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IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

KEN ZUREK,)	
)	
Petitioner/Appellant <i>pro se</i> ,)	
)	Appeal from
v.)	the Illinois State
)	Board of Elections
ILLINOIS STATE BOARD OF ELECTIONS, FRIENDS OF BARRETT)	
F. PEDERSEN, DEMOCRATIC PARTY OF LEYDEN TOWNSHIP,)	11 CD 025
AND BARRETT F. PEDERSEN,)	
)	
Respondents/Appellees)	

JUSTICE McBRIDE delivered the judgment of the court.
Presiding Justice Quinn and Justice Palmer concurred in the judgment.

O R D E R

HELD: Where conclusions drawn by administrative agency's board were supported by record, they were affirmed; but conclusions that were not explained by record on appeal were remanded for further proceedings.

¶ 1 Petitioner *pro se* Ken Zurek, a resident of Franklin Park, Illinois, appeals from an order of the Illinois State Board of Elections (hereinafter Board) dismissing his complaint against respondents political committee Friends of Barrett F. Pedersen (hereinafter political committee), Democratic Party of Leyden Township (hereinafter political party), and Franklin Park's mayor,

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Barrett F. Pedersen. On appeal, Zurek contends this court should reverse the board's dismissal of his complaint and remand for further proceedings regarding various political contributions and expenditures in early 2011.

¶ 2 On May 2, 2011, Zurek filed a three-count complaint with the Board, alleging in Count I that the 2011 first quarterly report (January 1, 2011 to March 31, 2011) filed by the political committee and its candidate or treasurer, Pedersen, contained false and incomplete information regarding seven contributors, in violation of the Illinois Election Code. 10 ILCS 5/1-1 *et seq.* (West 2010) (hereinafter Code). Zurek claimed that the quarterly report falsely disclosed the occupations and employers of four contributors, the mailing addresses of two others, and the source of a \$250 contribution, and that these were violations of Code sections 9-7(b) (treasurer shall keep account of every contributor's full name and mailing address), 9-11(a)(4) (treasurer's quarterly report shall disclose name and mailing address of contributors over \$150 and also occupation and employer of contributors over \$500), 9-11(e) (every financial reports shall be verified, dated, and signed by the candidate or treasurer as "true, correct, and complete"), and 9-26 (the State's Attorney or the Attorney General may prosecute willful failure to file or filing of false or incomplete information). 10 ILCS 5/9-7(b), 9-11(e), 9-26 (West 2010). Based on these purported "willful violations of the Campaign Disclosure Act," Zurek sought an audit and the imposition of fines on the committee.

¶ 3 In Count II, Zurek claimed that all three respondents violated the Code with respect to reporting certain costs and in-kind contributions. He alleged the party and Pedersen did not disclose that the party and committee used Pedersen's office space at 9701 Grand Avenue, the

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party did not disclose its website and phone expenses, and the party and committee did not disclose that "printed campaign materials" the committee bought for three candidates running for the position of village trustee listed the party's telephone number as a contact number (the actual use of the telephone number being an in-kind contribution). Zurek claimed that the failure to disclose these contributions and expenditures were violations of Code sections 9-6(b) (within 5 days of contributing goods or services to a political committee, the contributor shall give the treasurer a detailed account), 9-7(a) (a political committee shall keep a detailed account of all contributions made to or for the committee), 9-7(c) (a political committee shall keep a detailed account of all expenditures made by or on behalf of the committee), and 9-11 (a)(12) (the committee's quarterly report shall disclose persons to whom expenditures were made in excess of \$150). 10 ILCS 5/9-6(b), 9-7, 9-11 (West 2010). Based on these additional alleged "willful violations of the Campaign Disclosure Act," Zurek sought an audit and the imposition of fines on the committee and the political party.

¶ 4 In Count III, Zurek claimed that the committee paid a marketing company \$2,772.78 to produce and mail Pedersen's personal Christmas card in violation of Code sections 9-11(e) (every financial report shall be verified, dated, and signed by candidate or committee treasurer as "true, correct, and complete") and 9-1.5(a)(1) (defining expenditure). 10 ILCS 5/9-1.5(a)(1), 9-11(e) (West 2010). Zurek claimed that the expenditure also "strongly suggests a design and intent to evade and defeat federal income tax laws thereby violating [section 9-8.10(a)(1) of the Code], which prohibits the expenditure of political committee funds in violation of any law of the United States." Based on these further alleged "willful violations of the Campaign Disclosure

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Act," Zurek sought an audit and the imposition of fines on the committee.

