

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**In Re: Benjamin Alexander Thaddeus John
Horbowy**

Case No.: FEC 19-417

TO: Benjamin Alexander Thaddeus John Horbowy
1113 Old Bumpy Road
Tallahassee, FL 32317

Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

NOTICE OF VIRTUAL HEARING (INFORMAL HEARING)

A hearing will be held in this case before the Florida Elections Commission on, **May 25, 2021, at 8:30 am EST**, or *as soon thereafter as the parties can be heard*.

Please note that because of COVID-19, this will be a virtual meeting conducted by remote video or teleconference. Enclosed you will find additional details on joining the video conference via GoToWebinar, **9-Digit Webinar ID 640938187** or via **teleconference by dialing (866) 901-6455** and entering the **meeting access code 278040912**, when prompted. **If you wish to speak before the Commission, you will need to appear by webcam and will be sworn in remotely.** Please be advised that the Commission will consider multiple cases, so you will need to wait until your case is considered. If you have any questions, please contact Commission staff at (850) 922-4539.

Failure to appear in accordance with this notice will constitute a waiver of your right to participate in the hearing. Continuances will be granted only upon a showing of good cause.

This hearing will be conducted pursuant to Section 106.25, Florida Statutes, which governs your participation as follows:

If you are the Respondent, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission. However, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless you request to be heard or the Commission requests that your case be considered separately on the day of the hearing, your case will *not* be individually heard.

If you are the Complainant, you may attend the hearing, but you will *not* be permitted to address the Commission. In addition, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless the Respondent requests to be heard or the Commission requests that the case be considered separately on the day of the hearing, the case will *not* be individually heard.

If you are an Appellant, and you have requested a hearing, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission.

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As an Appellant, Respondent or Complainant in one case, you will **not** be permitted to attend the hearings on other confidential cases.

The Commission will electronically record the meeting. Although the Commission's recording is considered the official record of the hearing, the Respondent may provide, at his own expense, a certified court reporter to also record the hearing.

If you require an accommodation due to a disability, contact Donna Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

See further instructions on the reverse side.

Tim Vaccaro
Executive Director
Florida Elections Commission
May 10, 2021

Please refer to the information below for further instructions related to your particular hearing:

If this is a hearing to consider **an appeal from an automatic fine**, the Filing Officer has imposed a fine on you for your failure to file a campaign treasurer's report on the designated due date and, by filing an appeal, you have asked the Commission to consider either (1) that the report was in fact timely filed; or (2) that there were unusual circumstances that excused the failure to file the report timely. You are required to prove your case. If the Commission finds that the report was filed timely or that there were unusual circumstances that excused the failure, it may waive the fine, in whole or in part. The Commission may reduce a fine after considering the factors in Section 106.265, Florida Statutes. If the Commission finds that the report was not timely filed and there were no unusual circumstances, the fine will be upheld.

If this is a hearing to consider a **consent order before a determination of probable cause has been made**, the Commission will decide whether to accept or reject the consent order. If the Commission accepts the consent order, the case will be closed and become public. If the Commission rejects the consent order or does not make a decision to accept or deny the consent order, the case will remain confidential, unless confidentiality has been waived.

If this is a hearing to consider a **consent order after a determination of probable cause has been made**, the Commission will decide whether to accept or reject the consent order. If the Commission accepts the consent order, the case will be closed. If the Commission rejects the consent order or does not make a decision to accept or deny the consent order, the Respondent will be entitled to another hearing to determine if the Respondent committed the violation(s) alleged.

If this is a **probable cause hearing**, the Commission will decide if there is probable cause to believe that the Respondent committed a violation of Florida's election laws. Respondent should be prepared to explain how the staff in its recommendation incorrectly applied the law to the facts of the case. *Respondent may not testify, call others to testify, or introduce any documentary or other evidence at the probable cause hearing.* The Commission will only decide whether Respondent should be *charged* with a violation and, before the Commission determines whether a violation has occurred or a fine should be imposed, Respondent will have an opportunity for another hearing at which evidence may be introduced.

If this is an **informal hearing**, it will be conducted pursuant Sections 120.569 and 120.57(2), Florida Statutes; Chapter 28 and Commission Rule 2B-1.004, Florida Administrative Code. At the hearing, the Commission will decide whether the Respondent committed the violation(s) charged in the Order of Probable Cause. The Respondent will be permitted to testify. However, the Respondent may not call witnesses to testify.

Respondent may argue why the established facts in the Staff Recommendation do not support the violations charged in the Order of Probable Cause. At Respondent's request, the Commission may determine whether Respondent's actions in the case were willful. The Respondent may also address the appropriateness of the recommended fine. If Respondent claims that his limited resources make him unable to pay the statutory fine, *he must provide the Commission with written proof of his financial resources* at the hearing. A financial affidavit form is available from the Commission Clerk.



