

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

BOARD OF ETHICS

*** DOCKET NO. 2021-2621-ETHICS-B**

IN THE MATTER OF

RAY FRANCOIS

*** AGENCY TRACKING NO. 5121-029**

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 Ray Francois knowingly failed to file his 10-P campaign finance disclosure report by the sixth day after it was due, and his 10-G and 40-G campaign finance disclosure reports by the eleventh day after they were due, in connection with his 2020 candidacy for the office of Chief of Police, Town of Roseland. The Louisiana Board of Ethics proved by clear and convincing evidence that Ray Francois knowingly failed to file the reports as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000.00 against Ray Francois for each report pursuant to Louisiana Revised Statutes (La. R.S.) 18:1505.4(A)(4)(a) and (b).

APPEARANCES

An adjudicatory hearing was conducted October 29, 2021, in Baton Rouge, Louisiana, before Panel B of the Ethics Adjudicatory Board (EAB).¹ Charles Reeves appeared as counsel on behalf of the Board of Ethics (BOE). Although duly noticed, Ray Francois (Respondent) did not

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

appear for the hearing.²

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 Ray Francois (Respondent) failed to file three campaign finance disclosure reports by their deadlines in connection with his 2020 candidacy for the office of Chief of Police, Town of Roseland.

The BOE requested that the EAB conduct an adjudicatory hearing to determine whether Respondent knowingly failed to file his 10-P campaign finance disclosure report by the sixth day after it was due, and his 10-G and 40-G campaign finance disclosure reports by the eleventh day after they were due, which could subject him to an additional civil penalty not to exceed \$10,000.00 for each report, pursuant to La. R.S. 18:1505.4(A)(4)(a) and (b).³

At the hearing, the BOE offered its exhibits, numbered BOE-1 through BOE-15, which were admitted into evidence. Counsel presented the case on behalf of the BOE, the record was

² On August 25, 2021, a *Notice of Hearing* was mailed by the Administrative Hearings Clerk for the Division of Administrative Law to Respondent at: 12512 Central Avenue, Roseland, Louisiana, 70456. This is the same address the BOE mailed Respondent the charges contained in its *Request for Hearing* and its *Amended Request for Hearing*, its *Late Fee Assessment Orders*, and its discovery, including *Requests for Admissions*, all by certified mail, returned receipt requested, and the BOE received the certified mail receipts; *see* BOE exhibits 5, 6, 8, 9, 10, and 12. This is the same address Respondent listed as his mailing address on his *Notice of Candidacy (Qualifying Form)*; *see* BOE-2.

³ The BOE's original *Request for Hearing*, filed on April 22, 2021, alleged the failure of Respondent to file his 10-P and 10-G campaign finance disclosure reports. The BOE filed an *Amended Request for Hearing* on June 15, 2021, adding allegations that Respondent failed to file his 40-G campaign finance disclosure report.

closed, and the matter was taken under advisement for a determination of whether Respondent failed to file his 10-P, 10-G, and 40-G campaign finance disclosure reports in violation of La. R.S. 18:1495.4(B)(4), La. R.S. 1495.4(B)(5), and La. R.S. 1495.4(B)(6) and would therefore be subject to additional civil penalties pursuant to La. R.S. 18:1505.4(A)(4)(a) and (b) for each late report.

FINDINGS OF FACT

Respondent qualified as a candidate for the office of Chief of Police, Town of Roseland, in a primary election held November 3, 2020.⁴ The office of Chief of Police, Town of Roseland is an “any other” level public office.⁵ Respondent was one of two candidates to receive the most votes in the primary election.⁶ A runoff of the top two candidates was held in the general election on December 5, 2020, and Respondent was defeated.⁷

Respondent filed a requisite campaign finance disclosure report that was due thirty days prior to the primary election of November 3, 2020, (also known as a 30-P report).⁸ On his 30-P report, Respondent disclosed a campaign contribution in the amount of \$300.00 received on August 13, 2020.⁹

Respondent was required to file a campaign finance disclosure report ten days prior to the primary election (also known as the 10-P report), due on October 26, 2020, in connection with the primary election of November 3, 2020.¹⁰ Respondent was required to file a campaign finance disclosure report ten days prior to the December 5, 2020, general election (also known as the 10-

⁴ See BOE-2; BOE-3. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he was a candidate for the office of Chief of Police, Town of Roseland; see BOE-12, p. 3.