¶ 5 Once a complaint is filed, a closed preliminary hearing is conducted by a hearing officer "to elicit evidence on whether the complaint was filed on justifiable grounds and has some basis in fact and law." 26 Ill. Adm. Code § 125.245 (2011) (hearing officer shall be appointed and closed preliminary hearing shall be ordered), 26 Ill. Adm. Code § 125.252 (2011) (scope of preliminary hearing); see also 10 ILCS 5/9-21 (West 2010) (upon receipt of complaint, a closed preliminary hearing shall be conducted).

¶ 6 The general counsel for the Board reviews the hearing officer's recommendation and the evidence presented at the closed preliminary hearing. 26 Ill. Adm. Code § 125.253 (2011) (responsibilities of the general counsel). The general counsel then makes his or her own recommendation to the Board. 26 Ill. Adm. Code § 125.253 (2011).

¶ 7 The Board must decide whether the complaint was filed on justifiable grounds. 26 Ill. Adm. Code § 125.262(a) (2011). "If the Board determines that the complaint was filed on justifiable grounds, and if the respondent is unwilling to take action necessary to correct the violation or refrain from the conduct giving rise to the violation, it shall order a public hearing ***." 26 Ill. Adm. Code § 125.262(a) (2011). "If the Board fails to determine that the complaint has been filed on justifiable grounds, it shall dismiss the complaint without further hearing." 10 ILCS 5/9-21 (West 2004); *Cook County Republican Party v. Illinois State Board of Elections*, 232 Ill.2d 231, 239-40, 902 N.E.2d 652, 658 (2009) (interpreting the statutory language as amended in 2003). A dismissed complaint can be appealed directly to the appellate court. 10 ILCS 5/9-22 (West 2010).

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¶ 8 A hearing officer for the Board conducted a closed preliminary hearing in Chicago on June 2, 2011, and on June 9, 2011, filed a written report in which he summarized the proceedings and offered recommendations to the Board. With respect to Count I, the respondents' attorney had indicated at the closed preliminary hearing that the committee's quarterly report was prepared by an outside accountant and that the seven identified errors regarding campaign contributors had been corrected by the filing of an amended quarterly report on June 1, 2011. With respect to Counts II and III, the respondents' attorney argued that no actual violations had occurred. The respondents' attorney contended there was no requirement to report an in-kind contribution for use of the party's phone number because there was no proof of any additional cost, and if there was a cost, it would have been minimal at most. Also, Zurek had not met his burden of proof in relation to the web site. The respondents' attorney further contended that the space used by the committee at 9701 West Grand Avenue was in the basement of the office building and was not rented, and that Pedersen owned the building and was not obligated to report use of this personal property any more than he was required to report the use of his residential dining room for committee meetings. See 10 ILCS 5/9-1.5 (West 2010) (indicating an expenditure does not include "the use of real ***property*** voluntarily provided *** on the individual's residential premises for candidate-related activities). Regarding the holiday card, the respondents' attorney contended the large cost associated with it clearly indicated it was not a personal greeting sent to family members and friends and that it had been distributed to a political mailing list; it was common practice for public officials to send holiday cards; and the card included a disclaimer about the source of the funds.

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¶ 9 The hearing officer first concluded "a couple of instances of misreporting were shown by the Complainant, but he did not provide sufficient material or information to support a finding that the [party's] treasurer did not overall maintain a detailed account of the full name and mailing address of every person making contribution to the Committee." The hearing officer recommended that the Board not proceed to public hearing on this allegation against the party. With respect to the other contributor errors, the hearing officer concluded the amended quarterly report brought the committee into compliance, there was insufficient evidence Pedersen willfully filed a false or incomplete report, and no public hearing was necessary. With regard to the committee's "use" of the party's telephone number on campaign materials, the hearing officer indicated it was still unclear if the party incurred any additional costs and that the matter should be addressed by the Board. The allegation regarding the costs of the party's telephone service and website also warranted further proceedings. As for the office space at 9701 West Grand Avenue, the hearing officer did not consider ownership relevant and recommended that the Board determine the rental value, if any, and whether this constituted an in kind contribution that needed to be itemized. With respect to the greeting card, the hearing officer determined this was not a personal expense. He also concluded that neither Pedersen nor the committee should be penalized for what was a common and legal practice, but the party should have been specifically disclosed on the card as the source of the campaign material and, therefore, the party should be warned that repeat offense would result in a penalty not to exceed \$5,000.