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-6596

Telephone: (850) 922-4539 · Facsimile: (850) 921-0783

FEC@myfloridalegal.com · www.fec.state.fl.us



Commission Meeting May 25, 2021 at 8:30AM via GoToWebinar and OpenVoice

In order to participate in the public portion of the May 25, 2021, Florida Elections Commission meeting, please follow the instructions below:

- A. GoToWebinar – Remote Video Conferencing
 1. Open your web browser and search GoToWebinar or enter www.gotowebinar.com.
 2. Select "Join" in the upper right corner of the website.
 3. Enter the 9-digit Webinar ID: 640938187 and your email address.
 4. Register your name and email address.
 5. You will automatically join the meeting as an attendee. Attendees are muted and can choose to utilize their webcam.

- B. OpenVoice - Teleconference
 1. Call 1-866-901-6455
 2. Enter Access Code 278-040-912
 3. You will automatically join the meeting as an **Attendee**. Attendees are muted.

While this is a public meeting and advanced registration is not mandatory, we ask that if you plan to attend via Video Conference or Teleconference, that you notify our office in advance. This will give the Commission the opportunity to organize the agenda as efficiently as possible. It will be the goal of the Commission to hear cases in which parties are present, first, in order to reduce the standby time of the parties in attendance.

You can call or email our office of your intent to participate or of any questions you may have regarding this meeting. Please provide the case number(s) of interest, when contacting our office.

Thank you,

Commission Staff

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

Case No.: FEC 19-417

v.

**Benjamin Alexander Thaddeus J. Horbowy,
Respondent.**

ORDER OF PROBABLE CAUSE

THIS MATTER was heard by the Florida Elections Commission (Commission) at its regularly scheduled meeting on February 23, 2021, in Tallahassee, Florida.

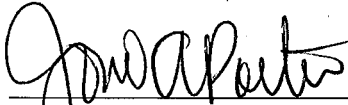
On January 4, 2021, Staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. The facts articulated in Staff's Recommendation are adopted by reference and incorporated herein. Based on the Complaint, Report of Investigation, Staff's Recommendation, and oral statements (if any) made at the probable cause hearing, the Commission finds that there is **probable cause** to charge Respondent with the following violation:

Count 1:

On or about May 10, 2019, Respondent violated Section 106.07(7), Florida Statutes, when Respondent failed to notify the Division of Elections in writing on or before May 10, 2019, that Respondent would not be filing a 2019 M4 Report on the prescribed due date.

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DONE AND ORDERED by the Florida Elections Commission on February 23, 2021.



Joni Alexis Poitier, Vice Chair
Florida Elections Commission

Copies furnished to:
Eric M. Lipman, General Counsel
Benjamin Alexander Thaddeus J. Horbowy, Respondent
Division of Elections, Complainant

NOTICE OF RIGHT TO A HEARING

As the Respondent, you may elect to resolve this case in several ways. First, you may elect to resolve this case by consent order where you and Commission staff agree to resolve the violation(s) and agree to the amount of the fine. The consent order is then presented to the Commission for its approval. To discuss a consent order, contact the FEC attorney identified in the Order of Probable Cause.

Second, you may request an informal hearing held before the Commission, if you do not dispute any material fact in the Staff Recommendation. You have 30 days from the date the Order of Probable Cause is filed with the Commission to request such a hearing. The date this order was filed appears in the upper right-hand corner of the first page of the order. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violation(s) and the potential fine. At the request of Respondent, the Commission will consider and determine willfulness at an informal hearing. Otherwise, live witness testimony is unnecessary.

Third, you may request a formal hearing held before an administrative law judge in the Division of Administrative Hearings (DOAH), if you dispute any material fact in the Staff Recommendation. You have 30 days from the date the Order of Probable Cause is filed with the Commission to request such a hearing. The date this order was filed appears in the upper right-hand corner of the first page of the order. At the hearing, you will have the right to present evidence relevant to the violation(s) listed in this order, to cross-examine opposing witnesses, to impeach any witness, and to rebut the evidence presented against you.

If you do not elect to resolve the case by consent order or request a formal hearing at the DOAH or an informal hearing before the Commission within 30 days of the date this Order of Probable Cause is filed with the Commission, the case will be sent to the Commission for a formal or informal hearing, depending on whether the facts are in dispute. The date this order was filed appears in the upper right-hand corner of the first page of the order.

To request a hearing, please send a written request to the Commission Clerk, Donna Ann

Malphurs. The address of the Commission Clerk is 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida 32399-1050. The telephone number is (850) 922-4539. The Clerk will provide you with a copy of Chapter 28-106, *Florida Administrative Code*, and other applicable rules upon request. No mediation is available.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Benjamin Alexander Thaddeus J. Horbowy

Case No.: FEC 19-417

TO: Benjamin Alexander Thaddeus J. Horbowy
1113 Old Bumpy Road
Tallahassee, FL 32317

Division of Elections
500 S Bronough Street, Room 316
Tallahassee, FL 32399

NOTICE OF VIRTUAL HEARING (PROBABLE CAUSE DETERMINATION)

A hearing will be held in this case before the Florida Elections Commission on **February 23, 2021**. The Commission's Confidential Session will begin at **1:00 p.m., EST**, and will consider multiple cases that day.

