the Director, 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 May 08, 2017 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 December 11, 2017, 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 April 25, 2018. Despite being served by regular mail and electronic mail on April 10, 2018 respectively, the Respondent failed to appear. The Board held a hearing in the matter on Wednesday, October 3, 2018. Despite being served with notice of this hearing by regular mail and electronic mail on September 18, 2018 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 \$2,850.00 imposed against the Respondent was wholly justified. Despite numerous 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.

Accordingly, it is this 8th day of January, 2019,

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", written over a horizontal line.

D. Michael Bennett
Chairman,
Board of Elections