

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

BOARD OF ETHICS

*** DOCKET NO. 2021-6636-ETHICS-B**

IN THE MATTER OF

GERALD WATLEY

*** AGENCY TRACKING NO. 5121-071**

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 Gerald Watley failed to file his 10-G campaign finance disclosure report by the eleventh day after it was due in connection with his 2020 candidacy for the office of City Marshal, City Court, City of Eunice, in the November 3, 2020, election. The Louisiana Board of Ethics proved by clear and convincing evidence that Gerald Watley failed to timely file the report as alleged, in accordance with Louisiana Revised Statutes (La. R.S.) 18:1495.4(A). 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 against Gerald Watley for his failure to timely file his 10-G campaign finance disclosure report.

APPEARANCES

An adjudicatory hearing was conducted on January 27, 2022, 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).

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

Although duly noticed, Gerald Watley (Respondent) did not appear for the hearing.²

JURISDICTIONAL AUTHORITY

The Ethics Adjudicatory Board (EAB) is a legislatively created board, as contemplated by Article X, Section 21 of the Louisiana Constitution. The EAB has original jurisdiction under La. R.S. 42:1141.5 to determine whether violations of the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, have occurred and to conduct hearings under La. R.S. 18:1505.4 for specific violations of the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*

This adjudication is conducted in accordance with the CFDA, the Code of Governmental Ethics, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation for 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 his 10-G campaign finance disclosure report, as required by La. R.S. 18:1495.4(D)(3)(a), 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 10-G 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, as

² The hearing notice was mailed by U.S. mail on November 1, 2021, by the Administrative Hearings Clerk for the Division of Administrative Law to Respondent at: 620 Nimitz Street, Eunice, Louisiana 70535. See BOE-11. The mail was not returned as undeliverable. This is the same address the candidate used in qualifying for the election. See BOE-2, p.3. BOE mailed Respondent the charges through its *Request for Hearing* and its discovery requests, by certified mail, return receipt requested, to the same address. See BOE-5, BOE-9. The BOE received the returned receipt with the Covid 19 designation in place of Respondent's signature, but also provided the United States Postal Service (USPS) tracking report, which showed the Notice of Hearing and discovery requests were delivered to "an individual at the address." See BOE-5, pp. 8,9; BOE-9, pp. 7,8. This is the same address the BOE mailed Respondent its *Late Fee Assessment Order* and cover letter by certified mail, return receipt requested, which was signed by Respondent. See BOE-7, p.3. BOE sent Respondent a letter scheduling a Rule 10.1 discovery conference to the same address by certified mail, and it received the returned receipt with the Covid 19 designation. The USPS tracking report shows it was delivered to "an individual at the address." See BOE-10.

authorized by La. R.S. 18:1505.4(A)(4)(b).

At the hearing, the BOE offered its exhibits, numbered BOE-1 through BOE-12, 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) 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 a candidate for the office of City Marshal, City Court, City of Eunice, in the primary election held November 3, 2020.³ The office of City Marshal, City Court, City of Eunice, is a “district” level public office.⁴ Respondent was defeated in the primary election and, as such, did not participate in the general election.⁵

The BOE is the Supervisory Committee on Campaign Finance Disclosure under the CFDA.⁶ Upon qualifying to run for office, Respondent also acknowledged that he was subject to the provisions of the CFDA.⁷ Respondent did not file the required 10-G report by the due date, November 25, 2020, or by the eleventh day after the report was due.⁸ Each candidate for a major or district office is required to *electronically* file campaign finance disclosure reports with the BOE through the Board of Ethics’ Computerized Data Management System.⁹ Respondent sent in a paper form of the required 10-G report by mail to the BOE. On June 21, 2021, the BOE notified

³ BOE-2, BOE-3, p. 12. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he was a candidate for the office of City Marshal, City Court, City of Eunice, in the November 3, 2020, election. BOE-9, p. 3.

⁴ See La. R.S. 18:1483(7); La. R.S. 18:1484(1). BOE-4, p. 2.

⁵ BOE-3, p. 12.

⁶ La. R.S. 18:1483(19).

⁷ BOE-2, p. 3.

⁸ BOE-4, BOE-7, BOE-8. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he did not file a 10-G campaign finance disclosure report in connection with the November 3, 2020, primary election for the office of City Marshal, City Court, City of Eunice. See BOE-9, p. 3.

⁹ La. R.S. 18:1485(C). See also La. R.S. 42:1158.

Respondent that it had rejected the 10-G report submitted by mail and therefore, the report was considered “NOT” filed, and that Respondent must file the 10-G report electronically. The BOE provided full instructions on how Respondent could satisfy the requirement to file the 10-G report electronically.¹⁰

On March 4, 2021, the BOE issued a *Late Fee Assessment Order* to Respondent because he had not electronically filed his 10-G campaign finance disclosure report.¹¹ The *Late Fee Assessment Order* (a) assessed a late fee of \$2,000 and (b) ordered Respondent to file his 10-G campaign finance disclosure report within twenty days of his receipt of the *Late Fee Assessment Order*.¹² The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at 620 Nimitz Street, Eunice, Louisiana 70535, his last known address at the time of issuance of the Order, and the BOE received confirmation of Respondent’s receipt.¹³ 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, pursuant to La. R.S. 18:1505.4(A)(4)(b), if he failed to file his 10-G campaign finance disclosure report within twenty days of receipt of the Order.¹⁴

On October 1, 2021, the BOE obtained service on Respondent of its *Request for Hearing* and its written discovery, including *Requests for Admissions*, by certified mail, with a Covid-19 designation, at 620 Nimitz Street, Eunice, Louisiana 70535.¹⁵ Respondent was notified in the *Request for Hearing* and the attached discovery propounded to Respondent that he could be subject

¹⁰ See, BOE-6. BOE provided directions to Respondent on how to secure the software to file the 10-G campaign finance disclosure report electronically with the Louisiana Ethics Administration Disclosure and Electronic Reporting System. Respondent has not done so. BOE-8.