Please note that because of COVID-19, this will be a virtual meeting conducted by remote video or teleconference. Enclosed you will find additional details on joining the video conference via ZOOM, Meeting ID 987 1847 0760, or via teleconference by dialing (929) 205-6099 and entering the meeting access code 370906, when prompted. If you wish to speak before the Commission, you will need to appear by webcam and will be sworn in remotely. Please be advised that the Commission will consider multiple cases, so you will need to wait until your case is considered. If you have any questions, please contact Commission staff at (850) 922-4539.

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If you are the Complainant, you may attend the hearing, but you will *not* be permitted to address the Commission. In addition, some cases (including those in which motions to dismiss or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless the Respondent requests to be heard or the Commission requests that the case be considered separately on the day of the hearing, the case will *not* be individually heard.

If you are an Appellant, and you have requested a hearing, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission.

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The Commission will electronically record the meeting. Although the Commission's recording is considered the official record of the hearing, the Respondent may provide, at his own expense, a certified court reporter to also record the hearing.

If you require an accommodation due to a disability, contact Donna Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

See further instructions on the reverse side.

Tim Vaccaro
Executive Director
Florida Elections Commission
February 2, 2021

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If this is a hearing to consider **an appeal from an automatic fine**, the Filing Officer has imposed a fine on you for your failure to file a campaign treasurer's report on the designated due date and, by filing an appeal, you have asked the Commission to consider either (1) that the report was in fact timely filed; or (2) that there were unusual circumstances that excused the failure to file the report timely. You are required to prove your case. If the Commission finds that the report was filed timely or that there were unusual circumstances that excused the failure, it may waive the fine, in whole or in part. The Commission may reduce a fine after considering the factors in Section 106.265, Florida Statutes. If the Commission finds that the report was not timely filed and there were no unusual circumstances, the fine will be upheld.

If this is a **probable cause hearing**, the Commission will decide if there is probable cause to believe that the Respondent committed a violation of Florida's election laws. Respondent should be prepared to explain how the staff in its recommendation incorrectly applied the law to the facts of the case. *Respondent may not testify, call others to testify, or introduce any documentary or other evidence at the probable cause hearing.* The Commission will only decide whether Respondent should be *charged* with a violation and, before the Commission determines whether a violation has occurred or a fine should be imposed, Respondent will have an opportunity for another hearing at which evidence may be introduced.

If this is an **informal hearing**, it will be conducted pursuant Sections 120.569 and 120.57(2), Florida Statutes; Chapter 28 and Commission Rule 2B-1.004, Florida Administrative Code. At the hearing, the Commission will decide whether the Respondent committed the violation(s) charged in the Order of Probable Cause. The Respondent will be permitted to testify. However, the Respondent may not call witnesses to testify.

Respondent may argue why the established facts in the Staff Recommendation do not support the violations charged in the Order of Probable Cause. At Respondent's request, the Commission may determine whether Respondent's actions in the case were willful. The Respondent may also address the appropriateness of the recommended fine. If Respondent claims that his limited resources make him unable to pay the statutory fine, *he must provide the Commission with written proof of his financial resources* at the hearing. A financial affidavit form is available from the Commission Clerk.



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-6596
Telephone: (850) 922-4539 · Facsimile: (850) 921-0783
FEC@myfloridalegal.com · www.fec.state.fl.us



Confidential Commission Meeting February 23, 2021 at 1:00 PM via Zoom

In order to participate in the confidential portion of the February 23, 2021, Florida Elections Commission meeting, please follow the instructions below:

Join Zoom Meeting

Click on the meeting link sent to your attention via email:

<https://zoom.us/j/98718470706?pwd=TXdsdGwrZVVScjNmVGFDbXRRdzlJZz09>

If you have difficulty launching the hyperlink, follow these steps.

1. Open your web browser and search ZOOM or enter www.zoom.us
2. Select "Join A Meeting" in the upper right corner of the website.
3. Enter the Meeting ID: 987 1847 0760 and click "Join".
4. Enter the Meeting Passcode: 370906 and click "Join".

For alternative audio participation:

1. Dial: 1 (929) 205-6099
2. Meeting ID: 987 1847 0760
3. Passcode: 370906

While this is a confidential meeting and advanced registration is not mandatory, we ask that if you plan to attend via Video Conference or Teleconference, that you notify our office in advance. This will give the Commission the opportunity to organize the agenda as efficiently as possible. It will be the goal of the Commission to hear cases in which parties are present, first, in order to reduce the standby time of the parties in attendance.

Please test your audio; microphone, speakers and webcam, in advance.

Those attendees who wish to speak before the Commission will need to appear by webcam and will be sworn in remotely.

Please be advised that the Commission will consider multiple cases, so you will be placed in a ZOOM Breakout Room until your case is considered.

If you have any questions, contact Commission staff at (850) 922-4539. Please provide the case number(s) of interest, when contacting our office.

Thank you,

Commission Staff

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Benjamin Alexander Thaddeus John Horbowy

Case No.: FEC 19-417

STAFF RECOMMENDATION FOLLOWING INVESTIGATION

Pursuant to Section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.07(7), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on April 15, 2020, the following facts and law support this staff recommendation.

1. On June 25, 2019, the Florida Elections Commission (“Commission”) received a referral from the Division of Elections (“Division”) alleging that Benjamin Alexander Thaddeus John Horbowy (“Respondent”) violated Chapter 106, Florida Statutes.