⁵ See BOE-4, p. 2.

⁶ BOE-3, p. 3.

⁷ BOE-3, p. 6.

⁸ BOE-7.

⁹ *Id.* at p. 4. In his 30-P campaign finance disclosure report, Respondent disclosed more than one contribution in excess of \$200.00, but the receipt of only one contribution in excess of \$200.00 subjected Respondent to additional filing requirements; see La. R.S. 18:1484(2).

¹⁰ BOE-4.

G report), due on November 25, 2020.¹¹ Respondent was required to file a campaign finance disclosure report no later than the fortieth day after the December 5, 2020, general election (also known as the 40-G report), due on January 14, 2021.¹²

The BOE is the Supervisory Committee on Campaign Finance Disclosure under the CFDA.¹³ Election candidates, when qualifying at their respective clerks of court, are provided with a *Schedule of Reporting and Filing Dates for Candidates (Schedule)*.¹⁴ The *Schedule* informed Respondent that the 10-P report was due on October 26, 2020, the 10-G report was due on November 25, 2020, and the 40-G report was due on January 14, 2021.¹⁵ Upon qualifying to run for office, Respondent also acknowledged that he was subject to the provisions of the CFDA.¹⁶

Respondent did not file the required 10-P report by the due date, October 26, 2020, or by the sixth day after the report was due.¹⁷ On May 21, 2021, the BOE issued a *Late Fee Assessment Order* and assessed a fine of \$1,000.00, pursuant to La. R.S. 18:1505.4(A)(2)(a)(iii), because Respondent failed to file his 10-P report.¹⁸ The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at his address at 12512 Central Avenue, Roseland, Louisiana, 70456, and the BOE received the certified mail receipt.¹⁹ In the letter accompanying the *Late Fee Assessment Order*, Respondent was notified that he was required to file the 10-P campaign finance disclosure report and that he could be subject to an additional civil penalty of

¹¹ *Id.*

¹² *Id.*

¹³ La. R.S. 18:1483(19).

¹⁴ BOE-4.

¹⁵ *Id.*

¹⁶ BOE-2, p. 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(B)(3)-(5).

¹⁷ BOE-8. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he did not file a 10-P campaign finance disclosure report in connection with the November 3, 2020, primary election for the office of Chief of Police, Town of Roseland; *see* BOE-12, p. 3.

¹⁸ BOE-8. The assessment of the \$1,000.00 fine is not before the EAB.

¹⁹ *Id.* at p. 3.

\$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), if he failed to file the report.²⁰

Respondent did not file the required 10-G report by the due date, November 25, 2020, or by the eleventh day after it was due.²¹ On May 21, 2021, BOE issued a *Late Fee Assessment Order* and assessed a fine of \$1,000.00, pursuant to La. R.S. 18:1505.4(A)(2)(a)(iii), because Respondent failed to file his 10-G report.²² The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at his address at 12512 Central Avenue, Roseland, Louisiana, 70456, and the BOE received the certified mail receipt.²³ Respondent was notified in the letter accompanying the order that he was required to file a 10-G campaign finance disclosure report and that he could be subject to an additional civil penalty of \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), if he failed to file the report.²⁴

Respondent did not file the required 40-G report by the due date, January 14, 2021, or by the eleventh day after it was due.²⁵ On May 21, 2021, BOE issued a *Late Fee Assessment Order* and assessed a fine of \$1,000.00, pursuant to La. R.S. 18:1505.4(A)(2)(a)(iii), because Respondent failed to file his 40-G report.²⁶ The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at his address at 12512 Central Avenue, Roseland, Louisiana, 70456, and the BOE received the certified mail receipt.²⁷ Respondent was notified in the letter accompanying the order that he was required to file a 40-G campaign finance disclosure report and

²⁰ *Id.* at p. 1.

