STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD

BOARD OF ETHICS	*	**DOCKET NO. 2021-803-ETHICS-B**
	*	
IN THE MATTER OF	*	
	*	
PATRICK J. HARRINGTON	*	**AGENCY TRACKING NO. 5121-015**

****

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested a hearing to have the Ethics Adjudicatory Board determine whether Patrick J. Harrington failed to file a supplemental campaign finance report for the 2019 calendar year by the eleventh day after it was due, in connection with his 2019 candidacy for the office of Parish Commission Member, District 1, Caddo Parish. The Louisiana Board of Ethics proved by clear and convincing evidence that Patrick J. Harrington failed to file the report as alleged. Pursuant to La. R.S. 18:1505.4(A)(4)(b), the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed $10,000.00 against Patrick J. Harrington for his failure to timely file his 2019 supplemental campaign finance report.

APPEARANCES

An adjudicatory hearing was conducted on June 1, 2021, at the Division of Administrative Law in Baton Rouge, Louisiana, before Panel B of the Ethics Adjudicatory Board (EAB).[1] Charles Reeves appeared as counsel on behalf of the Louisiana Board of Ethics (BOE). Although duly

[1] The Panel B of the Ethics Adjudicatory Board consists of Administrative Law Judges Gregory McDonald (presiding), Anthony Russo, and Esther Redmann.

noticed, Patrick J. Harrington (Respondent) did not appear for the hearing.[2]

STATEMENT OF THE CASE

The BOE, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, alleged that Respondent failed to timely file a supplemental campaign finance report as required by La. R.S. 18:1495.4(D)(3)(a) for calendar year 2019, in connection with his October 12, 2019, candidacy for the office of Parish Commission Member, District 1, Caddo Parish.

The BOE requested a hearing to have the EAB determine whether Respondent failed to file his supplemental campaign finance report by the eleventh day after it was due, which could subject him to an additional civil penalty not to exceed $10,000.00, as authorized by La. R.S. 18:1505.4(A)(4)(b).

At the hearing, BOE offered its exhibits, numbered BOE-1 through BOE-13, which were admitted into evidence. Counsel presented the case on behalf of the BOE, the record was closed, and the matter was taken under advisement for a determination of whether Respondent violated La. R.S. 18:1495.4(D)(3)(a) by failing to timely file his 2019 supplemental campaign finance disclosure report.

This adjudication is conducted in accordance with the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*, the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq*.

[2] The hearing notice was mailed by U.S. mail on March 29, 2021, by the Administrative Hearings Clerk for the Division of Administrative Law to Patrick J. Harrington at 316 Burchett Street, Benton, Louisiana, 71006, and was not returned as undeliverable. This is the same address that the BOE served Respondent the charges through its *Request for Hearing*, mailed to Respondent its discovery requests, and mailed to Respondent its letter scheduling a Rule 10.1 discovery conference, all by certified mail, return receipt requested, and the receipts were signed and returned. *See* BOE 5, 10, 11, and 12.

FINDINGS OF FACT

Respondent was an unsuccessful candidate for the office of Parish Commission Member, District 1, Caddo Parish, in the October 12, 2019, election.[3] The office of Parish Commission Member, District 1, Caddo Parish is an "any other" level public office.[4]

The BOE is the Supervisory Committee on Campaign Finance Disclosure under the CFDA.[5] Election candidates, when qualifying at their respective clerks of court, are provided with BOE's *Schedule of Reporting and Filing Dates for Candidates* (Schedule).[6] The Schedule informed Respondent that supplemental campaign finance disclosure reports shall be filed by February 15th to disclose a residual deficit or surplus through December 31st of the preceding year.[7] Specific to the October 12, 2019, election, the Schedule informed Respondent that the 2019 supplemental campaign finance disclosure report shall be filed by February 18, 2020, to disclose a deficit or surplus.[8] Upon qualifying to run for office, Respondent also acknowledged that he was subject to the provisions of the CFDA.[9]

On March 9, 2020, Respondent filed his final campaign finance disclosure report, referred to as the requisite "10-G" report, which showed a surplus of $5,999.46, and a deficit of $828.42, in connection with his October 12, 2019, candidacy.[10]

---

[3] BOE-2, BOE-3, p. 3. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he was a candidate for the office of Parish Commission Member, District 1, Caddo Parish, in the October 12, 2019, election. BOE-10, p.3.
[4] *See* La. R.S. 18:1483(16); La. R.S. 18:1484(2); and BOE-4, p. 2.
[5] La. R.S. 18:1483(19).
[6] *See* BOE-4. The Campaign Finance Disclosure Act, La. R.S. 18:1481, *et seq*., also provides the same schedule of reports due. *See* La. R.S. 18:1495.4.
[7] BOE-4, p. 2.
[8] BOE-4, p. 1. The statutory deadline of February 15, 2020, fell on a Saturday, and Monday, February 17, 2020, was a holiday. Therefore, the next business day was February 18, 2020.
[9] BOE-2, p. 3.
[10] BOE-7. Counsel for the BOE represented to the tribunal that the BOE deemed the report to be a late filing of a requisite "10-G" report and not a filing of a supplemental campaign finance disclosure report, because Respondent had not yet filed that final report, and the BOE has a policy to categorize a filed report to the benefit of a candidate. Counsel for the BOE also represented that although Respondent checked the box on the report marked "supplemental report," the marking had to be an error because the report purported to cover the period of September 23, 2019, through December 31, 2020, which includes prospective dates that would not be reported in the supplemental campaign finance