2. Respondent was a candidate for State Senator, District 3, in the 2020 election. Respondent's Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates form was filed with the Division on April 5, 2019. (ROI Exhibit 1, page 1)¹

3. By letter dated April 8, 2019, Kristi Reid Willis, Chief, Bureau of Election Records, sent a letter to Respondent notifying him that his name had been placed on file in the Division's office as a candidate for State Senator. The letter advised Respondent that all candidates filing reports with the Division are required to use the Division's electronic filing system (“EFS”) and provided Respondent with a user identification number and initial password to access the EFS. (ROI Exhibit 3, page 1)

4. Ms. Willis's April 8, 2019 letter also informed Respondent that all of the Division's publications and reporting forms were on the Division's website; it was Respondent's responsibility to read, understand, and follow the requirements of Florida's election laws; and directed Respondent to print a copy of Chapters 104 and 106, Florida Statutes, the *Candidate and Campaign Treasurer Handbook* (“Handbook”), the *Calendar of Reporting Dates*, and other documents. (ROI Exhibit 3, page 2)

5. On November 21, 2019, the Executive Director sent Respondent notification that Commission staff would investigate the following alleged violation:

¹ The Report of Investigation shall be referred to herein as “ROI.”

Section 106.07(7), Florida Statutes: As alleged in the complaint, Respondent, a 2020 candidate for State Senator, District 3, failed to notify the filing officer on the prescribed reporting date that no report would be filed on that date because he had not received funds, made contributions, or expended reportable funds during the 2019 M4 reporting period.

6. Page 45 of the Handbook states:

In any reporting period during which a candidate has not received funds or made any expenditures, the filing of the required report for that period is waived. **However, the candidate must notify the filing officer in writing on or before the prescribed reporting date that no report is being filed on that date.** (A notice of no activity filed with the Division must be filed electronically using the EFS. (emphasis in original)

(Section 106.07, F.S.)

(ROI Exhibit 4)

7. Pages 12, 13, and 44 of the *Candidate EFS User's Guide* explain the steps a candidate should take to notify the Division in writing on the prescribed reporting date that no report will be filed for the reporting period using the EFS. Specifically, at the top of page 13, the Guide instructs the user to click the box next to "Waiver" if there is no financial activity to report. (ROI Exhibit 5)

8. Section 106.07(7), Florida Statutes, provides:

Notwithstanding any other provisions of this chapter, in any reporting period during which a candidate or political committee has not received funds, made any contributions, or expended any reportable funds, the filing of the required report for that period is waived. However, the next report filed must specify that the report covers the entire period between the last submitted report and the report being filed, and any candidate or political committee not reporting by virtue of this subsection on dates prescribed elsewhere in this chapter **shall notify the filing officer in writing on the prescribed reporting date that no report is being filed on that date.** (Emphasis added.)

9. Respondent's 2019 M4 Report covering the dates of April 5, 2019, through April 30, 2019 was due on May 10, 2019. Respondent failed to file a 2019 M4 Report or notice of no activity with the filing officer on the due date. (Attachment A; Attachment C, page 1)

10. On May 13, 2019, May 22, 2019 and June 3, 2019, the Division notified Respondent that his 2019 M4 Report had not been filed. (Attachment B, page 1; Attachment C, page 1) The Division's June 3, 2019 notice was marked "Final Notice" and was confirmed

delivered on June 5, 2019. (Attachment C, page 2) Respondent filed a notice of no activity for the 2019 M4 reporting period on August 12, 2019, 94 days late. (ROI Exhibit 6, pages 1 and 2)

11. During a February 10, 2020 telephone call with Investigator Ayres, Respondent stated he had read the Handbook and was going to reread it again soon so they would both be on the “same page.” Investigator Ayres also told Respondent about information on the Division’s website regarding filing and financial activity. (ROI Exhibit 8, Phone Log Entry2)

12. On March 17, 2020, Investigator Ayres called Respondent. Investigator Ayres left a generic voicemail requesting Respondent to return the call, which Respondent failed to do. (ROI Exhibit 8, Phone Log Entry 3)

13. “Probable Cause” is defined as reasonable grounds of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged. *Schmitt v. State*, 590 So.2d 404, 409 (Fla. 1991). Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Department of Highway Safety and Motor Vehicles v. Favino*, 667 So.2d 305, 309 (Fla. 1st DCA 1995).

14. The above facts show Respondent was a candidate the State Senate, District 3, in the 2020 election. Respondent failed to timely notify the filing officer in writing by the prescribed due date for the 2018 M4 Report that he had no reportable financial activity and would not be filing a report for the 2019 M4 reporting period on the due date. Despite receiving three separate notifications from the Division indicating that Respondent had not filed his 2018 M4 Report or notice of no activity for the 2018 M4 reporting period, Respondent failed to file a notice of no activity for the 2019 M4 Report until August 12, 2019, 94 days late.

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Based on the foregoing, I recommend that the Commission find probable cause to charge Respondent with the following violation:

Count 1:

On or about May 10, 2019, Respondent violated Section 106.07(7), Florida Statutes, when Respondent failed to notify the Division of Elections in writing on or before May 10, 2019, that Respondent would not be filing a 2019 M4 Report on the prescribed due date.

