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CITY AND COUNTY OF HONOLULU
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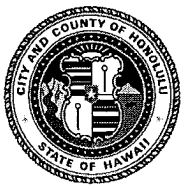

PETER B. CARLISLE
MAYOR

CHARLES W. TOTTO
EXECUTIVE DIRECTOR & LEGAL COUNSEL

Advisory Opinion No. 2012-8

I. SUMMARY

A city officer failed to file her annual financial disclosure form after Notice of Violation and Hearing in violation of Revised Ordinances of Honolulu ("ROH") Sec. 3-8.4(b), (f). As a result, The Ethics Commission imposes a fine of $100 on the city officer pursuant to ROH Sec. 3-8.4(f).

II. FACTUAL BACKGROUND

Ms. Dita Holifield, is a member of the Commission on Culture and the Arts, and is therefore a city officer. She was required to file an annual financial disclosure form on January 31, 2012 pursuant to ROH Sec. 3-8.4(f)(1)(A). She failed to do so.

On August 8, 2012, Commission staff sent a Notice of Violation to Ms. Holifield via email pursuant to ROH Secs. 3-8.4(f)(1)(A). I response to the Notice, Ms. Holifield called staff and stated that she would send in her disclosure form within the ten day period. She failed to do so.

On September 18, 2012, Commission staff sent Ms. Holifield a Notice of Hearing for Order to Show Cause why she should not be fined $100 for failure to file her financial disclosure file via email and certified mail pursuant to ROH Sec. 3-8.4(f)(1)(A) and HRS Sec. 91-9.5. Ms. Holifield failed to turn in the annual financial disclosure form.

On October 1, 2012, Ms. Holifield failed to appear at the Hearing for Order to Show Cause.

III. ANALYSIS

ROH Sec. 3-8.4(f)(1)(B) provides: "Any officer or employee of the city who fails to file a financial disclosure as required in this section within 30 days from receipt of the notice of violation shall in addition to any civil fines imposed ($100 for the first late filing), be subject to the provisions of section 3-8.5 which allows for imposition of additional civil fines based on a review of the totality of the circumstances."

Ms. Holifield failed to file a financial disclosure as required within 30 days from receipt of the notice of violation and failed to even appear at the hearing. However, since this is the first time she has failed to file a financial disclosure, the Commission shall initially impose a fine of $100 on Ms. Holifield. Ms. Holifield shall be given notice of the civil fine and the requirement that she file her annual financial disclosure form by November 15, 2012. If Ms. Holifield fails to file a financial disclosure form by November 15, 2012, the Commission shall impose a $200 fine on Ms. Holifield.

IV. CONCLUSION

The Commission finds the following:

(1) Ms. Holifield is in violation of ROH Sec. 3-8.4(f)(1)(A) for failing to file a financial disclosure form for calendar year 2011.

(2) The Commission imposes a civil fine on Ms. Holifield in the amount of $100 pursuant to ROH Sec. 3-8.4(f)(1)(A) that is due forthwith.

(3) The Commission imposes a civil fine on Ms. Holifield in the amount of $200 pursuant to ROH Secs. 3-8.4(f)(1)(A), (B), and 3-8.5, if Ms. Holifield fails to file her annual financial disclosure form by November 15, 2012.

DATED: OCTOBER 23, 2012

APPROVED:

CHARLES W. GALL, CHAIR

APPROVED AS TO FORM:

CHARLES W. TOTTO, EXECUTIVE DIRECTOR AND LEGAL COUNSEL