²¹ BOE-9. 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 Chief of Police, Town of Roseland; *see* BOE-12, p. 3.

²² BOE-9. The assessment of the \$1000.00 fine is not before the EAB.

²³ *Id.* at p. 3.

²⁴ *Id.* at p. 1.

²⁵ BOE-10. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he did not file a 40-G campaign finance disclosure report in connection the November 3, 2020, primary election for the office of Chief of Police, Town of Roseland; *see* BOE-12, p. 4.

²⁶ BOE-10. The assessment of the \$1000.00 fine is not before the EAB.

²⁷ *Id.* at p. 3.

that he could be subject to an additional civil penalty of \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), if he failed to file the report.²⁸

On June 15, 2021, the BOE propounded to Respondent written discovery, including *Requests for Admissions*, to admit or deny the he failed to file his 10-P, 10-G, and 40-G campaign finance disclosure reports.²⁹ On June 26, 2021, Respondent acknowledged that he received the discovery.³⁰

On July 16, 2021, the BOE requested Respondent participate in a Rule 10.1 Discovery Conference because Respondent did not respond to the BOE's discovery requests.³¹

As of October 29, 2021, Respondent had not filed his 10-P, 10-G, or 40-G campaign finance disclosure reports and had not filed responses to the BOE's *Requests for Admissions*.³²

CONCLUSIONS OF LAW

The BOE proved by clear and convincing evidence that Respondent knowingly failed to file his 10-P campaign finance disclosure report by the sixth day after it was due, and his 10-G and 40-G campaign finance disclosure reports by the eleventh day after they were due. The BOE is authorized to impose upon Respondent an additional civil penalty not to exceed \$10,000.00 for each report, as allowed by La. R.S. 18:1505.4(A)(4)(a) and (b).³³

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

²⁸ *Id.* at p. 1.

²⁹ BOE-12.

³⁰ *Id.* at p. 8.

³¹ BOE-13.

³² BOE-11; BOE-15. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he did not file his 10-P, 10-G, and 40-G campaign finance disclosure reports; *see* BOE-12, pp. 3-4.

³³ La. R.S. 18:1505.4(A)(4)(a) and (b) of the CFDA provides that, if after conducting an adjudicatory hearing, the EAB determines that a candidate knowingly failed to file the required 10-P report, or filed the 10-P report more than six days late, and knowingly failed to file the required 10-G and 40-G campaign finance disclosure reports, or filed the reports more than eleven days late, then the BOE, functioning as the Supervisory Committee on Campaign Finance Disclosure, may impose upon the candidate additional civil penalties not to exceed \$10,000.00 for each report.

report.³⁴ Failure to timely submit required reports constitutes a violation of the CFDA.³⁵

The office of Chief of Police, Town of Roseland, is an “any other” level public office.³⁶ Every candidate for “any other” level public office (or his campaign treasurer) is required to file reports of contributions and expenditures on specific days before and after an election, when the candidate makes expenditures in excess of two thousand five hundred dollars or receives a contribution in excess of two hundred dollars in the aggregate during the aggregating period.³⁷

Respondent disclosed on his 30-P report a third-party contribution in excess of \$200.00 received on August 13, 2020; therefore, as a candidate for an “any other” level office, Respondent was required to file a 10-P report by the tenth day prior to the primary election,³⁸ due on October 26, 2021, a 10-G report by the tenth day prior to the general election,³⁹ due on November 25, 2020, and a 40-G campaign finance disclosure report by the fortieth day after the general election,⁴⁰ due on January 14, 2021.

As of October 29, 2021, Respondent had not filed his 10-P report by the due date, October 26, 2020, or by the sixth day after the report was due, and had not filed his 10-G and 40-G reports by the due dates of November 25, 2021, and January 14, 2021, respectively, or by the eleventh day after they were due. As of October 29, 2021, Respondent had not filed responses to the BOE’s *Requests for Admissions*. The BOE proved that Respondent failed to file his 10-P, 10-G, and 40-G campaign finance disclosure reports.