Respondent did not file his supplemental campaign finance disclosure report for calendar year 2019, by the February 18, 2020, deadline or by the eleventh day after it was due.[11]

On December 3, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent because he had not filed the 2019 Supplemental Report.[12] The *Late Fee Assessment Order* (a) assessed a late fee of $1,000.00 and (b) ordered Respondent to file his supplemental campaign finance disclosure report for calendar year 2019 within 20 days of his receipt of the order.[13] The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at 550 Old Bellevue Road, Benton, Louisiana, 71006; the receipt was signed and returned.[14] Respondent was notified in the letter accompanying the *Late Fee Assessment Order* that he could be subject to an additional civil penalty not to exceed $10,000.00, pursuant to La. R.S. 18:1505.4(A)(4)(b), if he failed to file his supplemental campaign finance disclosure report for calendar year 2019.[15]

On March 16, 2021, the BOE mailed a copy of the *Request for Hearing* to Respondent, with written discovery, including *Requests for Admissions*, propounded to Respondent, by certified mail, return receipt requested, to Respondent's current address at 316 Burchett Street, Benton, 71006, and the return receipt was signed and returned.[16] Respondent was notified in the letters accompanying the copy of the *Request for Hearing* and the attached discovery requests

---

disclosure report for calendar year 2019. Panel B recognizes that Respondent failed to file a requisite report, either a "10-G" report or a 2019 supplemental campaign finance disclosure report, either of which would subject him to the additional penalties sought, but gives deference to the BOE's classification of the report. The finding that the report filed on March 9, 2020, is not a supplemental campaign finance disclosure report is supported by Respondent's admission, by operation of law, under La. C.C.P. art. 1467(A), that he did not file his supplemental campaign finance disclosure report for calendar year 2019. *See* BOE-10 and BOE-11.

[11] BOE-8.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *See* BOE-5 and BOE-10.

propounded to Respondent that he could be subject to an additional civil penalty not to exceed $10,000.00, pursuant to La. R.S. 18:1505.4(A)(4)(b), if he failed to file his supplemental campaign finance disclosure report for calendar year 2019.

On April 26, 2021, the BOE requested Respondent participate in a Rule 10.1 Discovery Conference because Respondent did not respond to the BOE's discovery requests; the request was sent by certified mail, return receipt requested, to Respondent's current address at 316 Burchett Street, Benton, 71006, and the return receipt was signed and returned.[17]

As of the June 1, 2021, hearing, Respondent had not filed his 2019 supplemental campaign finance disclosure report and had not filed responses to the *Requests for Admissions*.[18]

CONCLUSIONS OF LAW

The BOE proved by clear and convincing evidence that Respondent knowingly failed to file his supplemental campaign finance disclosure report for calendar year 2019 by February 18, 2020, or by the eleventh day after it was due. The BOE is authorized to impose upon Respondent an additional civil penalty not to exceed $10,000.00, as allowed by La. R.S. 18:1505.4(A)(4)(b).

In hearings under the CFDA before the EAB, the BOE must prove by clear and convincing evidence that the candidate knowingly failed to file or knowingly failed to timely file a required campaign finance disclosure report.[19]

Every candidate for an "any other" level public office is required to file certain campaign finance disclosure reports by the statutory deadlines.[20] Failure to timely submit required reports

[17] BOE-11.
[18] BOE- 13. Respondent admitted, by operation of La. C.C.P. art. 1467(A) that he did not file his 2019 supplemental campaign finance disclosure report. *See* BOE-10 and BOE-11.
[19] *See* La. R.S. 42:1141.5(C). "'Clear and convincing evidence', in general, means that the fact of guilt must be proven to a greater degree than by 'a mere preponderance of the evidence' but less than by 'beyond a reasonable doubt.'" *Louisiana State Bar Ass'n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).
[20] La. R.S. 18:1495.4.

constitutes a violation of the CFDA.[21]

La. R.S. 18:1495.4(D)(3)(a) provides that if the candidate is not an elected public official and their deficit or surplus is equal to or greater than $2,500.00, the candidate shall file annual supplemental reports with the BOE of all required information, no later than February 15th, of each year, which shall be complete through the preceding December 31st. Such report shall be filed each year for five years or until a report has been filed which shows no deficit or surplus.[22]

Respondent was an unsuccessful candidate for the office of Parish Commission Member, District 1, Caddo Parish, which is an "any other" level public office,[23] in the October 12, 2019, election. On March 9, 2020, Respondent filed his final campaign finance disclosure report, which showed a surplus of $5,999.46, and a deficit of $828.42, in connection with the October 12, 2019, election.

