

**CITY OF PITTSBURGH
ETHICS HEARING BOARD**

IN RE:

MARK JOHNSON,

Respondent.

No.: 03-CFO-0017

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:

Mark Johnson, *Pro Se*

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. Mark Johnson, Respondent, is an adult individual residing at 2105 Broadway Avenue, Pittsburgh, PA 15216.

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. Respondent testified that he circulated nominating petitions identifying himself as a candidate for Member of Council, District 4.

4. On March 7, 2017, Respondent filed his 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 him of the need to file Campaign Finance Reports with the Ethics Hearing Board pursuant to the Ordinance.

6. By Order of Court dated March 22, 2017 and signed by Judge Joseph James of the Court of Common Pleas of Allegheny County, Respondent was removed from the

primary election ballot because he did not have a sufficient number of signatures on his nominating petitions.

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 Report.

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

9. On May 15, 2017, Respondent 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 his position.

10. On October 8, 2017, Respondent timely filed his Motion to Dismiss, or in the Alternative, to Limit Maximum Fine and Brief in support thereof.

11. On October 16, 2017, Complainant filed her Brief in Opposition.

12. On November 10, 2017, the Hearing Officer denied Respondent's Motions.

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 admitted that he did not file any Campaign Finance Reports after receiving the March 20, 2017 letter.

15. Respondent admitted that he was able to locate the form that he was required to file but claimed to have been confused about when the Campaign Finance Report was to be filed with the Ethics Hearing Board because the directions that appeared on the form

were different from the instructions he received from the Ethics Hearing Board in the letter of March 20, 2017.

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 Report required by the Ordinance.

17. In determining the penalty to be imposed, the Ethics Hearing Board is taking into consideration that: a) Respondent admits receiving the March 20, 2017 letter; b) Respondent was removed from the ballot on March 22, 2017; and c) that he testified that he was confused about when his Campaign Finance Reports were to be filed with the Ethics Hearing Board.

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 20, 2017, when he began circulating nominating petitions, or on March 7, 2017, when he filed his 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(1) of the Ordinance to provide a Campaign Finance Report 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 he was a candidate for City elected office.

21. Notwithstanding Respondent's removal from the ballot by Court Order, he was still required to file at least one Campaign Finance Report.

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 a Campaign Finance Report in the form mandated by the regular Allegheny County Board of Elections pre-primary reporting forms and procedures. Said Campaign Finance Report shall be filed within 20 days from the date of this decision.

2. If Respondent properly files his Campaign Finance Report within 20 days as set forth in Paragraph 1, Respondent's fine shall be reduced to One Hundred Dollars (\$100.00) due to the considerations set forth in Paragraph 17.

3. If Respondent does not properly file his Campaign Finance Report within the 20 day period set out in Paragraph 1, then Respondent's fine shall be in the amount of One Thousand Dollars (\$1,000.00) as originally determined.

4. The fine imposed hereunder shall be paid within 30 days from the date of this Order to the City of Pittsburgh 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