

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

LOUISIANA BOARD OF ETHICS

DOCKET NO. 2025-4131-BOE

IN THE MATTER OF

**LOUISIANA RETAILERS
POLITICAL ACTION COMMITTEE**

AGENCY TRACKING NO. 5025-002

DECISION AND ORDER

The Louisiana Retailers Political Action Committee requested an adjudicatory hearing with the Ethics Adjudicatory Board regarding the decision of the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, to assess a late filing fee in the amount of \$1,000 for the Louisiana Retailers Political Action Committee's alleged failure to timely file its February 2024 monthly Campaign Finance Disclosure Report, in accordance with Louisiana Revised Statutes (La. R.S.) 18:1491.6(I)(1).

The Louisiana Board of Ethics failed to prove by clear and convincing evidence that the Louisiana Retailers Political Action Committee failed to timely file its February 2024 monthly Campaign Finance Disclosure Report. Because the Louisiana Board of Ethics failed to prove by clear and convincing evidence that the Louisiana Retailers Political Action Committee's February 2024 monthly Campaign Finance Disclosure Report was not timely filed, the \$1,000 late filing fee assessed against the Louisiana Retailers Political Action Committee, by the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, was improperly assessed.

APPEARANCES

An adjudicatory hearing on the merits was conducted on July 17, 2025, at the Division of Administrative Law in Baton Rouge, Louisiana, before Panel A of the Ethics Adjudicatory Board (EAB).¹ Present for the hearing were Jessica Elliott, Executive Director for the Louisiana Retailers Political Action Committee (Appellant); Charles Reeves, counsel for the Louisiana Board of Ethics (BOE); and Jerolyn Brees, Information Technology (IT) manager for the BOE.

JURISDICTIONAL AUTHORITY

The 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

Appellant requested an adjudicatory hearing with the EAB regarding the BOE's decision, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, to assess a late filing fee of \$1,000 against Appellant for its alleged failure to timely file its February 2024 monthly Campaign Finance Disclosure Report (Report). Jessica Elliott, Executive Director for Appellant, testified that she personally faxed the February 2024 monthly Report on March 4, 2024, to the BOE and that she received a fax confirmation sheet showing that the February 2024

¹ Panel A of the EAB consists of administrative law judges Cazeline G. Hebert (presiding), Michele L. Staggs, and Stephanie E. Robin.

monthly Report was successfully sent to the BOE.

Ms. Elliott also testified that until she received the delinquency notice from the BOE, she had no reason to believe that her fax submission of Appellant's February 2024 monthly Report had not been received by the BOE. Ms. Elliott asserts that Appellant's monthly Report was timely filed and that Appellant should not be penalized for a technical error beyond its control. As support for Appellant's position, Ms. Elliott offered exhibits, labeled A through D, which were admitted into evidence without objection.

The BOE claimed that it correctly assessed a \$1,000 late filing fee against Appellant because a review of its facsimile logs and the testimony (in both her affidavit and at the hearing) of its IT manager, Jerrolyn Brees, show that no facsimile from Appellant was received on March 4, 2024, and that the only facsimile received from Appellant in March was on March 20, 2024, nine days after the February 2024 monthly Report was due. At both the hearing and in its pre-hearing statement, the BOE noted that the Late Fee Assessment Order issued to Appellant incorrectly stated that Appellant's February 2024 monthly Report was due on March 15, 2024, rather than March 11, 2024, and that Appellant's facsimile submission received by the BOE on March 20, 2024, was five days late instead of nine days late.² The BOE offered its exhibits, numbered BOE-1 through BOE-10, which were admitted into evidence without objection.

FINDINGS OF FACT

Appellant is a political committee.³ In February 2024, Appellant received contributions in the amount of \$2,325.94 and made expenditures in the amount of \$2,250.⁴ The BOE accepts monthly Reports via facsimile transmission, United States mail, and electronic upload through its

² During the hearing, the BOE acknowledged its error and stated that it does not seek to enforce assessment of any additional late fee.

³ BOE-1.

⁴ Appellant Exhibit A, pp. 2-8 and BOE-4.

website.⁵ The BOE's fax number is (225) 381-7271.⁶ On March 4, 2024, at 12:16:04 p.m., Jessica Elliott, Appellant's Executive Director, faxed Appellant's February 2024 monthly Report to the BOE at the fax number of (225) 381-7271.⁷ Appellant uses a third-party service provider for facsimile transmissions and receipt.⁸ On March 4, 2024, at 12:23 p.m., Appellant received a fax confirmation sheet that Appellant's February 2024 monthly Report was successfully sent to the BOE.⁹

On March 14, 2024, the BOE issued a Notice of Delinquency to Appellant's Chairperson, Kevan Fenderson.¹⁰ The BOE's Notice of Delinquency states that

