

BEFORE THE OFFICE OF CAMPAIGN FINANCE  
DISTRICT OF COLUMBIA BOARD OF ELECTIONS  
FRANK D. REEVES MUNICIPAL BUILDING  
2000 FOURTEENTH STREET, N.W., SUITE 433  
WASHINGTON, D.C. 20009  
(202) 671-0550

**IN THE MATTER OF:**

Brandon Todd for Ward 4  
Benjamin M. Soto Treasurer  
Respondent

**Docket No.: OCF 2017-R-003**

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**ORDER**

**I. Introduction**

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel pursuant to a referral of an Audit Report by the Reports Analysis and Audit Division (RAAD) of the Brandon Todd for Ward 4 Principal Campaign Committee (Committee). OCF commenced its full field audit in June 2015 of the campaign financial operations of the newly elected official for the coverage period of December 2014 through June 2015 and issued a Preliminary Audit Report (PAR) to the Committee on March 31, 2016. The Committee was provided an opportunity to respond to the initial finding in the PAR and following several exchanges of documents including submission by the Committee and additional requests by RAAD the Final Audit Report was issued on March 30, 2017. The final Audit Report concluded that the Committee submitted Reports of Receipts and Expenditures that are not in compliance with D.C. Official Code §1-1163.09 and referred the matter to the Office of The General Counsel for enforcement proceedings.

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Accordingly, it is alleged that the respondent Committee violated the following provisions of the D.C. campaign finance statute and implementing regulations: (1) D.C. Official Code §1-1163.08 (a) which provides that, “[E]ach committee and each candidate accepting contributions or making expenditures, shall designate in the registration statement required under §1-1163.07 or §1-1163.12, one or more national banks located in the District of Columbia as the depository or depositories of that committee or candidate...” (2) D.C. Official Code §1-1163.09(c) (7) which requires the treasurer to include “[T]he total sum of all receipts by or for a committee or candidate during the calendar year”; (3) D.C. Official Code §1-1163.09(c) (9) which requires the treasurer to include “[T]he total sum of expenditures made by a committee or candidate during the calendar year”; and (4) 3 DCMR §3400.2, which requires a committee to preserve detailed records of all contributions and expenditures in reports filed with the Director.

### **II. Findings of Fact**

On December 8, 2014, Candidate Brandon Todd filed a Statement of Candidacy with OCF, by which he declared his candidacy for Member of the District of Columbia Council from Ward 4 in the Special Election scheduled for April 28, 2015. On December 8, 2014, Candidate Brandon Todd filed a Request for Candidate Waiver Form (OCF Form #5), whereby he waived his financial reporting responsibilities to his principal campaign committee, the Brandon Todd for Ward 4 Committee. On December 8, 2014, Benjamin M. Soto, Esq., filed a Statement of Acceptance of Position of Treasurer for the Brandon Todd for Ward 4 Principal Campaign Committee. On December 8, 2014, Darryl Wiggins, filed a Statement of Acceptance of Position of Chairperson for the Brandon Todd for Ward 4 Principal Campaign Committee. On December

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8, 2014, the Brandon Todd Committee registered with OCF as Candidate Todd's Principal Campaign Committee (PCC). On April 28 2015, Brandon Todd was elected in the special election to complete the unexpired term for Member of the District of Columbia Council from Ward 4. On June 22, 2015, RAAD issued a Notice of a Full Field Audit to the Brandon Todd for Ward 4 Committee. On July 20, 2015 the audit was initiated. On March 31, 2016, RAAD issued a Preliminary Audit Report (PAR) to the Committee, covering the period from December 2014 through June 2015. The PAR cited numerous issues requiring the Committee's responses and accorded the Committee an opportunity to provide documentation which would resolve those issues. Following the PAR, several submissions of documents and amended reports by the Committee and additional requests from OCF were exchanged. However, certain issues remained unresolved because they were not satisfactorily addressed by the Committee.