Respectfully submitted on January 4, 2021.



Eric M. Lipman
General Counsel

I have reviewed this Staff Recommendation on the 4th day of January 2021.



Tim Vaccaro
Executive Director

2019 Calendar of Reporting Dates

Candidates, Political Committees and
Electioneering Communications Organizations
registered with the Division of Elections

<u>Cover Period</u>	<u>Report Code</u>	<u>Due Date</u>
1/1/19 – 1/31/19	2019 M1	2/11/19
2/1/19 – 2/28/19	2019 M2	3/11/19
3/1/19 – 3/31/19	2019 M3	4/10/19
4/1/19 – 4/30/19	2019 M4	5/10/19
5/1/19 – 5/31/19	2019 M5	6/10/19
1/1/2018 – 12/31/2018	2018 MUC* (PC Only)	7/1/19
6/1/19 – 6/30/19	2019 M6	7/10/19
7/1/19 – 7/31/19	2019 M7	8/12/19
8/1/19 – 8/31/19	2019 M8	9/10/19
9/1/19 – 9/30/19	2019 M9	10/10/19
10/1/19 – 10/31/19	2019 M10	11/12/19
11/1/19 – 11/30/19	2019 M11	12/10/19
12/1/19 – 12/31/19	2019 M12	1/10/20

* If not reported as individual contributions when received, a political committee must report contributions that comprise multiple uniform contributions from the same person aggregating no more than \$250 per calendar year, collected by an organization that is the affiliated sponsor of the political committee. The report must list the name, address, and occupation of the person making the contribution; however, the occupation need not be listed if the aggregate contribution from the person is \$100 or less.

ATTACHMENT A

DIVISION OF ELECTIONS
FEC NOTICE FORM

To FEC from Division of Elections

Name: Benjamin Alexander Thaddeus J. Horbowy
Account Number: 74245
Treasurer: Nancy Horbowy

The Division of Elections hereby provides this notice to the Florida Elections Commission pursuant to Sections 106.07(8)(d), 106.22(7) and 106.25, Florida Statutes. An apparent violation of Chapter 106, F.S., has occurred based upon the candidate's alleged failure to file a report after notice as required by section 106.07(8)(d), Florida Statutes, or failure to notify the filing officer on the prescribed reporting date that no report was to be filed as required by Section 106.07(7), Florida Statutes.

The following report or notice is outstanding after notification:

2019 M4

- Benjamin Alexander Thaddeus J. Horbowy (74245) is a 2020 candidate for the office of State Senator.
- On April 5, 2019, Mr. Horbowy filed the Appointment of Campaign Treasurer and Designation of Campaign Depository with the Division.
- The 2019 M4 campaign treasurer's report was due on May 10, 2019. On May 13, 2019, the Division mailed Mr. Horbowy notification that the 2019 M4 campaign treasurer's report had not been filed.
- On May 22, 2019, the Division mailed Mr. Horbowy second notification that the 2019 M4 campaign treasurer's report had not been filed.
- On June 3, 2019, the Division mailed Mr. Horbowy final notification with delivery confirmation that the 2019 M4 report had not been filed. (See attached letter and delivery confirmation.)
- Mr. Horbowy did not notify the Division of Elections prior to or on the prescribed reporting date for the 2019 M4 report that no report was to be filed.

ATTACHMENT B, Page 1

- As of June 20, 2019, Mr. Horbowy has not filed the 2019 M4 report.

Sent By: Kristi Reid Willis
Date: June 20, 2019 *KRW*

jcs



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

Final Notice
Delivery Confirmation:

USPS TRACKING # 9114 9023 0722 4129 6175 63
& CUSTOMER RECEIPT For Tracking or inquiries go to USPS.com
or call 1-800-272-1811.

June 3, 2019

Benjamin Alexander Thaddeus J Horbowy
Candidate for State Senator, District 3
1113 Old Bumpy Road
Tallahassee, FL 32317-2317

CAN 74245

Dear Mr. Horbowy:

A recent review of the Division's records show that the Division has not yet received the below-referenced campaign treasurer's report or the required notification that no reportable activity occurred, whichever is applicable, during the following cover period:

<u>Year</u>	<u>Report</u>	<u>Cover Period</u>
2019	M4	4/1/19 - 4/30/19

The Division has previously notified you of the unfiled report or notification. Please file your report or notification. If the report is not filed within 7 days of receipt of this letter, the Division will refer this matter to the Florida Elections Commission, which may impose civil penalties of up to \$1000 per violation, apart from that automatic fine provisions of s. 106.07(8)(b), Fla. Stat.) that are applicable only to campaign finance reports.