[o]ur records indicate that you have elected to file monthly campaign finance reports. If you have any financial activity during the preceding month, you were required to file a report which was due March 11, 2024. It has not been received. Unless that report was timely postmarked, you may be subject to automatic late filing fees of \$200 for every day that report is late. Therefore, if your report was necessary and has not yet been mailed, please forward it immediately.¹¹

On March 20, 2024, Ms. Elliott faxed Appellant's February 2024 monthly Report to the BOE at the fax number (225) 381-7271.¹² At 11:09 a.m., Ms. Elliott received a fax confirmation sheet stating that Appellant's February 2024 monthly Report was successfully transmitted to the BOE.¹³ Ms. Elliott phoned the BOE to confirm its receipt of the March 20, 2024, transmission.¹⁴ The BOE acknowledged receipt of Appellant's March 20, 2024, facsimile transmission of its February 2024 monthly Report.¹⁵

⁵ See BOE-3 and BOE-9, p. 2.

⁶ BOE-10, p. 1.

⁷ Testimony of Jessica Elliott and Appellant Exhibit B.

⁸ Testimony of Jessica Elliott.

⁹ Testimony of Jessica Elliott and Appellant Exhibit A, p. 1.

¹⁰ BOE-3 and Appellant Exhibit C.

¹¹ BOE-3 and Appellant Exhibit C (emphasis in original).

¹² Testimony of Jessica Elliott.

¹³ Appellant Exhibit D.

¹⁴ Testimony of Jessica Elliott.

¹⁵ *Id.*, BOE-4, and BOE-10, p. 5.

Jerrolyn Brees is the IT manager for the BOE.¹⁶ The BOE uses a third-party service provider for facsimile transmissions and receipt.¹⁷ Ms. Brees testified in her affidavit and during the hearing that she reviewed the information from the BOE's third-party service provider and she could not find a transmission from Appellant on March 4, 2024.¹⁸ Data from the BOE's third-party fax service provider is downloaded into an Excel spreadsheet.¹⁹ Ms. Brees converted the data from the Excel spreadsheet and created a document, which is attached to her affidavit, showing the facsimile transmissions received by the BOE on March 4, 2024.²⁰

On August 27, 2024, the BOE issued a Late Fee Assessment Order to Appellant assessing Appellant with a late filing fee of \$1,000.²¹ The BOE's August 27, 2024, Late Fee Assessment Order states that Appellant was required to file a monthly Report by March 15, 2024, and that Appellant's February 2024 monthly Report was not received until March 20, 2024, making it five days late.²² On September 6, 2024, Ms. Elliott requested a waiver from the BOE of the \$1,000 late filing fee assessed and provided copies of the facsimile confirmation sheets showing successful fax transmissions to the BOE on March 4, 2024, and March 20, 2024.²³

At its board meeting on January 10, 2025, the BOE unanimously declined to waive the \$1,000 late filing fee assessed against Appellant.²⁴ On January 14, 2025, the BOE issued notice to Appellant that it declined to waive the \$1,000 late filing fee assessed.²⁵ On January 29, 2025, Appellant requested an appeal to the EAB of the BOE's \$1,000 late filing fee assessed.²⁶ The

¹⁶ BOE-10.

¹⁷ Testimony of Jerrolyn Brees.

¹⁸ *Id.* and BOE-10.

¹⁹ Testimony of Jerrolyn Brees.

²⁰ *Id.* and BOE-10.

²¹ BOE-5.

²² *Id.*

²³ BOE-6.

²⁴ BOE-7, p. 9.

²⁵ BOE-8.

²⁶ BOE-9.

BOE forwarded Appellant's appeal request to the EAB for its review and consideration on February 24, 2025.²⁷

CONCLUSIONS OF LAW

Burden of proof

Appellant appealed the BOE's assessment of a \$1,000 late filing fee, arguing that the BOE erred in its determination that Appellant's February 2024 monthly Report was not timely filed. Although Appellant requested an appeal of the BOE's late fee assessment, it is the BOE's burden to prove by clear and convincing evidence that Appellant was required to file a monthly Report for February 2024 and that the February 2024 monthly Report was not timely filed, thereby supporting the assessment of a \$1,000 late filing fee.

Under the CFDA, La. R.S. 18:1941.6(A) and 18:1491.6(I)(1) govern the filing and timeliness of Reports by a political committee, such as Appellant. We previously applied a two-part test regarding filings required under the CFDA, and we do so again in this case, wherein the EAB will consider: (1) whether Appellant was required to file a monthly Report for February 2024, and if so, (2) whether the monthly Report for February 2024 was timely filed.

Was Appellant required to file a monthly Report for February 2024?

