

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2021-285-ETHICS-B**

IN THE MATTER OF

LOUIS JOHNSON

*** AGENCY TRACKING NO. 5121-009**

DECISION AND ORDER

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested an adjudicatory hearing to have the Ethics Adjudicatory Board determine whether Louis Johnson failed to file a supplemental campaign finance disclosure report for the 2019 calendar year, by the eleventh day after it was due, in connection with his 2017 candidacy for the office of Parish Commission Member, District 12, Caddo Parish. The Louisiana Board of Ethics proved by clear and convincing evidence that Louis Johnson failed to file the report, as alleged, in accordance with Louisiana Revised Statutes (La. R.S.) 18:1495.4(D)(1). Pursuant to La. R.S. 18:1505.4(A)(4)(b), the Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000.00 against Louis Johnson for his failure to timely file his 2019 supplemental campaign finance disclosure report.

APPEARANCES

An adjudicatory hearing was conducted on October 13, 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 noticed, Louis Johnson (Respondent) did not appear for the hearing.²

¹ The Panel B of the Ethics Adjudicatory Board consists of administrative law judges Gregory McDonald (presiding), Anthony Russo, and Esther Redmann.

² This matter was originally scheduled for hearing on April 30, 2021. Although Respondent did not appear at the

JURISDICTIONAL AUTHORITY

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.*

STATEMENT OF THE CASE

The BOE, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, alleged that Respondent failed to file a supplemental campaign finance disclosure report as required by La. R.S. 18:1495.4(D)(1) for calendar year 2019, in connection with his October 14, 2017, candidacy for the office of Parish Commission Member, District 12, Caddo Parish, by the February 18, 2020, deadline or by the eleventh day after the report was due.

The BOE requested an adjudicatory hearing to have the EAB determine whether Respondent failed to file his supplemental campaign finance disclosure 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 and rested its case. The

scheduled hearing, counsel for the Board of Ethics produced electronic correspondence between employees at the Board of Ethics and Respondent and/or his Certified Public Accountant regarding what could be construed as a possible settlement of this matter. The EAB converted the hearing to a status conference and on May 3, 2021, continued the hearing to July 8, 2021. The matter was subsequently continued, on the Board of Ethics' motion, filed on May 11, 2021, and on the EAB's own motion, filed on August 3, 2021. The August 3, 2021, order continued the matter for hearing on October 13, 2021. The Orders of Continuance and the hearing notice for the hearing on October 13, 2021, were all mailed, by U.S. mail, by the Administrative Hearings Clerk for the Division of Administrative Law to Louis Johnson at 6613 Gahagan Circle, Shreveport, Louisiana, 71119, and were not returned as undeliverable. This is the same address the BOE mailed Respondent the charges contained in its *Request for Hearing*, its *Late Fee Assessment Order*, and its discovery, including *Requests for Admissions*, all by certified mail, returned receipt requested, and the BOE received the certified mail receipts; see BOE 5, 8, 10, and 11. This is the same address Respondent listed as his mailing address on his *Notice of Candidacy (Qualifying Form)*; see BOE-2.

record was held open until October 20, 2021, at 4:00 p.m., to allow counsel for the BOE to supplement the record with a complete and signed copy of the 10-G report, which was previously marked as BOE-7.³ Counsel for the BOE filed the complete and signed copy of the 10-G report into the record in a timely fashion, 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)(1) and would therefore be subject to an additional civil penalty pursuant to La. R.S. 18:1505.4(A)(4)(b).

FINDINGS OF FACT

Respondent was the successful candidate for the office of Parish Commission Member, District 12, Caddo Parish, in the October 14, 2017, election.⁴ The office of Parish Commission Member, District 12, Caddo Parish, is an “any other” level public office.⁵

The BOE is the Supervisory Committee on Campaign Finance Disclosure under the CFDA.⁶ Upon qualifying to run for office, Respondent acknowledged that he was subject to the provisions of the CFDA.⁷

On November 17, 2017, Respondent filed the requisite “30-P” campaign finance disclosure report.⁸ The 30-P report showed a single contribution of \$2,000.00 from John Atkins.⁹ On March 26, 2019, Respondent filed his final campaign finance disclosure report, referred to as the requisite “10-G” report, which showed a surplus of \$599.82, and a deficit of \$1500.00, in connection with his October 14, 2017, candidacy.¹⁰ Respondent did not file his supplemental campaign finance

³ See *Minute Entry and Order* issued on October 15, 2021.

⁴ BOE-2, pp. 1 and 3. BOE-3, pp. 1 and 3. BOE-4. 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 12, Caddo Parish, in the October 14, 2017, election. BOE-10, p. 3.

⁵ See La. R.S. 18:1483(16); La. R.S. 18:1484(2).

⁶ La. R.S. 18:1483(19).

⁷ BOE-2, p. 3.

⁸ BOE-6.

⁹ *Id.* at p. 4.