³⁴ 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).

³⁵ La. R.S. 18:1505.1(B).

³⁶ La. R.S. 18:1483(16); La. R.S. 18:1484(2).

³⁷ La. R.S. 18:1484(2)(b). For the purposes of this provision, a contribution by a candidate for his own campaign for a public office, other than a major office or district office, shall not be considered in determining whether a candidate has received a contribution in excess of two hundred dollars in the aggregate.

³⁸ La. R.S. 18:1495.4(B)(4).

³⁹ La. R.S. 18:1495.4(B)(5).

⁴⁰ La. R.S. 18:1495.4(B)(6).

The BOE must prove that Respondent *knowingly* failed to file his 10-P, 10-G, and 40-G campaign finance disclosure reports. “Knowingly” means conduct which could have been avoided through the exercise of due diligence.⁴¹

Respondent knew he was required to file certain campaign finance disclosure reports when he acknowledged he was subject to the CFDA upon qualification for candidacy. Respondent knew he was obligated to meet the CFDA filing requirements evidenced by his filing his 30-P campaign finance disclosure report. Respondent was provided the *Schedule* of deadlines to file his campaign finance disclosure reports, which stated he was required to file a 10-P report by October 26, 2020, a 10-G report by November 25, 2020, and a 40-G report by January 14, 2021.

Respondent was reminded of his obligation to file 10-P, 10-G, and 40-G campaign finance disclosure reports by receipt of the BOE’s letters accompanying its May 21, 2021, *Late Fee Assessment Orders*. Those letters also notified Respondent that he could be subject to additional civil penalties not to exceed \$10,000 per report, pursuant to La. R.S. 18:1505.4(A)(4)(a) and (b), for failing to file his 10-P, 10-G, and 40-G reports.

The BOE proved by clear and convincing evidence that Respondent knowingly failed to file his 10-P report by the sixth day after it was due and his 10-G and 40-G reports by the 11th day after they were due.

Additionally, Respondent’s failure to file his 10-P, 10-G, and 40-G campaign finance disclosure reports within three days after the final date for filing creates a rebuttable presumption of intent to not file the reports.⁴² Nothing in evidence rebuts this statutory presumption that Respondent intentionally failed to file his 10-P, 10-G, and 40-G campaign finance disclosure reports.

⁴¹ La. R.S. 18:1505.5(A).

⁴² La. R.S. 18:1505.1(A).

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file required campaign finance disclosure reports by the sixth and the eleventh day after the reports were due, respectively, then the BOE may impose an additional civil penalty, not to exceed \$10,000.00, against Respondent for each report that he failed to timely file.⁴³

The BOE proved by clear and convincing evidence that Respondent, a candidate for an “any other” level office, knowingly violated the CFDA by failing to file his 10-P, 10-G, and 40-G campaign finance disclosure reports by the statutory deadlines and by the sixth day and eleventh day after the reports were due, respectively.

The BOE, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, is authorized to impose against Respondent an additional civil penalty under authority of La. R.S. 18:1505.4(A)(4)(a) and (b), not to exceed \$10,000.00 for each report.

⁴³ La. R.S. 18:1505.4(A)(4)(a) and (b).

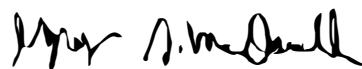
ORDER

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 Ray Francois for failing to file his 10-P campaign finance disclosure report by the sixth day after it was due.

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 Ray Francois for failing to file his 10-G campaign finance disclosure report by the eleventh day after it was due.

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 Ray Francois for failing to file his 40-G campaign finance disclosure report by the eleventh day after it was due.

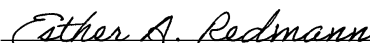
Rendered and signed on November 23, 2021, in Baton Rouge, Louisiana.



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



Anthony 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.

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 (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.