¶ 10 Later that same month, on June 30, 2011, the political committee filed a second amended quarterly report, this time indicating that Pedersen regularly lent funds to the committee

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to pay their rent and telephone expenses. When informed there was an amended filing, the Board remanded the matter to the hearing officer for further review. The hearing officer invited amended arguments.

¶ 11 On August 2, 2011, after considering the parties' submissions, the hearing officer issued a supplemental report concluding that his recommendations were unchanged. He reasoned, for example, although the loans from Petersen could explain the committee's use of the office basement, Zurek provided county deed records indicating the building was owned by The Jessica J. Pedersen Trust, thus, there was still a question about the expense accounting. The record indicates the general counsel again reviewed the case and made recommendations to the Board. Although the general counsel's specific recommendations were not provided to us, transcripts in the record and the parties' briefs indicate the general counsel concluded that no further action was necessary on Zurek's complaint. After considering all the materials, the Board issued a final order on August 19, 2011, concluding that no further action was required on Zurek's complaint.

¶ 12 Any party affected by a final order of the Board may file a written motion for reconsideration. 26 Ill. Adm. Code 125.440 (2011). Zurek filed a motion for reconsideration in which he argued the Board should nonetheless impose a civil penalty on the committee, issue a formal warning to the committee, and convene a public hearing on every issue identified by the hearing officer. On September 15, 2011, the Board's general counsel recommended that the motion for reconsideration be denied and no further action be taken because (1) the county deed records Zurek submitted indicated the office space was also owned by The Barrett F. Pedersen

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Trust, (2) section 100.10 of the campaign disclosure rules provided that a *de minimus* omission from a report shall not be deemed to be a willful filing of false or incomplete information (26 Ill. Adm. Code § 100.10 (2011)), and (3) the Board had verbally warned respondents' counsel at a board meeting on August 16, 2011, that a repeat violation would incur a civil penalty. On September 20, 2011, the Board denied Zurek's motion for reconsideration. Zurek appeals.

¶ 13 When the Board adopts reasons for dismissing a complaint from the general counsel's detailed recommendation and finds that there are no justifiable grounds to convene a public hearing, section 9-21 requires dismissal (10 ILCS 5/9-21 (West 2010)), and the Board's reasons are reviewed for clear error as to whether the complaint was factually and legally justified. See, e.g., *Cook County Republican Party*, 232 Ill. 2d at 244, 902 N.E.2d at 661; *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88, 606 N.E.2d 1111, 1117 (1992) (on administrative review, it is not the court's function to reweigh the evidence or make an independent determination of the facts). Zurek's appellate arguments concern issues raised in his motion for reconsideration. The clear error standard is a deferential one that allows for reversal only when the reviewing court has a definite and firm conviction that a mistake of law was made. *Cook County Republican Party*, 232 Ill. 2d at 245, 902 N.E.2d at 661. A finding is clearly erroneous when there may be some evidence to support it, but the evidence in the entirety leaves the reviewing court to conclude the agency erred. *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill.2d 380, 393, 763 N.E.2d 272, 280 (2001). The clearly erroneous standard provides some deference based upon the agency's experience and expertise in resolving matters within its ambit, and it falls between *de*

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novo review and manifest-weight-of-the-evidence review. *McKee v. Board of Trustees of the Champaign Police Pension Fund*, 367 Ill. App. 3d 538, 543, 855 N.E.2d 571, 575 (2006).

¶ 14 Zurek's first of six appellate contentions concerns the political party. He contends the Board improperly rejected the hearing officer's recommendation to convene a public hearing regarding ownership of 9701 West Grand Avenue. He contends the Board improperly based its ruling on "testimony" from the respondents' counsel at the Board meeting on August 16, 2011, to the effect that the property was owned by Pedersen. Zurek presented this argument in his motion to the Board to reconsider its final order, however, Zurek has been the only person or entity to characterize counsel's statements as testimony rather than the usual oral advocacy – neither the general counsel's subsequent recommendations to the Board on September 15, 2011, nor the transcript of the Board meeting conducted on September 19, 2011, substantiate that the respondents' counsel "testified" in this matter. Nonetheless, Zurek repeats this argument here and contends the Board erred because Comment 2 of Rule 3.7 of the Rules of Professional Conduct explains that "the trier of fact may be confused or misled by a lawyer serving as both advocate and witness" and that when a lawyer acts as a witness, the other party's rights may be prejudiced. Ill. S. Ct. R. Prof'l Conduct R. 3.7, Comment 2 (eff. Jan. 1, 2010). The advocate-witness rule itself states in part, "[a] lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness [unless the lawyer's testimony concerns an uncontested issue or legal services rendered or the lawyer's disqualification would work a substantial hardship to the client]." Ill. S. Ct. R. Prof'l Conduct R. 3.7(a) (eff. Jan. 1, 2010).