On March 30, 2017, the Reports Analysis and Audit Division (RAAD) issued an Audit Report in this matter. The Audit Report alleged eleven (11) violations of District of Columbia campaign finance law by the Committee, and referred the following matters to OCF's Office of the General Counsel (OGC) for adjudication:

- (A) Failure to report one hundred and thirty-one (131) contributions totaling \$34,139.01;
- (B) Failure to report three (3) Pay-pal credit card contributions totaling \$702.00;
- (C) Failure to report nine (9) credit card deposits totaling \$69,367.00;
- (D) Failure to report four (4) credit card memoranda totaling \$2,400.00;
- (E) Reported two (2) contributions that resulted in a \$105.00 understatement in total receipts;
- (F) Reported two (2) contributions that resulted in a \$100.00 overstatement in total receipts;
- (G) Reported five hundred and eighteen (518) contributions totaling \$102,317.00 that were not negotiated through the Committee's bank account;
- (H) Failure to report nineteen (19) expenditures totaling \$30,123.40;

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- (I) Reported ten (10) expenditures totaling \$4,960.69 that were not negotiated through the Committee's bank account;
- (J) Overstated Pay-pal credit card fees in the amount of \$846.86;
- (K) Understated total expenditures in the amount of \$3.96; and
- (L) Misstatement of financial activity including receipts, expenditures and cash on hand balance.

On April 7, 2017, by Notice of Hearing, Statement of Violations And Order Of Appearance, OCF ordered Benjamin M. Soto, Esq., treasurer for the respondent Committee to appear at a scheduled hearing on April 21, 2016 and show cause why the respondent Committee should not be found in violation of the D.C. Campaign Finance Act of 2011, as amended by D.C. Official Code §1-1163.04 (3) et seq., and fined accordingly.

On April 21, 2017, the Office of the General Counsel (OGC) held a hearing in the matter during which Mr. Soto (hereinafter Respondent Treasurer) appeared on behalf of the Committee. He was accompanied by Thorn Pozen, Esq., (hereinafter Counsel) and Jeff Kozak, C.P.A. William O. Sanford, OCF General Counsel served as the Hearing Officer. OCF was represented by Renee Coleman-Rollins, Audit Manager, Wesley Williams, Public Information Manager, and Leonard Muhammad, Esq., Attorney Advisor.

After the parties were duly sworn, the findings in the Audit Report were read into the record by the Hearing Officer and the representatives for the Committee were granted an opportunity to

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Provide sworn testimony in response to the allegations. Respondent Treasurer stated that the Committee had provided the documents required to reconcile the Reports subsequent to the issuance of the Final Audit Report. He also indicated that he hoped that OCF would inform the Committee of any outstanding issues at the conclusion of the hearing. He additionally stated that the mistakes in the Reports were due in part to data entry errors and the Committee's failure to deposit contributor checks until several months after the checks were received. However, the Respondent Treasurer asserted that the Committee had corrected the errors and had prepared a spreadsheet that balanced exactly with the information provided in the Reports of Receipt and Expenditures.

Mr. Kozak, who was identified by the Respondent Treasurer as the Committee's accountant, stated that he began working for the Committee after the Preliminary Audit Report was received. He also stated that he encountered numerous difficulties which included duplicate reporting and overlapping dates resulting in the submission of reports that did not apply when he attempted to file a consolidated report per instructions by RAAD. Mr. Kozak additionally stated that as of the date of the hearing there were records that had not been provided by the Committees' bank even though they had been requested. He further stated that the inaccuracies in the Reports were due to sloppiness in record keeping. He additionally contended that despite how hard he tried, there were some items in the Preliminary Audit Report that could not be reconciled through the OCF system. However, he could reconcile the documents to the penny independently of the OCF system. He also stated that he found the system confusing to the extent that he filed a July 31, 2015 Report which was not necessary.

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Ms. Coleman-Rollins stated that as of the date of the hearing, the Audit staff had not received the back-up documentation regarding individual contributors which was cited as a finding in both the Preliminary Audit Report and the Final Audit. She additionally stated that several amended Reports were filed post Audit but, the burden was on the Committee to address each issue raised in the Preliminary Audit prior to the issuance of the Final Audit Report. Ms. Coleman-Rollins acknowledged receipt of documents from the Respondent Treasurer a few days prior to the hearing and indicated that the Audit staff would review the documents to determine whether the Committee had finally achieved compliance.

Counsel for the Committee stated that the campaign involved a high number of contributions that were processed in the compressed timed period associated with the special election. He additionally stated that throughout the campaign, the Committee had acted in good faith and in the end everything had been accounted for. He further stated that in the heat of the compressed OCF filing schedule, data entry errors were made by the Committee's staff. However, he indicated that the goal of the Committee is to resolve any and all outstanding issues. In closing, Counsel stated that the Committee would provide the required additional information by the close of business on the date of the hearing.

The record in this matter remained open until Monday, April 24, 2017 to provide the Committee's representatives an opportunity to submit any additional information or amended Reports which they believe would resolve the findings in the Audit Report or could be relevant to the adjudication of this matter.

