

**CITY OF PITTSBURGH
ETHICS HEARING BOARD**

IN RE:

DARLENE HARRIS,

Respondent.

No.: 04-CFO-2017

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL ORDER

FILED ON BEHALF OF:

City of Pittsburgh
Ethics Hearing Board

COMPLAINANT:

Linda A. King, Executive Manager

COUNSEL FOR COMPLAINANT:

Falco Muscante, Esquire

RESPONDENT:

Darlene Harris

COUNSEL FOR RESPONDENT:

James R. Burn, Jr., Esquire

HEARING OFFICER:

William F. Ward, Esquire

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

AND NOW comes the CITY OF PITTSBURGH ETHICS HEARING BOARD, (“the Ethics Hearing Board”), having conducted a Public Hearing on December 19, 2017, pursuant to Pittsburgh Ordinance 38-2015, Title I, Article XI, Chapter 198 of the Pittsburgh Code (the “Ordinance”), and issues the following Findings of Fact, Conclusions of Law and Final Order as hereinafter set forth:

I. FINDINGS OF FACT

1. Darlene Harris, Respondent, is an adult individual residing at 1012 Buente Street, Pittsburgh, PA 15212.
2. Linda A. King, Complainant, is the Executive Manager of the Ethics Hearing Board, located at 328 City-County Building, 414 Grant Street, Pittsburgh, PA 15219.
3. Complainant submitted undisputed evidence that Respondent circulated nominating petitions identifying herself as a candidate for Mayor of the City of Pittsburgh.
4. On March 7, 2017, Respondent filed her nominating petitions with the Allegheny County Department of Administrative Services, Elections Division.
5. On March 20, 2017, Complainant, acting on behalf of the Ethics Hearing Board, sent Respondent a letter advising her of the need to file Campaign Finance Reports with the Ethics Hearing Board pursuant to the Ordinance.
6. Complainant submitted undisputed evidence that Respondent’s name appeared on the primary election ballot as a candidate for the office of Mayor.

7. Following an investigation conducted by the Office of the Ethics Hearing Board, it was preliminarily determined that Respondent had failed to file the required Campaign Finance Reports.

8. By letter dated May 12, 2017, the Ethics Hearing Board notified Respondent of her non-compliance with the Ordinance and issued a tentative fine of up to \$1,000.00.

9. On May 24, 2017, Respondent's attorney objected in writing to the imposition of the tentative fine. Accordingly, the Ethics Hearing Board scheduled a Public Hearing for September 27, 2017. At that hearing, Respondent presented a legal challenge to the Ordinance at issue and was Ordered to submit a written Motion and Brief in support of her position.

10. On October 11, 2017, Respondent timely filed her Motion to Dismiss Fine Levied Against Petitioner Darlene Harris as Unenforceable and Brief in support thereof.

11. On October 25, 2017, Complainant filed her Brief in Opposition.

12. On November 17, 2017, the Hearing Officer denied Respondent's Motion.

13. A new hearing date was scheduled for December 19, 2017, at which time the hearing proceeded and the parties submitted their cases.

14. Respondent, through her counsel, admitted that she did not file any Campaign Finance Reports after receiving the March 20, 2017 letter.

15. Respondent did not submit any evidence in defense of the Complaint nor did she testify in the matter.

16. As of the date of the issuance of these Findings of Fact, Conclusions of Law and Final Order, Respondent has not filed the Campaign Finance Reports required by the Ordinance.

17. In determining the penalty to be imposed, the Ethics Hearing Board has taken into consideration that Respondent knew of the existence of Ordinance and the obligations set forth thereunder because she was a member of the Pittsburgh City Council when the Ordinance was passed. Notwithstanding, Respondent knowingly failed to comply with the requirements of the Ordinance.

CONCLUSIONS OF LAW

18. Respondent was a candidate for City elected office, as defined by the Ordinance. (“The offices of Mayor, City Controller and City Council” are defined by Section 198.01(a) as City Elected Offices).

19. The Ethics Hearing Board does not need to decide for purposes of this Order whether Respondent became a candidate on February 14, 2017, when she began circulating nominating petitions, or on March 7, 2017, when she filed her nominating petitions with the Allegheny County Department of Administrative Services, Elections Division, and thus it does not.

20. Respondent was obligated under Section 198.05(a) of the Ordinance to provide Campaign Finance Reports in the form mandated by the regular Allegheny County Board of Elections pre-primary reporting forms and procedures to the Ethics Hearing Board on the first business day of each of the five months prior to election day during which she was a candidate for City elected office.

21. Notwithstanding Respondent’s legal challenge to the law requiring her to file Campaign Finance Reports, she was still required to file the reports.

III. FINAL ORDER

Following consideration by the Ethics Hearing Board of the sworn testimony heard and evidence admitted during the Public Hearing convened on December 19, 2017, to examine whether Respondent had complied with the Ordinance, the Ethics Hearing Board finds unanimously, based on clear and convincing evidence, in favor of Complainant and against Respondent that Respondent failed to comply with the requirements of the Ordinance. The Ethics Hearing Board further determines:

1. Respondent must now comply with the requirements of the Ordinance by filing with the Ethics Hearing Board the Campaign Finance Reports in the form mandated by the regular Allegheny County Board of Elections pre-primary reporting forms and procedures. Said Campaign Finance Reports shall be filed within 20 days from the date of this decision.

2. Due to the considerations set forth in Paragraph 17, Respondent is Ordered to pay a fine in the amount of One Thousand Dollars (\$1,000.00) to the City of Pittsburgh.

3. The fine imposed hereunder shall be paid within 30 days from the date of this Order and sent to the Offices of the Ethics Hearing Board.

Respectfully submitted,

CITY OF PITTSBURGH
ETHICS HEARING BOARD

1 February 2018
Dated


By: Amy McCall, Chairperson