¶ 15 We find Zurek's argument unpersuasive because the record does not indicate that the

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respondents' counsel testified. The general counsel's recommendation to the Board to deny Zurek's motion for reconsideration, and, thus, the Board's ruling were actually based on a printout from the Cook County Recorder of Deeds which Zurek himself provided. The advocate-witness prohibition was not implicated. More specifically, the Board's general counsel wrote to the Board:

"It is true that the Recorder of Deeds records show that the property is currently owned by the Jessica J. Pedersen trust [as Zurek argues, but], it also shows that the property was owned by the Barrett F. Pedersen Trust as well. It is not uncommon for property to be jointly owned by multiple parties ***."

The general counsel went on to state that there was "insufficient evidence presented by the Complainant to show that Mr. Pedersen did not have *** a right [to rent the property and to receive monetary consideration in return for such rental], especially in light of the explicit representations of counsel."

¶ 16 Read in context, the general counsel's recommendation indicates that the printout Zurek tendered to show that the office building was owned by someone other than Pedersen (The Jessica J. Pedersen Trust) also showed that The Barrett F. Pedersen Trust was at least a part-owner. It would not have been testimony for the respondents' counsel to point out this fact and to urge the hearing officer to draw the obvious conclusion that Pedersen indirectly owned the property. The comment to Rule 3.7 that Zurek relies upon also explains, "A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on the evidence given by others." Ill. S. Ct. R. Prof'l Conduct R. 3.7(a), Comment 2

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(eff. Jan. 1, 2010). We do not construe the record to suggest that the Board treated the lawyer's statement as testimony or proof of any fact; nor do we read the record as an indication that the lawyer overstepped the ethical boundary. In his reply brief, Zurek argues the printout he tendered indicates Pedersen sold his interest to the Grand Avenue property on May 24, 2002, and therefore, Pedersen had no right to rent the space as indicated in the amended quarterly report. One problem with this argument is that it is being made for the first time in Zurek's appellate reply brief. This means the respondents have never had an opportunity to address it and the Board has never had an opportunity to consider it. It would be inappropriate for this court *of review* to reverse on this basis. *Cook County Board of Review v. Property Tax Appeal Board*, 395 Ill. App. 3d 776, 786, 918 N.E.2d 1174, 1182 (2009) (arguments or objections that are not made during the course of the administrative hearing process but instead are raised for the first time on review are deemed waived). We find the new argument has been waived. In any event, Zurek's new argument seems to be speculative, as well as incorrect, since his printout includes a transaction on December 27, 2002, in which the recorded grantor was "Pedersen Barrett F" (which is apparently either Pedersen or the trust bearing his name) and this is a date subsequent to when Zurek contends Pedersen no longer had any interest in the property. Zurek has failed to persuade us that the Board erred when it determined a public hearing regarding ownership of the real estate was unwarranted.

¶ 17 Even so, the general counsel's recommendations and Board's final order regarding the Grand Avenue office space give specific reasons for resolving the allegations against Pedersen and the committee, but not the political party. "A final administrative decision must

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articulate the grounds for *** [the agency's] decision so that a reviewing court can understand how the decision was reached and can render an intelligent review of that decision." *Violette v. Department of Healthcare and Family Services*, 388 Ill. App. 3d 1108, 1113, 904 N.E.2d 1229, 1234 (2009). Given that the record does not contain the Board's specific reasons for dismissing the allegations Zurek made against the political party, we remand with directions to the Board to provide the court with its reasoning on this issue. *Violette*, 388 Ill. App. 3d at 1113, 904 N.E.2d at 1234.