Following the hearing, RAAD conducted an extensive review of all the documents submitted by

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the Committee on or before April 24, 2017 when the record closed. The review included a re-examination of each finding and comparing the documents submitted to determine whether the issues of non-compliance cited in the Audit had been resolved.

Accordingly, the following findings of fact and conclusions of law represent OCF's adjudication of the alleged violations of the Campaign Finance Act, pursuant to D.C. Official Code § 1-1163.01 et seq.

**Finding #A Receipts not Reported:**

Of the 131 receipts cited in the audit Report as not reported, the Audit staff found that only 22 were reported on the amended filings submitted on April 16, 2017. **Therefore this issue was not fully resolved and the Committee remains non-compliant.**

**Finding #B Deposits not Reported:**

Pursuant to amended filings submitted on April 16, 2017, the Audit staff determined that all deposits were reported. **Therefore, this issue was resolved.**

**Finding #C Credit Card Deposits Not Reported:**

Because the Audit staff did not have the individual breakdown of 4 pay-pal deposits (totaling \$68,538.33), the Audit staff was unable to determine whether all the contributions were actually reported. Although the Democracy Engine deposits were reported on the amended filings, the Committee did not provide the Pay-pal information requested. **Therefore, this issue was not fully resolved and the Committee remains non-compliant.**

**Finding #D Credit Card Memoranda Not Reported:**

The Audit staff determined that this issue resulted from mathematical errors that occurred when deposits were made. Consequently, the Committee's depository was required to make the

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appropriate adjustments that correctly reported the contributions. The Audit staff confirmed that the adjustments were made. **Therefore, this issue was resolved.**

**Finding #E Understated Receipts:**

Pursuant to amended filings submitted on April 16, 2017, the Audit staff determined that the appropriate corrections were made. **Therefore, this issue was resolved.**

**Finding #F Overstated Receipts:**

Pursuant to Amended filings submitted on April 16, 2017, the Audit staff determined that the appropriate corrections were made. **Therefore, this issue was resolved.**

**Finding #G Receipts not Negotiated:**

The Committee provided deposit slips listing the names of the individual contributors. However, of the 518 contributions totaling \$102,317.00 that were not negotiated per audit, only 62 totaling \$19,130.00 were subsequently documented through the aforementioned deposit slips. The remaining 456 totaling \$83,187.00 were not reconciled. **Therefore, this issue was not fully resolved and the Committee remains non-compliant.**

**Finding # H Expenditures Not Reported:**

The Audit staff initially found nine (9) unreported bank fees totaling \$6,307.46. Prior to the closure of the record, the Committee submitted amended filings which partially resolved the issue. However, during the post hearing review, the Audit staff remained unable to reconcile Three (3) of 4 bank debits (totaling \$4,973.00). **Therefore, this issue was not fully resolved and the Committee remains non-compliant.**

**Finding # I Expenditures not Negotiated through the Committee's bank account:**

Pursuant to Amended filings submitted on April 16, 2017, the Audit staff determined that the appropriate corrections were made. **Therefore, this issue was resolved.**



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**Finding #J Overstated Pay-pal Fees:**

The Audit staff was unable to verify the fees without the Pay-pal breakdown of individual contributors and the fees associated with each contribution. **Therefore, this issue was not fully resolved and the Committee remains non-compliant.**

**Finding # K Understated Expenditures:**

Pursuant to amended filings submitted on April 16, 2017, the Audit staff determined that the appropriate corrections were made. **Therefore, this issue was resolved.**

**Finding # L Misstatement of Financial Activity:**

The Audit staff was unable to reconcile the receipts, expenditures and the cash on hand balance as of April 24, 2017: **Therefore, this issue was not fully resolved and the Committee remains non-compliant.**

**III. Conclusions of Law**

**Finding #A Receipts not Reported:**

D.C. Official Code §1-1163.09(c) (7) provides that, “[E]ach report under this section shall disclose... the total sum of all receipts by or for a committee or candidate during the reporting period.” OCF’s full field audit of the Brandon Todd for Ward 4 Committee found that 109 of the 131 receipts that were not reported initially remained unreported on the hearing date of April 21, 2017, and prior to the closure of the record of the hearing on April 24, 2017. Based on the foregoing, we find the Committee in violation of D.C. Official Code §1-1163.09 (c) (7). The Committee was found non-compliant pursuant to the Audit Report issued on March 30, 2017 and remained non-compliant through April 24, 2017 when the record closed. The penalty established by 3DCMR §3711.2 (q) for violating D.C. Official Code §1-1163.09 (c) (7) is a fine of \$50.00

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per day for each business day of delinquency. Accordingly it is recommended that a fine of \$850.00 for seventeen (17) business days of delinquency be imposed for this violation.