La. R.S. 18:1491.6(A) provides that the chairman of a political committee is responsible for filing with the supervisory committee of the BOE all Reports by the deadlines provided in the CFDA. The deadline for submitting the Reports is found in La. R.S. 18:1491.6(I)(1) wherein it states that

[a] political committee other than a principal or subsidiary campaign committee of a candidate may file monthly reports due no later than the tenth day of the month following a month in which the committee accepts a contribution or some other receipt or makes an expenditure or some

²⁷ *Id.* at p. 1.

other disbursement rather than file the reports otherwise required by Subsections B, (C)(1), and F of this Section.

The record reflects that Appellant is a political committee and that it had contributions and expenditures in February 2024. Therefore, the evidence supports a finding that Appellant was required to file a monthly Report for February 2024 no later than the tenth day of the following month (i.e., March 11, 2024).²⁸ The BOE proved by clear and convincing evidence that Appellant was required to file a monthly Report for February 2024.

Because the BOE proved by clear and convincing evidence that Appellant was required to file a monthly Report for February 2024, we move to the second question of whether Appellant's February 2024 monthly Report was timely filed.

Was Appellant's February 2024 monthly Report timely filed?

Appellant contends that its February 2024 monthly report was timely filed when it was transmitted to the BOE by facsimile on March 4, 2024, and a successful confirmation sheet was received. Ms. Elliott testified that she personally faxed the monthly Report to the BOE and that she received a fax confirmation sheet showing successful transmission of the monthly Report to the BOE on March 4, 2024.

Ms. Elliott argued that she had no reason to believe that the monthly Report was not timely filed, until she received the March 14, 2024, Notice of Delinquency from the BOE. Following the Notice of Delinquency, Ms. Elliott faxed Appellant's February 2024 monthly Report on March 20, 2024, to the BOE, for which she received a fax confirmation sheet. Ms. Elliott also phoned the BOE to confirm the BOE's receipt of the Report.

²⁸ La. R.S. 18:1491.6(I)(1) states that the Report is due to the BOE by the tenth day of the following month; however, March 10, 2024, was a Sunday. As such, the next working day upon which Appellant's Report would be due to the BOE was Monday, March 11, 2024. See La. R.S. 18:1485(B).

The BOE contends that because Appellant cannot prove that the BOE received its February 2024 monthly Report on March 4, 2024, then the BOE was correct in its finding that Appellant's February 2024 monthly Report submitted to the BOE on March 20, 2024, was late and therefore the late filing fee of \$1,000 was appropriately assessed. As support for this position, the BOE relies on the testimony of its IT manager, Jerrolyn Brees. Ms. Brees testified both in her affidavit and during the hearing, that she reviewed the BOE's records transmitted from the BOE's third-party fax service provider and that she did not see where a facsimile transmission was received from Appellant on March 4, 2024.

a. The evidence supports a finding that Appellant's February 2024 monthly Report was timely filed.

The evidence supports a finding that Appellant timely filed its February 2024 monthly Report with the BOE.

For political committees like Appellant, monthly Reports are required to be filed with the BOE when the committee “. . . accepts a contribution or some other receipt or makes an expenditure or some other disbursement”²⁹ The BOE accepts the filing of such Reports in various ways, which include United States mail, facsimile, and electronic upload through its website.

In this case, Ms. Elliott, Appellant's Executive Director, chose to submit Appellant's February 2024 monthly Report via facsimile transmission at the BOE's fax number of (225) 381-7271. That same day, Ms. Elliott received a fax confirmation sheet that Appellant's facsimile transmission to the BOE was successful. Ms. Elliott had no reason to believe that the BOE had not received Appellant's February 2024 monthly Report until Appellant received a Notice of Delinquency from the BOE. The Notice of Delinquency states that unless Appellant's monthly

²⁹ La. R.S. 18:1491.6(I)(1).

Report was “timely postmarked,” automatic late filing fees may be assessed. Although the Notice of Delinquency refers to a “postmark,” the BOE accepts monthly Reports by other means.

The BOE and Appellant both use a third-party service provider for facsimile transmissions and receipt. Appellant’s service provider reported that it had successfully transmitted Appellant’s February 2024 monthly Report to the BOE’s fax provider on both March 4, 2024, and March 20, 2024. The BOE’s data submitted into evidence was placed into a readable format by the BOE’s IT Manager, Jerrolyn Brees. Ms. Brees testified that she reviewed the data from the BOE’s third-party service provider and that she could not locate a facsimile transmission from Appellant on March 4, 2024. Ms. Brees did locate a facsimile transmission from Appellant on March 20, 2024; however, that transmission had already been confirmed by a BOE employee on March 20, 2024, because Ms. Elliott called the BOE to confirm its receipt of her facsimile transmission on that date. Ms. Brees did not attach to her affidavit nor did the BOE offer as evidence the original data downloaded into a spreadsheet from the BOE’s third-party service provider.