As a candidate for an "any other" level public office, who filed a final report showing a surplus and a deficit in connection with the October 12, 2019, election, Respondent was required to file annual supplemental campaign finance disclosure reports for five years or until a report was filed that showed no deficit or surplus.[24] The supplemental reports were due no later than February 15th, and shall be complete through the preceding December 31st.[25] Because February 15, 2020, fell on a Saturday, and Monday, February 17, 2020, was a legal holiday, Respondent's supplemental campaign finance disclosure report for calendar year 2019, was due no later than the next business day, February 18, 2020.

Respondent did not file his supplemental campaign finance disclosure report for calendar

[21] La. R.S. 18:1505.1(B).
[22] La. R.S. 18:1495.4(D)(3)(a).
[23] *See* La. R.S. 18:1483(16); La. R.S. 18:1484(2); and BOE-4, p. 2.
[24] La. R.S. 18:1495.4(D)(3)(a).
[25] *Id.*

year 2019, by the February 18, 2020, deadline, or within eleven days after the report was due.

Any candidate for "any other" level public office who knowingly fails to timely file a required report may be assessed a civil penalty in the amount of $40.00 per day, not to exceed $1,000.00.[26] "Knowingly" means conduct which could have been avoided through the exercise of due diligence.[27]

Respondent knew he was required to file certain campaign finance disclosure reports when he acknowledged he was subject to CFDA upon qualification for candidacy. Respondent was provided the Schedule, which informed him that supplemental reports shall be filed by February 15th to disclose a residual deficit or surplus through December 31st of the preceding year. The Schedule informed Respondent that he must file the 2019 supplemental campaign finance disclosure report by February 18, 2020.

On December 3, 2020, the BOE issued a *Late Fee Assessment Order* and assessed a civil penalty in the maximum amount of $1,000.00, because Respondent knowingly failed to file the 2019 supplemental campaign finance disclosure report. This assessment is not before the EAB. In the letters accompanying the *Late Fee Assessment Order*, the BOE notified Respondent that he could be subject to an additional civil penalty not to exceed $10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), for failing to file the 2019 supplemental campaign finance disclosure report, and the BOE ordered Respondent to file the 2019 supplemental report within 20 days of receipt of the *Late Fee Assessment Order*. Respondent knew he was obligated to meet the CFDA filing requirements by the statutory deadlines and that additional civil penalties not to exceed $10,000.00, could be imposed if he did not file the 2019 supplemental campaign finance disclosure report. Respondent did not file his 2019 supplemental campaign finance disclosure report by its

[26] La. R.S. 18:1505.4(A)(2)(a)(iii).
[27] La. R.S. 18:1505.5.

due date or within eleven days after the report was due. The BOE proved by clear and convincing evidence that Respondent knowingly failed to file his 2019 supplemental campaign finance disclosure report.

Additionally, Respondent's failure to file his supplemental campaign finance disclosure report for calendar year 2019 within three days after the final date for filing creates a rebuttable presumption of intent to not file the report.[28] Nothing in evidence rebuts this statutory presumption.

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file a required campaign finance disclosure report within the applicable time period, then the BOE may impose an additional civil penalty not to exceed $10,000.00, against Respondent for the report that he failed to timely file.[29]

The BOE proved by clear and convincing evidence that Respondent, a candidate for the "any other" level public office of Parish Commission Member, District 1, Caddo Parish, knowingly violated the CFDA by failing to file his 2019 supplemental campaign finance disclosure report. The BOE, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, is authorized to impose against Respondent an additional civil penalty not to exceed $10,000.00, for the late report as authorized by La. R.S. 18:1505.4(A)(4)(b).

[SPACE INTENTIONALLY LEFT BLANK-ORDER TO FOLLOW]

[28] La. R.S. 18:1505.1(A).
[29] LA. R.S. 18:1505.4(A)(4)(b).

ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed $10,000.00, against Patrick J. Harrington for his failure to file his supplemental campaign finance disclosure report for calendar year 2019 by the eleventh day after it was due.

Rendered and signed on July 8, 2021, in Baton Rouge, Louisiana.

Gregory McDonald
Presiding Administrative Law Judge

Anthony J Russo

Anthony J Russo
Administrative Law Judge

Esther A. Redmann

Esther A. Redmann
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Friday, July 09, 2021, I have sent a copy of this decision/order to all parties of this matter.

Clerk of Court
Division of Administrative Law

REVIEW RIGHTS

This decision exhausts your administrative remedies. If you are dissatisfied with this ruling, you may have the right to seek a rehearing or reconsideration of this decision or order, subject to the grounds for and time limitations provided in Louisiana Revised Statutes 49:959 and Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request a rehearing or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
EAB Section Deputy Clerk
(225) 219-9820

MAIL documents to:
DAL – EAB Section
ATTN: EAB Section
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 49:964, La. R.S. 42:1142(A)(1), and La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.