¹⁰ BOE-7. The original 10-G report was filed on January 9, 2018. The report was amended on March 26, 2019.

disclosure report for calendar year 2019, by the February 18, 2020, deadline or by the eleventh day after it was due.¹¹

On November 6, 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 twenty days of his receipt of the order.¹³ The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at 6613 Gahagan Circle, Shreveport, Louisiana, 71119-3402.¹⁴ 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 January 19, 2021, the BOE obtained service on Respondent by certified mail, with a COVID-19 designation, by a copy of the *Request for Hearing*, with written discovery, including *Requests for Admissions*, propounded to Respondent.¹⁶ Respondent was notified in the letters accompanying the copy of the *Request for Hearing* and the attached discovery requests 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.

¹¹ BOE-10 and BOE-11. Respondent admitted, 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. The statutory deadline for filing a supplemental campaign finance disclosure report for calendar year 2019 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.

¹² BOE-8.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at p. 2.

¹⁶ See BOE-5, pp. 23-24.

On February 18, 2021, the BOE requested Respondent participate in a Rule 10.1 Discovery Conference because Respondent did not respond to the BOE's discovery requests.¹⁷ The request was sent by certified mail, return receipt requested, to Respondent's current address at 6613 Gahagan Circle, Shreveport, Louisiana, 71119-3402, and the return receipt was delivered with a COVID-19 designation.¹⁸

As of the October 13, 2021, hearing, Respondent had not filed his 2019 supplemental campaign finance disclosure report and had not filed responses to the *Requests for Admissions*.¹⁹

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 timely file a required campaign finance disclosure report.²⁰

Every candidate for an "any other" level public office is required to file certain campaign finance disclosure reports by the statutory deadlines.²¹ Failure to timely submit required reports constitutes a violation of the CFDA.²²

La. R.S. 18:1495.4(D)(1) provides that if the final report of a candidate for an election

¹⁷ BOE-11.

¹⁸ BOE-11, pp. 2 and 3.

¹⁹ 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.

²⁰ 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).

²¹ La. R.S. 18:1495.4.

²² La. R.S. 18:1505.1(B).

shows a deficit or surplus, the candidate or his treasurer, if any, shall file supplemental reports with the BOE no later than February 15th each year, which shall be complete through the preceding December 31st. Such reports shall be filed each year for five years or until a report has been filed which shows no deficit or surplus.²³

As a candidate for an “any other” level public office who filed a final report showing a surplus and deficit in connection with the October 14, 2017, 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 Respondent filed his final campaign finance disclosure report, which showed a surplus of \$599.82, and a deficit of \$1,500.00, in connection with his October 14, 2017, candidacy. 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.²⁵

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 the report was due. Respondent has never filed a supplemental campaign finance disclosure report that showed no surplus (or deficit) remained.

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

²³ La. R.S. 18:1495.4(D)(1).

²⁴ La. R.S. 18:1495.4(D)(1).

²⁵ La. R.S. 18:1495.4(D)(3)(a).

²⁶ La. R.S. 18:1505.4(A)(2)(a)(iii).

²⁷ La. R.S. 18:1505.5.

he acknowledged he was subject to CFDA upon qualification for candidacy. Respondent knew he was obligated to meet the CFDA filing requirements evidenced by his filing his “30-P” and “10-G” reports. Respondent was made aware of his obligation to file the 2019 supplemental campaign finance disclosure report by receipt of the BOE’s letter accompanying its *Late Fee Assessment Order*, which notified Respondent that he could be subject to additional civil penalties if he did not file the 2019 supplemental campaign finance disclosure report.

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. The BOE proved by clear and convincing evidence that Respondent knowingly failed to file his 2019 supplemental campaign finance disclosure report by the February 18, 2020, due date or by the eleventh day after the report was due.

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 by the eleventh day after the report was due, 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 12, Caddo Parish,

²⁸ La. R.S. 18:1505.1(A).

²⁹ La. R.S. 18:1505.4(A)(4)(b).

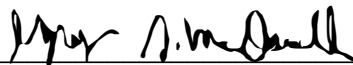
knowingly violated the CFDA by failing to file his 2019 supplemental campaign finance disclosure report by the February 18, 2020, due date or by the eleventh day after the report was due.

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).

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 Louis Johnson for his failure to file his supplemental campaign finance disclosure report for calendar year 2019 by the eleventh day after it was due.

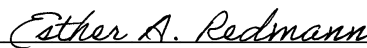
Rendered and signed on November 23, 2021, in Baton Rouge, Louisiana.



Gregory McDonald
Presiding Administrative Law Judge
Ethics Adjudicatory Board-Panel B



Anthony J Russo
Administrative Law Judge
Ethics Adjudicatory Board-Panel B



Esther A. Redmann
Administrative Law Judge
Ethics Adjudicatory Board-Panel B

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Wednesday, November 24, 2021, I have sent a copy of
this decision/order to all parties of this matter.



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.

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

EMAIL documents to:
EABprocessing@adminlaw.la.gov

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.