**Finding #C Credit Card Deposits Not Reported:**

D.C. Official Code §1-1163.09(c) (7) provides that, “[E]ach report under this section shall disclose... the total sum of all receipts by or for a committee or candidate during the reporting period.” OCF’s full field audit found that 4 Pay-pal deposits totaling \$68,538.33 could not be verified because the Pay-pal contributor information was not provided by the Committee. Based on the foregoing, we find the Committee in violation of D.C. Official Code §1-1163.09 (c) (7). The Committee was found non-compliant pursuant to the Audit Report issued on March 30, 2017 and remained non-compliant through April 24, 2017 when the record closed. The penalty established by 3DCMR §3711.2 (q) for violating D.C. Official Code §1-1163.09 (c) (7) is a fine of \$50.00 per day for each business day of delinquency. Accordingly it is recommended that a fine of \$850.00 for seventeen (17) business days of delinquency be imposed for this violation

**Finding #G Receipts not Negotiated:**

D.C. Official Code §1-1163.08 (a) provides that, “[E]ach committee and each candidate accepting contributions or making expenditures, shall designate in the registration statement required under §1-1163.07 or §1-1163.12, one or more national banks located in the District of Columbia as the depository or depositories of that committee or candidate. Each committee or candidate shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee or candidate into that account or accounts. No expenditures may be made by a committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account or accounts, other than petty cash expenditures as provided in subsection (b) of this section.” OCF’s full field audit concluded that the Brandon Todd for Ward 4 Committee did not provide evidence that 458

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contributions totaling \$83,187.00 were actually received and negotiated through the Committee's bank account. Based on the foregoing, we find the Committee in violation of D.C. Official Code §1-1163.08(a). The Committee was found non-compliant pursuant to the Audit Report issued on March 30, 2017 and remained non-compliant through April 24, 2017 when the record closed. The penalty established by 3DCMR §3711.2 (q) for violating D.C. Official Code §1-1163.08 (a) is a fine of \$50.00 per for each business day of delinquency. Accordingly it is recommended that a fine of \$850.00 be imposed for seventeen (17) business days of delinquency for this violation.

**Finding # H Expenditures Not Reported:**

D.C. Official Code §1-1163.09(c) (9) provides that, "[E]ach report under this section shall disclose... the total sum of all expenditures by or for a committee or candidate during the calendar year." OCF's full field audit of the Brandon Todd for Ward 4 Committee found that of the nine (9) bank fees totaling \$6,307.46 that were not reported initially by the Committee, three (3) of four (4) Bank fees totaling \$4,973.00 remained unreported on the hearing date of April 21, 2017, and prior to the closure of the record of the hearing on April 24, 2017. Based on the foregoing, we find the Committee in violation of D.C. Official Code §1-1163.09 (c) (9). The Committee was found non-compliant pursuant to the Audit Report issued on March 30, 2017 and remained non-compliant through April 24, 2017 when the record closed. The penalty established by 3DCMR §3711.2 (q) for violating D.C. Official Code §1-1163.09 (c) (9) is a fine of \$50.00 per day for each business day of delinquency. Accordingly it is recommended that a fine of \$850.00 be imposed for this violation.

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**Finding #J Overstated Pay-pal Fees:**

D.C. Official Code §1-1163.09(c) (9) provides that, “[E]ach report under this section shall disclose... the total sum of all expenditures by or for a committee or candidate during the calendar year.” OCF’s field audit investigation concluded that the Brandon Todd for Ward 4 Committee did not provide evidence itemization of the individual Pay-pal contributions and the fees associated with each contribution. Based on the foregoing, we find the Committee in violation of D.C. Official Code §1-1163.09 (c) (9). The Committee was found non-compliant pursuant to the Audit Report issued on March 30, 2017 and remained non-compliant through April 24, 2017 when the record closed. The penalty established by 3DCMR §3711.2 (q) for violating D.C. Official Code §1-1163.09 (c) (9) is a fine of \$50.00 per day for each business day of delinquency. Accordingly it is recommended that a fine of \$850.00 be imposed for seventeen (17) business days of delinquency for this violation.