As we stated in the prior notices, even if you now file the report or notification, the untimely filing of a report of reportable activity, or if applicable, a notice that no reportable activity occurred, may constitute an apparent violation of chapter 106, Fla. Stat. If we refer such matter to the Florida Elections Commission, the Commission may subsequently impose a civil penalty for each violation under chapter 106.265(1), Fla. Stat.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

Kristi Reid Willis, Chief
Bureau of Election Records

cc: Nancy Horbowy, Treasurer

USPS Tracking®

FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Track Another Package +

Tracking Number: 9114902307224129617563


Remove X

Expected Delivery on

WEDNESDAY

5 JUNE 2019 ⓘ

by **8:00pm** ⓘ

 **Delivered**

June 5, 2019 at 11:57 am
Delivered, Front Door/Porch
TALLAHASSEE, FL 32317

Get Updates ▾

Feedback

Text & Email Updates ▾

Tracking History ▾

Product Information ▾

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

ATTACHMENT C, page 2

FLORIDA ELECTIONS COMMISSION

Report of Investigation for Failure to Notify Filing Officer

Case Number: FEC 19-417

Respondent: Benjamin Alexander Thaddeus John Horbowy

Section 106.07(7), Florida Statutes, failure of a candidate or political committee that did not receive any contributions or make any expenditures during a reporting period to timely notify the filing officer, in writing, that no report is being filed.

Division of Elections (Division) Referral Filed: June 25, 2019

Respondent Type: Candidate

I. Preliminary Information:

1. Respondent is a 2020 candidate for State Senator. Respondent is a first-time candidate.

2. An appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9) was filed on April 5, 2019. Respondent appointed Nancy Horbowy as campaign treasurer¹. To review the DS-DE 9, refer to Exhibit 1.

3. Respondent filed a Statement of Candidate with the Division on April 5, 2019, in which he certified he had been provided access to read and understand Chapter 106, F.S. To review a copy of the Statement of Candidate, refer to Exhibit 2.

4. An acknowledgement letter was mailed to the address provided on the DS-DE 9 on April 8, 2019, advising Respondent that all of the Division’s publications and reporting forms are available on their website, including Chapter 106, Florida Statutes, the Candidate and Campaign Treasurer Handbook, and the Calendar of Reporting Dates. The acknowledgement letter also states, “An online instruction guide is available to you on the EFS to assist with navigation, data entry, and submission of reports” and provides the telephone number for the Division’s EFS Help Desk. To review the acknowledgement letter, refer to Exhibit 3.

5. The Candidate and Campaign Treasurer Handbook discusses filing a waiver when there is no activity to disclose. To review the relevant page of the Handbook, refer to Exhibit 4.

6. The Candidate EFS User’s Guide discusses how to notify the Division on the prescribed reporting date that no report will be filed using the EFS. Specifically, the Handbook instructs the user to click the box next to “waiver” if there is no activity to disclose. To review the relevant pages from the Candidate EFS User’s Guide, refer to Exhibit 5.

II. Alleged Violation of Section 106.07(7), Florida Statutes:

7. I investigated whether Respondent violated this section of the election laws by not timely notifying the filing officer, in writing, that no report would be filed due to not receiving any contributions or making expenditures during the following reporting period. To review a copy of Respondent’s filing history reflecting the untimely filed notifications summarized below, refer to Exhibit 6.

¹ On September 6, 2019, Respondent filed a second DS-DE 9 and appointed himself as campaign treasurer. To review the DS-DE 9, refer to Exhibit 1.

Report	Report Cover Period	Date Notification Due	Date Notification Filed	No. of Days Late
2019 M4	4/5/2019 – 4/30/2019	5/10/2019	8/12/2019	94

8. Respondent did respond to the referral. Respondent mailed a letter to the Division and Commission received on November 20, 2019. In the letter, he stated that he was out of the state in the summer and out of the country in the fall, but he did not explain why that prevented him from timely filing the waiver of the 2019 M4 report, which could have been filed online. To review Respondent’s response to the referral, refer to Exhibit 7.

9. Respondent did not respond to a questionnaire-affidavit. Because the affidavit has not been returned, I am unable to ascertain whether he has read Chapter 106, Florida Statutes.

10. On February 10, 2020, I called Respondent for the purpose of reviewing the referral with him. In the telephone interview, Respondent stated he had read the *Candidate and Campaign Treasurer Handbook*. He further explained he had a small campaign as compared to the amount of fines that have been levied against his campaign.. To review a copy of the phone log, refer to Exhibit 8.

III. FEC History:

11. Respondent has no prior history with the Florida Elections Commission.

SIGNATURE OF INVESTIGATOR:



Date: April 15, 2020

/Brian Ayres/

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Benjamin Alexander Thaddeus John Horbowy -- FEC 19-417

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	Appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9)
Exhibit 2	Statement of Candidate (DS-DE 84)
Exhibit 3	Division Acknowledgment Letter
Exhibit 4	Campaign Treasurer and Candidate Handbook
Exhibit 5	EFS User's Guide
Exhibit 6	Filing History
Exhibit 7	Respondent Written Response
Exhibit 8	Investigation Phone Log

HAND DELIVERED

RECEIVED
DEPARTMENT OF STATE

2019 APR -5 PM 2:18

DIVISION OF ELECTIONS
TALLAHASSEE, FL

**APPOINTMENT OF CAMPAIGN TREASURER
AND DESIGNATION OF CAMPAIGN
DEPOSITORY FOR CANDIDATES**

(Section 106.021(1), F.S.)

(PLEASE PRINT OR TYPE)

NOTE: This form must be on file with the qualifying officer before opening the campaign account.

