

BEFORE THE DELAWARE STATE FIRE COMMISSION

In re: Odessa Fire Company

ORDER

At its meeting on November 19, 2019, the Delaware State Fire Prevention Commission received a report indicating that the Odessa Fire Company (“OFC”) was late in annual financial audit, otherwise due November 15, 2019, *see* 16 *Del. C.* § 6608 and 1 DE ADMIN. CODE 708.4.1, and OFC was referred to show cause at the Commission’s next regularly scheduled meeting as to why it was late with its audit. On December 17, 2019, the Commission held a Rule to Show Cause Hearing.

Summary of the Evidence

Scott Dunkleberger testified on behalf of OFC. In 2018, OFC removed the Chief of the fire company due to issues relating to the use of a OFC credit card. Then the acting fire chief was suspended and it was determined credit card receipts from the acting chief that were missing. There was also an investigation relating to a failure to make payroll in November 2018. Dunkleberger corresponded with his auditor to get audit completed timely. The auditor communicated with the Commission and took responsibility for failing to comply with the audit. OFC used the same auditor last period without any issues.

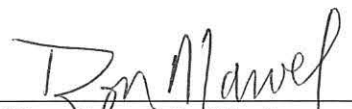
The audit was submitted November 23, 2019.

Findings of Fact and Conclusions of Law

Each Delaware fire company is required to submit an annual financial audit for review to the Commission pursuant to 16 *Del. C.* § 6608. The Commission is empowered to promulgate regulations governing the audit process, including “specifying the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audit.” 16 *Del. C.* § 6608(a). The statute further provides that the Commission has the authority, after a hearing, to impose a civil penalty of up to \$100 for each day a fire company fails to comply with any regulation promulgated under Section 6608.

Here, OFC submitted its audit on November 23, 2019. A majority of the Commissions concluded at the December 17, 2019 hearing that OFC’s inability to submit a timely audit was not due to a hardship as defined by the Commission’s regulation. OFC did not meet its burden to demonstrate how the failure to timely submit its audit was not within their control. After due consideration, the Commission determined that a \$700 fine is appropriate and hereby orders this fine to be imposed.

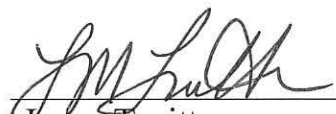
IT IS SO ORDERED, this 17th day of January, 2020 by the Commission:



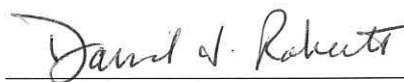
Ron Marvel, Chairman



Alan Robinson, Jr. Vice Chairman



Lynn Truitt



David J. Roberts



Joe Leonetti, Sr.



Bill Betts



William Kelly