¶ 18 Zurek next contends there should have been a public hearing regarding the costs associated with the party's website and Pedersen's use of the party's telephone, however, the Board improperly read a *de minimus* exception into the terms of sections 9-6, 9-7, or 9-11 of the Code in order to find that no further proceedings were necessary. Zurek contends the Board's decision was contrary to the principle that statutes must be applied as they were written by the legislature. See *Ultsch v. Illinois Municipal Retirement Fund*, 226 Ill. 2d 169, 190, 874 N.E.2d 1, 13-14 (2007) (a court should apply plain and unambiguous statutory language and should not search for any subtle or not readily apparent meaning). Zurek has, however, failed to contend with the fact that the Code operates in conjunction with administrative rules and regulations that add the detail necessary to implement the statutory provisions. See 10 ILCS 5/9-15 (West 2010) (rules and regulations carry out the provisions of section 9 of the election statute). Although Zurek cites statutes which mandate detailed and exact disclosure of campaign contributions and expenditures, their companion administrative rule, 100.10, specifies, "Inadvertent error or omission of a *de minimus* nature in the completion of a report, statement or document shall not

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be deemed to be a 'wilful failure to file or a willful filing of a false or incomplete information' under Section 9-26 of the Election Code." 26 Ill. Adm. Code 100.10 (2011). It was thus anticipated that the Board could determine certain filing errors or omissions were inadvertent, *de minimus* statutory violations which did not warrant further proceedings. Zurek is not arguing that the evidence was lacking in this case or that the administrative rule was inapplicable; he simply disregards the administrative rule and then contends the Board overstepped its statutory authority. We do not find this persuasive. Nonetheless, because the record does not contain the Board's specific reasons for dismissing the allegations Zurek made about the political party's web services and telephone services, we remand with directions to the Board to specify the basis for its conclusion regarding the party. *Violette*, 388 Ill. App. 3d at 1113, 904 N.E.2d at 1234.

¶ 19 Zurek's next contention is that the Board should have imposed civil penalties on the committee because its original quarterly report contained misstatements about certain contributors' employers, occupations, or mailing addresses. Alternatively, he contends penalties were warranted when the hearing officer found "Mr. Pedersen [the signator of the committee's report] should have known or had an idea that the employers and occupations were not reported correctly," because, in effect, this was a finding that Pedersen knew or should have known that the original report was not "true, correct, and complete." Zurek points to similar wording in section 9-11(e) of the Code:

"(e) Each report shall be verified, dated, and signed by either the treasurer of the political committee or the candidate on whose behalf the report is filed and shall contain the following verification:

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I declare that this report (including any accompanying schedules and statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete report as required by Article 9 of the Election Code. I understand that willfully filing a false or incomplete statement is subject to a civil penalty of up to \$5,000.' " 10 ILCS 5/9-11(e) (West 2010).

Zurek also points to section 9-26 of the Code, which states: "Willful failure to file or willful filing of false or incomplete information required by this Article shall constitute a business offense subject to a fine of up to \$5,000." 10 ILCS 6/9-26 (West 2010). Zurek argues for the imposition of a fine up to \$5,000. He complains that in disregard of these statutes, the hearing officer wrote:

"[I]t is the opinion of the hearing officer that the complainant did not introduce sufficient evidence to determine that Mr. Pedersen willfully filed a false or incomplete report as these errors did not constitute a pattern of willful misreporting. Therefore, I recommend that this allegation be found to not have been filed on justifiable grounds and should not proceed to a public hearing."

He contends the hearing officer's position was adopted by the general counsel, and hence the Board. He argues there has been an erroneous construction of the statute, because the legislature's wording plainly does not require that there be a "pattern of wilful misreporting" and only that there have been a single instance of wilful filing of false or incomplete information. See *Ultsch*, 226 Ill. 2d at 190, 874 N.E.2d at 13-14 (a court should apply plain and unambiguous

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statutory language and should not search for any subtle or not readily apparent meaning). He contends that in Illinois "willful" is construed as utter indifference to or conscious disregard and that Pedersen demonstrated the requisite utter indifference to or conscious disregard for his legal duty to file a true, accurate, and complete report. See 745 ILCS 10.1-210 (West 2010) (defining 'willful and wanton conduct' as used in the Local Governmental and Governmental Employees Tort Immunity Act as "a course of action which shows an actual or deliberate intention to cause harm or which, if not intentional, shows an utter indifference to or conscious disregard for the safety of others or their property"); *Pfister v. Shusta*, 167 Ill. 2d 417, 421, 657 N.E.2d 1013, 1015 (1995) (indicating that in a negligence action, willful and wanton conduct is somewhere between ordinary negligence and intentional wrongdoing and is defined by Illinois courts and legislature as "a course of action which shows actual or deliberate intent to harm or which, if the course of action is not intentional, shows an utter indifference to or conscious disregard a person's own safety or the safety or property of others").