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

Initial Filing of Form Re-filing to Change: Treasurer/Deputy Depository Office Party

2. Name of Candidate (in this order: First, Middle, Last)
Benjamin Alexander Thaddeus John Horbowy

3. Address (include post office box or street, city, state, zip code)
1113 Old Bumpy Road
Tallahassee Florida 32317

4. Telephone
(850) 565-9333

5. E-mail address
CEO@SmartGreenIndustries.com

6. Office sought (include district, circuit, group number)
Florida State Senate District 3

7. If a candidate for a nonpartisan office, check if applicable:
 My intent is to run as a Write-In candidate.

8. If a candidate for a partisan office, check block and fill in name of party as applicable: My intent is to run as a
 Write-In No Party Affiliation Republican Party candidate.

9. I have appointed the following person to act as my Campaign Treasurer Deputy Treasurer

10. Name of Treasurer or Deputy Treasurer
Nancy Horbowy

11. Mailing Address
1113 Old Bumpy Road

12. Telephone
(850) 228-4672

13. City
Tallahassee

14. County
Leon

15. State
Florida

16. Zip Code
32317

17. E-mail address
tnhorbowy@gmail.com

18 I have designated the following bank as my Primary Depository Secondary Depository

19. Name of Bank
Capital City Bank

20. Address
3255 Mahan Dr

21. City
Tallahassee

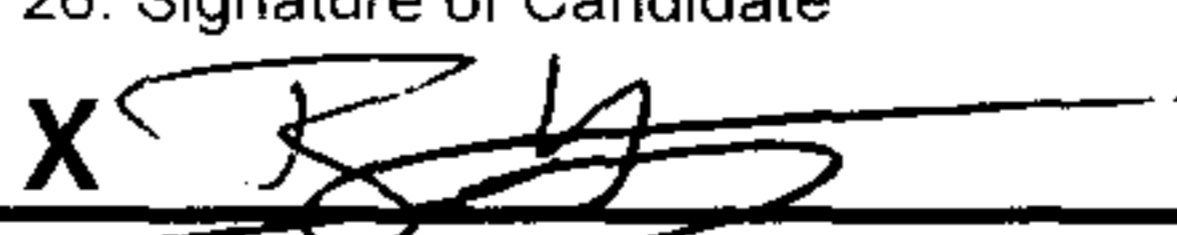
22. County
Leon

23. State
Florida

24. Zip Code
32308

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.

25 Date
4-5-2019

26. Signature of Candidate


27. **Treasurer's Acceptance of Appointment** (fill in the blanks and check the appropriate block)

I, Nancy Horbowy, do hereby accept the appointment
(Please Print or Type Name)

designated above as: Campaign Treasurer Deputy Treasurer.

4-5-2019
Date


Signature of Campaign Treasurer or Deputy Treasurer

RECEIVED

2019 SEP -6 PM 12:37

DIVISION OF ELECTIONS
TALLAHASSEE, FL

HAND DELIVERED

APPOINTMENT OF CAMPAIGN TREASURER
AND DESIGNATION OF CAMPAIGN
DEPOSITORY FOR CANDIDATES

(Section 106.021(1), F.S.)

(PLEASE PRINT OR TYPE)

NOTE: This form must be on file with the qualifying
officer before opening the campaign account.

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

Initial Filing of Form Re-filing to Change: Treasurer/Deputy Depository Office Party

2. Name of Candidate (in this order: First, Middle, Last)

Benjamin Alexander ^{Thaddeus John BH} Horbowy

3. Address (include post office box or street, city, state, zip code)

1113 Old Bumpy Rd
Tallahassee FL 32317

4. Telephone

(850) 565-9333

5. E-mail address

Benito850strong@gmail.com

6. Office sought (include district, circuit, group number)

Florida State Senate District 3

7. If a candidate for a nonpartisan office, check if applicable:

My intent is to run as a Write-In candidate.

8. If a candidate for a partisan office, check block and fill in name of party as applicable: My intent is to run as a

Write-In No Party Affiliation Republican Party candidate.

9. I have appointed the following person to act as my Campaign Treasurer Deputy Treasurer

10. Name of Treasurer or Deputy Treasurer

Benjamin Alexander ^{Thaddeus John BH} Horbowy

11. Mailing Address

1113 Old Bumpy Rd

12. Telephone

(850) 565-9333

13. City

Tallahassee

14. County

Leon

15. State

FL

16. Zip Code

32317

17. E-mail address

Benito850strong@gmail.com

18. I have designated the following bank as my

Primary Depository Secondary Depository

19. Name of Bank

20. Address

21. City

22. County

23. State

24. Zip Code

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.

25. Date

9/6/09

26. Signature of Candidate

X 

27. Treasurer's Acceptance of Appointment (fill in the blanks and check the appropriate block)

I, Benjamin Alexander ^{Thaddeus John BH} Horbowy, do hereby accept the appointment
(Please Print or Type Name)

designated above as: Campaign Treasurer Deputy Treasurer.

9/6/09

X



Date

Signature of Campaign Treasurer or Deputy Treasurer

HAND DELIVERED

RECEIVED
OFFICE DEPARTMENT OF STATE
2019 APR -5 PM 2:18
DIVISION OF ELECTIONS
TALLAHASSEE, FL

**STATEMENT OF
CANDIDATE**


(Section 106.023, F.S.)