¹¹ See BOE-7, p. 2.

¹² *Id.*

¹³ See BOE-7, p.3. The BOE mailed Respondent its *Late Fee Assessment Order* and cover letter by certified mail, return receipt requested, which was signed by Respondent.

¹⁴ See BOE-7, p. 1.

¹⁵ See BOE-5, pp. 8-9. See BOE-8, pp. 7-8.

to an additional penalty not to exceed \$10,000, pursuant to La. R.S. 18:1505.4(A)(4)(b), if he failed to timely file his 10-G report.¹⁶

On November 2, 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 address at 620 Nimitz Street, Eunice, Louisiana 70535, and the return receipt was delivered on November 5, 2021.¹⁸

As of January 27, 2022, Respondent had not filed his 10-G 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 10-G campaign finance disclosure report by the November 25, 2020, deadline, 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, 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.²⁰ Every candidate for a "district" level public office is required to file certain campaign finance disclosure reports by the statutory deadlines, and must be filed electronically with the Board of Ethics' Computerized Data Management System.²¹ Respondent's attempted filing of a paper copy of a 10-G financial disclosure report by United State

¹⁶ See BOE-5, pp. 8-9. See BOE-8, pp. 7-8.

¹⁷ See BOE-10.

¹⁸ *Id.*, p. 3.

¹⁹ See BOE-8 and BOE-12. Respondent admitted, by operation of La. C.C.P. art. 1467(A) that he did not file his 10-G campaign finance disclosure report. See BOE-9, p. 3.

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. 18:1485(C). See also La. R.S. 42:1158.

mail was rejected and deemed not filed because the 10-G report was not filed in a form as directed by statute.²² Failure to timely submit required reports constitutes a violation of the CFDA.²³

As a candidate for City Marshal, City Court, City of Eunice, a “district” level public office,²⁴ Respondent was required to file his 10-G report by November 25, 2020, the tenth day prior to the general election.²⁵

Any candidate for “district” level public office (or his campaign treasurer) who knowingly fails to timely file a required report may be assessed a civil penalty in the amount of \$60 per day, not to exceed \$2,000.²⁶ “Knowingly and willfully” 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 made aware of his obligation to file the 10-G campaign finance disclosure report by receipt of the BOE’s letter accompanying its *Request for Hearing* and discovery propounded to Respondent, and his 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 10-G campaign finance disclosure report. Respondent knew he must electronically file the 10-G report by his receipt of the BOE’s June 21, 2021, letter, which notified him his attempt to file a paper copy via the U.S. mail was rejected and considered as not filed and which provided him full instructions on how to satisfy the electronic filing requirement.

As of January 27, 2022, Respondent had not electronically filed his 10-G campaign finance

²² See BOE-6. See also La. R.S. 18:1485(C); La. R.S. 42:1158.

²³ La. R.S. 18:1505.1(B).

²⁴ BOE-4, p. 2.

²⁵ La. R.S. 18:1495.4.

²⁶ La. R.S. 18:1505.4(A)(2)(a)(ii).

²⁷ La. R.S. 18:1505.4.

disclosure report and had not responded to the BOE's *Requests for Admissions*.²⁸

The BOE proved by clear and convincing evidence that Respondent knowingly failed to file his 10-G campaign finance disclosure report by the November 25, 2020, due date or by the eleventh day after the report was due.

Additionally, Respondent's failure to file the 10-G campaign finance disclosure report within three days after the final date for filing creates a rebuttable presumption of intent to not file the report.²⁹ 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, against Respondent for the report that he failed to timely file.³⁰

The BOE proved by clear and convincing evidence that Respondent, a candidate for the "district" level public office of City Marshal, City Court, City of Eunice, knowingly violated the CFDA by failing to file his 10-G campaign finance disclosure report by the November 25, 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, for the late report as authorized by La. R.S. 18:1505.4(A)(4)(b).

²⁸ BOE-12.

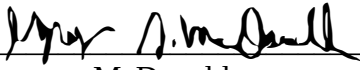
²⁹ La. R.S. 18:1505.1(A).

³⁰ 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 against Gerald Watley for his failure to file his 10-G campaign finance disclosure report by the eleventh day after the report was due in connection with his 2020 candidacy for the office of City Marshal, City Court, City of Eunice.

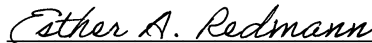
Rendered and signed on March 8, 2022, in Baton Rouge, Louisiana.



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, March 09, 2022, 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 (La. R.S.) 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.