**Finding # L Misstatement of Financial Activity**

D.C. Official Code §1-1163.09 (c) (7), provides that, “[E]ach report under this section shall disclose... the total sum of all receipts by or for a committee or candidate during the reporting period.” Additionally, D.C. Official Code §1-1163.09(c) (9) provides that, “[E]ach report under this section shall disclose... the total sum of all expenditures by or for a committee or candidate during the calendar year.” 3 DCMR §3400.2 provides that “[E]ach person who is required to file records under § 3400.1 shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures disclosed in reports and statements filed with the Director...”

Based on the foregoing, we find the Committee in violation of D.C. Official Code§ §1-1163.09 (c) (7) and (9) and 3 DCMR §3400.2. The Committee was found non-compliant pursuant to the Audit Report issued on March 30, 2017 and remained non-compliant through April 24, 2017 when the record closed. The penalty established by 3DCMR §3711.2 (q) for violating D.C.

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Official Code §§1-1163.09 (c) (7) and (9) and 3 DCMR §3400.2 is a fine of \$50.00 per day for each business day of delinquency. Accordingly it is recommended that a fine of \$850.00 be imposed for seventeen (17) business days of delinquency for this violation.

In conclusion, the Committee's failure to produce documents that were essential to both the Audit and the adjudication of this matter reflects a pattern of irresponsible record keeping. This pattern clearly impaired the ability of the Committee to provide full, complete and accurate financial records and served to its detriment.

**IV. Recommendation**

In view of the foregoing and information included in the record, I hereby recommend that fines totaling \$5,100.00 be imposed on the Brandon Todd for Ward 4 Committee.

May 30, 2017  
Date

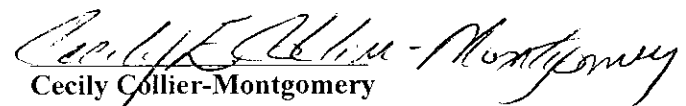
William O. Sanford  
William O. Sanford  
Hearing Officer

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**V. Order**

Based upon the foregoing findings of fact and conclusions of law, it is this 30<sup>th</sup> day of May, 2017:

**ORDERED**, that the Brandon Todd for Ward 4 Committee is hereby fined \$5,100.00 for violations of D.C. Official Code §§1-1163.08(a) and 1-1163.09 (c) (7) and (9) respectively and 3 DCMR §3400.2.

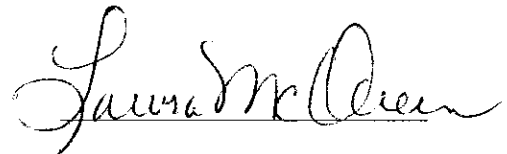
  
Cecily Collier-Montgomery  
Director

This Order may be appealed to the Board of Elections within 15 days from the date of issuance.

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**SERVICE OF ORDER**

This is to certify that I have served a true copy of the foregoing Order on the Honorable Brandon Todd by regular mail at 1312 Iris Street, NW Washington, DC 20012 and by email at brandonttodd@gmail.com; Benjamin M. Soto, Esq., by regular mail at 3407 14<sup>th</sup> Street, NW Washington, DC 20010 and by email at bsoto@premiumtitlellc.com and Thorn Pozen, Esq., by regular mail at 1625 K Street NW, Suite 700, Washington, DC 20006 and by email at tpozen@gmpllp.com May 30, 2017.

A handwritten signature in cursive script, reading "Laura M. Allen". The signature is written in black ink and is positioned to the right of the main text block.

**NOTICE**

Any party adversely affected by any Order of the Director may: (1) file a Motion for Reconsideration (Motion) with OCF within five (5) days after receipt of an Order, provided that, relevant evidence was omitted from consideration at hearing (3DCMR §3709.13)(May 2015); or obtain review of the Order by filing a request for a **hearing de novo** with the Board of Elections within fifteen (15) days from the date of issuance of an Order. Any fine imposed by the Director, pursuant to 3DCMR §3711.2, shall become effective on the 16<sup>th</sup> day following the issuance of a decision and order (3DCMR§3711.6); provided that, the Respondent does not request a **hearing de novo**, pursuant to 3DCMR §3709.11. Fines imposed shall be paid within ten (10) days of the effective date of the issued Order of the Director. Make a payment by check or money order payable to the District of Columbia Treasurer. Send payment to the Office of Campaign Finance, Frank D. Reeves Municipal Building, 2000 – 14<sup>th</sup> Street, NW, Suite 433, Washington, D.C. 20009.