¶ 20 The respondents point out that Pedersen acknowledged there were mistakes or omissions in the original report and that the committee filed an amended quarterly report correcting all of the identified errors. Even so, under Zurek's interpretation of the statute, filing a report which has minor and subsequently corrected mistakes or omissions would be treated as the equivalent of filing no report whatsoever. Also, Zurek made this argument in his motion for reconsideration to the Board and the general counsel recommended rejecting it, stating:

"I don't believe that the complainant has introduced sufficient evidence to determine that Mr. Pedersen willfully filed a false or incomplete report as the

errors relating to contributor employers and occupations did not constitute a pattern of willful misreporting. As for the suggestion that a report that is 'not true, correct and complete' should be treated as the filing of no report, the Complainant cites no authority for this proposition. *** I recommend that the Board uphold its prior decision ***."

¶ 21 We find the respondents' position persuasive. As the respondents point out, the hearing officer and general counsel did not require a pattern. Rather, they indicated Zurek did not meet his burden of proof and also observed that the record did not suggest a pattern of misreporting, which we take to mean that they deemed the contributor information to be otherwise complete and the identified problems to be minor ones that were attributable to oversight rather than willfulness. Furthermore, Zurek's argument fails to take into account that section 125.262 of the rules and regulations specifically provides that the Board may accept amended filings and not hold a public hearing in cases where a respondent is willing to take the action necessary to correct a violation and refrain from that conduct in the future. 26 Ill. Adm. Code § 125.262 (2011) ("If the Board determines that the complaint was filed on justifiable grounds, and if the respondent is unwilling to take action necessary to correct the violation or refrain from the conduct giving rise to the violation, it shall order a public hearing ***.") Zurek relies on selective application of the statutes and rules concerning the committee's reports.

¶ 22 Zurek's other argument regarding the civil penalty language is that it is mandatory unless the Board finds the amending filing was attributable to technical or inadvertent errors and that the committee was not held to its burden of establishing that there were technical or

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inadvertent errors in the original filing. Zurek bases this conclusion on his interpretation of section 9-11(f) of the Code, which states: "(f) A political committee may amend a report filed under subsection (a) or (b). The Board may reduce or waive a fine if the amendment is due to a technical or inadvertent error ***." 10 ILCS 5/9-11(f) (West 2010). Zurek contends this mandatory statutory language was improperly rendered meaningless and superfluous. See *Kraft, Inc. v. Edgar*, 138 Ill. 2d 178, 189, 561 N.E.2d 656, 661 (1990) (indicating a statute should be construed so that no word or meaning is rendered superfluous or meaningless).

¶ 23 This is another argument we find unpersuasive. We find that the language in section 9-11(f) is plainly applicable only if the Board has first determined a fine is warranted; unless there is a fine, there is no amount for the Board to "reduce or waive." 10 ILCS 5/9-11(f) (West 2010). In this case, the Board dismissed the complaint. The Board did not (1) proceed to a public hearing, (2) reach the conclusion that a fine was appropriate, and (3) then further conclude that a reduction or waiver should be granted "due to a technical or inadvertent error." 10 ILCS 10 ILCS 5/9-11(f) (West 2010). Thus, section 9-11(f) was not applicable to these proceedings. 10 ILCS 5/9-11(f) (West 2010).

¶ 24 Zurek's last few contentions concern the holiday card. Zurek tried to persuade the hearing officer that the card was "a purely personal and private matter rather than political," and was intended for "the personal aggrandizement of Barrett Pedersen and his family" which meant that the funds of a political organization were diverted for personal use. Nonetheless, the only actionable problem the hearing officer found with the card was that it should have been clearly attributed to the committee and so he recommended that Board warn the committee that "any

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repeat violation of attribution of source" could result in a civil penalty of as much as \$5,000.