In *Spriggs v. United States*, the Fifth Circuit Court of Appeal addressed a similar scenario denying a motion to dismiss filed by the United States Postal Service (USPS) wherein it claimed that the plaintiff failed to provide notice of injury prior to filing a lawsuit in accordance with the Federal Tort Claims Act (FTCA).³⁰ Under the FTCA, a plaintiff alleging injury caused by the USPS is required to submit a standardized form putting the USPS on notice of plaintiff’s claims before the lawsuit is filed. In *Spriggs*, the plaintiff faxed his form to the USPS’s fax number. However, when the plaintiff later filed his lawsuit against the USPS further alleging his personal injury and property damage, the USPS filed a motion to dismiss claiming that plaintiff failed to submit his form to the USPS prior to the filing of his lawsuit.

³⁰ *Spriggs v. United States*, 132 F.4th 376 (5th Cir. 2025).

In response, Plaintiff submitted a fax confirmation sheet addressed to the correct USPS fax number. The Court in *Spriggs* found that “a **fax confirmation sheet confirms successful transmission**. ‘It is commonly understood that ‘success’ in this context means that **the two fax machines have performed an electronic ‘handshake’** and that the data has been transmitted from one machine to the other.’”³¹

Additionally, the *Spriggs* Court addressed the weight of tracking mail through the USPS and stated that “[c]ritically, district courts within our jurisdiction have unanimously found that Postal Service tracking information confirming successful transmission of a piece of mail to a physical mailing address is probative evidence of actual receipt” and that “[p]ostal service tracking and fax confirmation share the same quality: a record of successful transmission.”³²

In this case, Appellant provided a fax confirmation sheet showing that its February 2024 monthly Report, sent on March 4, 2024, was successfully transmitted to the BOE at the correct fax number. There is nothing in the evidence suggesting that the BOE challenged the validity of Appellant’s fax confirmation sheet. While there is no explanation in the evidence of what happened after Appellant successfully transmitted its February 2024 monthly Report by fax on March 4, 2024 (as evidenced by the fax confirmation sheet), we nonetheless agree with the holding in *Spriggs* and find that on March 4, 2024, the two fax providers performed an “electronic handshake,” thereby making Appellant’s filing of its February 2024 monthly Report to the BOE timely.

b. The BOE improperly assessed a late filing fee against Appellant.

The BOE has the authority in its capacity as the Supervisory Committee on Campaign

³¹ *Id.* (Emphasis added).

³² *Id.* (Emphasis added).

Finance Disclosure to assess late filing fees; however, because the record supports a finding that Appellant's 2024 February monthly Report was timely filed, the BOE failed to prove by clear and convincing evidence that it correctly assessed a late filing fee of \$1,000 against Appellant. The \$1,000 late filing fee assessed against Appellant was improper.

[INTENTIONALLY LEFT BLANK – SEE NEXT PAGE FOR ORDER]

ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, failed to prove by clear and convincing evidence that the Louisiana Retailers Political Action Committee's February 2024 monthly Campaign Finance Disclosure Report was not timely filed.

IT IS FURTHER ORDREED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, improperly assessed a late filing fee of \$1,000 against the Louisiana Retailers Political Action Committee.

Rendered and signed on August 28, 2025, in Baton Rouge, Louisiana.

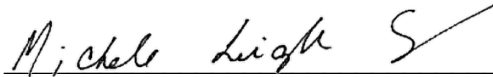


Cazeline G. Hebert
Presiding Administrative Law Judge
Ethics Adjudicatory Board, Panel A
Division of Administrative Law

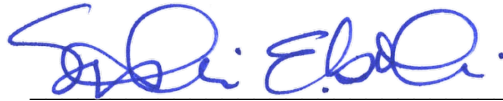
NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Friday, August 29, 2025, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court
Division of Administrative Law



Michele L. Staggs
Administrative Law Judge
Ethics Adjudicatory Board, Panel A
Division of Administrative Law



Stephanie E. Robin
Administrative Law Judge
Ethics Adjudicatory Board, Panel A
Division of Administrative Law

REVIEW RIGHTS

This is the final decision of the Ethics Adjudicatory Board. You may seek rehearing or reconsideration of this decision, subject to the grounds for and time limitations provided in Louisiana Revised Statutes 49:977.1. A request for rehearing must be sent to one of the addresses listed below.

EMAIL: EABprocessing@adminlaw.la.gov

FAX: (225) 342-1812

HAND DELIVERY TO:

1020 Florida Street, Baton Rouge, LA 70802

MAIL:

Division of Administrative Law

ATTN: Ethics Adjudicatory Board

P.O. Box 44033

Baton Rouge, LA 70804-4033

You have the right to appeal this decision to the Court of Appeal, First Circuit, in accordance with Louisiana Revised Statutes 42:1142. You must file a written motion for appeal with the Ethics Adjudicatory Board within thirty (30) days after the transmittal of notice of this decision.