CITY OF PITTSBURGH
ETHICS HEARING BOARD

IN RE:

MARK BRENTLEY, SR.,

Respondent.

No.: 19-C-0025

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND FINAL ORDER

FILED ON BEHALF OF:

City of Pittsburgh Ethics Hearing Board

APPEARANCES:

COMPLAINANT:

City of Pittsburgh Ethics Hearing Board
328 City-County Building
414 Grant Street
Pittsburgh, PA 15219

COUNSEL FOR COMPLAINANT:

Julie Koren, Esquire
Pittsburgh City Law Department
414 Grant Street, Suite 313
Pittsburgh, PA 15219

RESPONDENT:

Mark Brentley, Sr.
14 Foster Square
Pittsburgh, PA 15212

HEARING OFFICER:

Hon. William F. Ward
Rothman Gordon, P.C.
310 Grant Street
Pittsburgh, PA 15219

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AND NOW, the City of Pittsburgh Ethics Hearing Board ("the Board"), having considered the complaint, and the Public Hearing Subcommittee ("the Hearing Panel")'s finding of a violation following its consideration of the stipulations, exhibits and oral argument presented at a Public Hearing held on November 20, 2019 ("the Hearing"), conducted pursuant to Pittsburgh City Code Ordinance, Title I, Article XI, Chapter 197 *et seq.* ("the Ethics Code," "Code" or "Ordinance"), accepts the Hearing Panel's following Findings of Fact and Conclusions of Law, and issues this Final Order:

I. FINDINGS OF FACT

1. The Complainant herein is the City of Pittsburgh Ethics Hearing Board ("the Board"), which is located at 328 City-County Building, 414 Grant Street, Pittsburgh, PA, 15219. Leanne Davis ("Davis") is the Executive Manager of the Board. *See* Mark Brentley, Sr. Exhibit 8 (hereinafter, "MB Exhibit __").

2. Mark Brentley, Sr. ("Brentley" or "Respondent"), is an adult individual residing in Pittsburgh, PA 15212.

3. Per campaign website information or public records filed with the County, the Respondent provided his address of 14 Foster Square. *See* the Transcript of Mark Brentley, Sr. of November 20, 2019 ("Transcript"), at Page 18.

4. On or about March 7, 2019, Brentley was a candidate for City-elected office to serve as a member of Council District 1. MB Exhibit 6.

5. By letter dated March 7, 2019, Davis, on behalf of the Board, gave notice to the Respondent of the Ordinance, and his obligations thereunder, prior to the occurrence of any violation for any failure to act. MB Exhibit 9. With that letter, Davis also provided the Respondent with a full copy of Chapter 198 of the Pittsburgh City Code regarding Campaign Finance Regulations. *Id.* Davis reminded the Respondent of, among other things, the obligation for Brentley and his candidate committee to file Campaign Finance Reports with the Board, pursuant to Pittsburgh Ordinance 38-2015, in addition to continuing to file reports with the County. The letter from Davis also set forth the deadlines for the campaign finance reports to be filed with the Board before the primary election: March 1, 2019; April 1, 2019; and May 1, 2019. *Id.*

6. Davis provided reminder correspondence to the Respondent, and offered to assist as needed. MB Exhibits 10, 11, 12; Transcript Pages 40-44.

7. The Ethics Office serves as the repository for the filing of Campaign Finance Reports. Transcript Page 8.

8. The Respondent did not file any Campaign Finance Statement, Report or Schedule with the Board by May 1, 2019. The Respondent submitted a deficient filing on May 15, 2019. MB Exhibit 16; Transcript Pages 35-36.

9. On or about May 9, 2019, Davis, on behalf of the Board, sent a Notice of Penalty letter to the Respondent. This letter provides that the Respondent is being assessed a late filing fee, pursuant to Section 198.06(4), and such fee would continue to accrue until the required report was filed. MB Exhibit 14.

10. On July 26, 2019, the Board filed a self-initiated complaint against the Respondent alleging the failure to file the required Campaign Finance Reports with the Ethics Hearing Board, pursuant to Section 198.05 of the Pittsburgh Code (the "Complaint"). MB Exhibit 8; Transcript at page 35-36.

11. On August 9, 2019, Davis sent a letter, together with a copy of the Complaint, to the Respondent. Transcript Page 56. The letter states, among other things, that if the Respondent filed the required campaign finance reports with the Board on or before Monday, August 26, 2019, "this matter will be closed." Transcript Page 57.

12. The Complaint was properly processed in accordance with Section 197.12 of the Pittsburgh Code and the Board's Procedure, Rules and Regulations. The Complaint was reviewed by the Probable Cause Panel, which ultimately determined this case should proceed to a Public Hearing. Transcript Page 23-26.