¶ 25 On appeal, Zurek again offers his subjective opinion that the card looks like a "purely personal" greeting. He does not contend the Board misjudged the nature of the card, which would be a factual finding that would be deemed *prima facie* true and correct and be entitled to deference in this reviewing court. *American Airlines v. Dept. of Revenue*, 402 Ill. App. 3d 579, 587, 931 N.E.2d 666, 674 (2010). He does not cite authority regarding review of an administrative agency's findings on questions of fact. Instead, he describes the appearance of the card and then declares that "[u]nquestionably" the card was "thought of as a purely personal and private matter rather than political." He then argues that (1) diverting campaign funds for personal use is contrary to various state and local laws; (2) the Board improperly relied on "testimony" from the respondents' attorney that the cards were sent to a political mailing list; and, (3) finally, that even if the hearing officer was right when he opined "it is common practice for politicians to send out holiday cards," the fact that it is common practice to convert campaign funds for personal living and family expenses does not make it legal. Zurek's presentation is incomplete and we decline to delve into various arguments that are premised on his subjective characterization of the appearance of the greeting card. *Leavell v. Department of Natural Resources*, 397 Ill. App. 3d 937, 958, 923 N.E.2d 829, 849 (2010) (finding waiver where appellant failed to develop his argument and cite relevant case law).

¶ 26 Finally, Zurek contends the Board did not adequately warn the committee about the possible consequences of a future violation of the attribution-of-source statute. He contends it was error for the Board to give a verbal warning during closed executive session rather than

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during public session and that the Board failed to incorporate the warning into its written final order. Zurek presented these arguments in the motion for the Board's reconsideration but the general counsel dispelled them:

"As to *** the Board's failure to incorporate a [written] warning to comply with the attribution rules, I note that at the August 16th board meeting the Board gave a verbal warning to the Committee's Counsel that the Committee needed to make a more diligent effort to ensure that its reports were complete and accurate and that any repeat violations could subject the Committee to civil penalties. I believe this warning was sufficient to implement the Hearing Officer's recommendation; therefore, I recommend that no action is necessary to warn the Committee further.

* * *

*** The Hearing Officer did say that the Committee should list itself as the source of funding and incorporated that into his report. *** [T]he Board advised the Committee's Counsel of this at the August 16th Board meeting and warned that failure to do so in the future could subject the Committee to a civil penalty. Therefore, I believe that no further action is necessary.

For the above reasons, I recommend that the Motion for Reconsideration and Rehearing be denied and no further action be taken in the matter."

Zurek now argues that the verbal warning was a "final action" and was in violation of the statutory prohibition that, "No final action may be taken at a closed meeting." 5 ILCS 1203(c)

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(West 2010). He also contends the verbal warning ran afoul of the administrative rules because, "[u]nquestionably" the hearing officer "contemplated that this warning [would] be incorporated into the board's final order," and 125.262(b) states, "Any action on the Hearing Officer's recommendations must be taken in open session ***." 26 Ill. Adm. Code § 125.262(b) (2011).

¶ 27 The respondent committee counters that Zurek forfeited his open-session arguments by failing to raise them during the administrative process and that the arguments also fail on the merits.

¶ 28 We could not find Zurek's arguments anywhere in the record on appeal and deem them to be new arguments which have been waived. *Cook County Board of Review*, 395 Ill. App. 3d at 786, 918 N.E.2d at 1182. Waiver aside, we note there is no authority indicating that the Board must recite detailed findings during one of its open sessions. Nor is there any record support for Zurek's contention that the hearing officer "[u]nquestioningly *** contemplated" that detailed conclusions would appear in any of the Board's written orders. What the record does indicate is that the Board's final decision about Zurek's complaint was stated during open session on August 16, 2011, and that the Board's final decision about Zurek's motion for reconsideration of that decision was stated during open session on September 19, 2011, and that both of these decisions incorporated the underlying, detailed recommendations of the Board's general counsel. Thus, there is no merit to Zurek's new arguments about the adequacy of the warning that was given to the committee.

¶ 29 We have not found any of Zurek's arguments to be convincing. Therefore, we are not persuaded that the Board clearly erred. However, as stated above, the record does not contain

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the Board's reasons for dismissing the claims against the political party about the office space, website, and telephone expenses. Accordingly, we affirm the Board's conclusions about the allegations Zurek lodged against the political committee and the candidate, but we remand for further proceedings consistent with this order as to Zurek's claims against the political party.

¶ 30 Affirmed in part and remanded in part.