STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD

BOARD OF ETHICS	*	
	*	**DOCKET NO. 2020-9845-ETHICS-B**
	*	
IN THE MATTER OF	*	
	*	
JEFFERY "JEFF" ARNOLD	*	**AGENCY TRACKING NO. 5120-089**

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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 Jeffery "Jeff" Arnold failed to file a supplemental campaign finance report for the 2019 calendar year, by the eleventh day after the report was due, in connection with his 2015 candidacy for the office of State Senate, District 7.[1] The Louisiana Board of Ethics proved by clear and convincing evidence that Jeffery "Jeff" Arnold failed to timely 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 Jeffery "Jeff" Arnold for his failure to timely file his 2019 supplemental campaign finance disclosure report.

APPEARANCES

An adjudicatory hearing was conducted on June 25, 2021, at the Division of Administrative Law in Baton Rouge, Louisiana, before Panel B of the Ethics Adjudicatory Board (EAB).[2] Charles

[1] The 7th Senatorial District for the State of Louisiana includes the Parishes of Jefferson, Orleans, and Plaquemines.
[2] The Panel B of the Ethics Adjudicatory Board consists of Administrative Law Judges Gregory McDonald (presiding), Anthony Russo, and Esther Redmann.

Reeves appeared as counsel on behalf of the Louisiana Board of Ethics (BOE). Although duly noticed, Jeffery "Jeff" Arnold (Respondent) did not appear for the hearing.[3]

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 report as required by La. R.S. 18:1495.4(D)(3)(a) for calendar year 2019, in connection with his October 24, 2015, candidacy for the office of State Senate, District 7 by the February 18, 2020, deadline, or by the eleventh day after the report was due.

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-11, 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).

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.*,

[3] The hearing notice was mailed by U.S. mail on April 19, 2021, by the Administrative Hearings Clerk for the Division of Administrative Law to Jeffery "Jeff" Arnold at 3116 Bore Street, Metairie, Louisiana, 70001, and was not returned as undeliverable. *See* BOE-10. Notices were originally being sent to Respondent at the address provided by the EAB on the date of filing the *Request for Hearing*. That address, 2415 Danbury Drive, New Orleans, Louisiana, was updated by the DAL Clerk to 106 Hardwood Drive, Belle Chasse, Louisiana, due to the BOE being able to effect service at the Belle Chasse address. Although the BOE continued to send notices to the Belle Chasse address, the DAL Clerk began sending notices to the Bore Street address, as the initial notice sent by the DAL Clerk to the Belle Chasse address was returned as "undeliverable" with the Bore Street address designated as the forwarding address.

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.*

FINDINGS OF FACT

Respondent was an unsuccessful candidate for the office of State Senate, District 7, in the October 24, 2015, election.[4] The office of State Senate, District 7, is a "district" 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 also acknowledged that he was subject to the provisions of the CFDA.[7]

On January 4, 2016, Respondent filed his final campaign finance disclosure report, referred to as the requisite "40-G" report, which showed a surplus of $142,410.16, in connection with his October 24, 2015, candidacy.[8]

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.[9]

On August 5, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent because he had not filed the 2019 supplemental campaign finance disclosure report.[10] The *Late Fee Assessment Order* (a) assessed a late fee of $2,000.00 and (b) ordered Respondent to file his supplemental campaign finance disclosure report for calendar year 2019 within 20 days of his

[4] BOE-2, BOE-3, p. 1; and BOE-3, p. 11. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he was a candidate for the office of State Senate, District 7, in the October 24, 2015, election. BOE-8, p. 3.
[5] *See* La. R.S. 18:1483(7); La. R.S. 18:1484(1); and BOE-4, p. 2.
[6] La. R.S. 18:1483(19).
[7] BOE-2, p. 3.
[8] BOE-5. Counsel for the BOE represented to the tribunal that the BOE was only pursuing charges regarding Respondent's failure to file a 2019 Supplemental Campaign Finance Disclosure Report, and it was not pursuing penalties for failure to file those reports for the years 2015-2018.
[9] BOE-8.
[10] BOE-6.

receipt of the order.[11] The *Late Fee Assessment Order* was sent by certified mail, return receipt requested, to Respondent at his then-current address at 106 Hardwood Drive, Belle Chasse, Louisiana, 70037-1718; the U.S. Postal Service Tracking report indicated that the letter was delivered on September 5, 2020.[12] 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.[13]

On February 4, 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 then-current address at 106 Hardwood Drive, Belle Chasse, Louisiana, 70037-1718, and the return receipt was signed and returned.[14] 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.

On April 8, 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 then-current address at 106 Hardwood Drive, Belle Chasse, Louisiana, 70037-1718, and the return receipt was signed and returned.[15]

[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *See* BOE-8 and BOE-9.
[15] BOE-9.

As of the June 25, 2021, hearing, Respondent had not filed his 2019 supplemental campaign finance disclosure report and had not filed responses to the *Requests for Admissions*.[16]

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.[17]

Every candidate for a "district" level public office is required to file certain campaign finance disclosure reports by the statutory deadlines.[18] Failure to timely submit required reports constitutes a violation of the CFDA.[19]

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.[20]

Respondent was an unsuccessful candidate for the office of State Senate, District 7, which

[16] BOE- 11. 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-8 and BOE-9.
[17] *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).
[18] La. R.S. 18:1495.4.
[19] La. R.S. 18:1505.1(B).
[20] La. R.S. 18:1495.4(D)(3)(a).

is a "district" level public office,[21] in the October 24, 2015, election. On January 4, 2016, Respondent filed his final campaign finance disclosure report, which showed a surplus of $142,410.16, in connection with the October 24, 2015, election.

As a candidate for a "district" level public office, who filed a final report showing a surplus in connection with the October 24, 2015, 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.[22] The 2019 supplemental report was due no later than February 18th, 2020, and shall be complete through the preceding December 31st.[23] 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 Tuesday, February 18, 2020.

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.

Any candidate for "district" level public office who knowingly fails to timely file a required report may be assessed a civil penalty in the amount of $60.00 per day, not to exceed $2,000.00.[24] "Knowingly" means conduct which could have been avoided through the exercise of due diligence.[25]

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 knew he was obligated to meet the CFDA filing requirements evidenced by his filing his "40-G" report.

[21] *See* La. R.S. 18:1483(7)(a); La. R.S. 18:1484(1); and BOE-4, p. 2.
[22] La. R.S. 18:1495.4(D)(3)(a).
[23] *Id.*
[24] La. R.S. 18:1505.4(A)(2)(a)(ii).
[25] La. R.S. 18:1505.5.

On August 5, 2020, the BOE issued a *Late Fee Assessment Order* and assessed a civil penalty in the maximum amount of $2,000.00, 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 due date, or by the eleventh day 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.[26] 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.[27]

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

The BOE proved by clear and convincing evidence that Respondent, a candidate for the "district" level public office of State Senate, District 7, 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 Jeffery "Jeff" Arnold for his failure to file his supplemental campaign finance disclosure report for calendar year 2019 by the eleventh day after the report was due.

Rendered and signed on August 2, 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 Tuesday, August 03, 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.

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.