13. By letter dated October 3, 2019, Davis advised the Respondent that a Public Hearing had been scheduled for November 20, 2019. This letter reiterated the penalty involved and invited the Respondent to resolve the matter. MB Exhibit 21.

14. During the Hearing conducted on November 20, 2019, pursuant to Section 197.16(a) of the Pittsburgh Code, the parties provided information to assist the Hearing Panel's deliberations as to an appropriate penalty, such as: the severity of the subject's offense; the position and responsibilities of the subject; the presence or absence of any intention on the part of the

subject to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern. Davis testified that Brentley was aware of the penalties associated with failing to file his campaign finance reports. Transcript Page 74. Further, Brentley, in a phone conversation, stated that filing his campaign finance forms was not a priority for him. MB Exhibit 20. The Respondent, in a statement before the Hearing Panel, argued that he had complied with all Allegheny County Department of Elections filing requirements for candidates. Transcript Page 77. The Respondent further stated that he is aware that a current City Council member has not filed campaign finance reports. *Id.* The Respondent slammed his hand on the table and left the proceedings prior to their termination. Transcript Page 85.

15. As of the date of this Order, the Respondent has filed a deficient Total Contributions form, but none of the other Campaign Finance Reports required by the Pittsburgh City Code. Accordingly, the Hearing Panel finds unanimously, by clear and convincing evidence, that the Respondent knowingly and willfully violated the Pittsburgh City Code as charged.

16. In determining the penalty to be imposed, the Board has taken into consideration certain factors, including but not limited to:

a. The Respondent's knowledge of the existence of the Ordinance and the obligations set forth thereunder;

b. The notices provided to the Respondent by the Executive Manager in 2019;

c. The Respondent's continuing refusal to file a sufficient Campaign Finance Report, namely, between May 1, 2019, and November 20, 2019, for a total of 203 days; Transcript Page 72; and

d. The deliberate nature of this violation.

II. CONCLUSIONS OF LAW

1. Pursuant to Section 197.12(c)(5) of the Ordinance, the Hearing Panel has the authority to issue final orders on behalf the Board.

2. In 2019, Respondent was a candidate for City elected office, as defined by Section 198.01(a) of the Ordinance.

3. Respondent was obligated under Section 198.05(1) of the Ordinance to provide Campaign Finance Reports in the form mandated by the Allegheny County Board of Elections pre-primary reporting forms and the Board's procedures on the first business day of each of the three months prior to the Primary Election Day during which she was a candidate for City elected office. Thus, the deadline for the filing of Campaign Finance Reports was May 1, 2019.

4. Notwithstanding Respondent's legal argument regarding the law requiring him to file Campaign Finance Reports, Brentley nonetheless was required to file the mandated reports.

5. Following consideration of the evidence and after careful deliberation, the Hearing Panel concludes unanimously that the Respondent knowingly and willfully violated the Pittsburgh City Code as charged, in violation of Section 198.05(1) of the Ordinance.

6. Under Section 198.06(4) of the Ordinance, the Board may levy a fine of up to $50.00 per day for the late filing of reports required under Section 198.05(1). The Board may levy a fine of up to $10,150.00 for the 203 days that the Respondent refused, or otherwise failed, to file the required Campaign Finance Reports.

III. FINAL ORDER

AND, NOW, to wit, this 13th day of April 2020, upon consideration of: the Complaint; the stipulations and documentary evidence admitted during the Hearing held on November 20, 2019; the oral arguments of counsel; and the Hearing Panel's finding that the Respondent, Mark Brentley, Sr., violated Chapter 198 of the Ethics Code; the Ethics Hearing Board, in accordance with Section 197.09(g) exercises its discretion and imposes the following action:

> **For failing to properly file campaign finance reports due May 1, 2019, the Respondent, Mark Brentley, Sr., shall pay a fine of $500 and submit completed reports on or before 30 calendar days from the date of this order. In the event Respondent fails to submit completed reports or make a timely payment to the Ethics Office as set forth herein, then, in addition to the fine, the penalty of $515 (for a total fine of $1,015) shall be imposed and immediately due.**

Due to the Covid-19 pandemic, the Board is extending the above deadlines by an additional 240 days. Therefore, instead of the first deadline being 30 days from the date of this Order, it is now due 270 days from the date this Order is signed.

The fine imposed hereunder shall be paid by check or money order and made payable to "Treasurer, City of Pittsburgh" and sent to the offices of the City of Pittsburgh Ethics Hearing Board, located in the City-County building at 414 Grant Street, Pittsburgh, PA 15219.

Respectfully submitted,

CITY OF PITTSBURGH
ETHICS HEARING BOARD

April 13, 2020
Dated

/s/Alex Matthews
By: Alex Matthews, Chair