(Please print or type)

I, Benjamin Alexander Thaddeus John Horbowy aka "Benito",

candidate for the office of Florida State Senate District 3;

have been provided access to read and understand the requirements of
Chapter 106, Florida Statutes.

X 
Signature of Candidate

4-5-2019
Date

Each candidate must file a statement with the qualifying officer within 10 days after the Appointment of Campaign Treasurer and Designation of Campaign Depository is filed. Willful failure to file this form is a first degree misdemeanor and a civil violation of the Campaign Financing Act which may result in a fine of up to \$1,000, (ss. 106.19(1)(c), 106.265(1), Florida Statutes).



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

April 8, 2019

Benjamin Alexander Thaddeus John Horbowy
1113 Old Bumpy Road
Tallahassee, Florida 32317

Dear Mr. Horbowy:

This will acknowledge receipt of the Appointment of Campaign Treasurer and Designation of Campaign Depository for the office of State Senator, which was placed on file in our office on April 5, 2019. Your name has been placed on the 2020 active candidate list.

Campaign Treasurer's Reports

Your first campaign treasurer's report will be due on **May 10, 2019**. The report will cover the period of April 1-30, 2019 (2019 M4). All candidates who file reports with the Division of Elections are required to file by means of the Division's Electronic Filing System (EFS).

EFS Access

Below is the web address to access the EFS and your user identification number. The enclosed sealed envelope contains your filing credentials.

EFS Website Address: <https://efs.dos.state.fl.us>

Identification Number: 74245

Timely Filing

All reports filed must be completed and filed through the EFS not later than midnight of the due date. Reports not filed by midnight of the due date are late filed and subject to the penalties in Section 106.07(8), Florida Statutes. In the event that the EFS is inoperable on the due date, the report will be accepted as timely filed if filed no later than midnight of the first business day the EFS becomes operable. No fine will be levied during the period the EFS was inoperable.

Division of Elections
R.A. Gray Building, Suite 316 • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6240 • 850.245.6260 (Fax) • [DOS.MyFlorida.com/elections](https://dos.mylouisiana.com/elections)



Benjamin Horbowy
April 8, 2019
Page Two

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Electronic Receipts

The person submitting the report on the EFS will be issued an electronic receipt indicating and verifying the report was filed. Each campaign treasurer's report filed by means of the EFS is considered to be under oath by the candidate and campaign treasurer and such persons are subject to the provisions of Section 106.07(5), Florida Statutes.

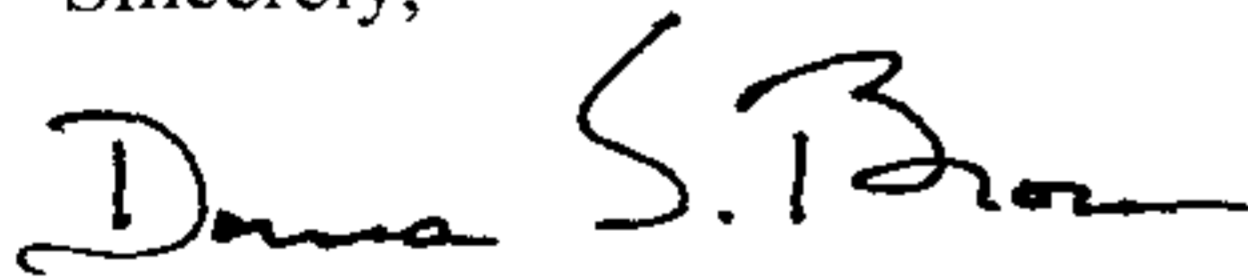
Instructions and Assistance


An online instruction guide is available to you on the EFS to assist with navigation, data entry, and submission of reports. The Division of Elections will also provide assistance to all users by contacting the EFS Help Desk at (850) 245-6280.

All of the Division's publications and reporting forms are available on the Division of Elections' website at <http://dos.myflorida.com/elections/>. It is your responsibility to read, understand, and follow the requirements of Florida's election laws. Therefore, please print a copy of the following documents: Chapters 104 and 106, Florida Statutes, *Candidate and Campaign Treasurer Handbook*, *Calendar of Reporting Dates*, and Rule 1S-2.017, Florida Administrative Code.

Please let me know if you need additional information.

Sincerely,



 Kristi Reid Willis, Chief
Bureau of Election Records

KRW/dlh

Enclosures

pc: Nancy Horbowy, Treasurer

Candidate & Campaign Treasurer Handbook



Florida Department of State
Division of Elections
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250
850.245.6240

(Rev. 09/11/2018)

An individual seeking a publicly elected position on a political party executive committee who receives a contribution or makes an expenditure must file a single report of all contributions and expenditures on the 4th day immediately preceding the primary election. (See [Chapter 18, Reporting for Individuals Seeking a Publicly Elected Position on a Party Executive Committee.](#))

Unless the electronic filing requirements of Section [106.0705](#), Florida Statutes, apply, reports shall be filed no later than 5 p.m. of the day designated. A report postmarked by the U.S. Postal Service no later than midnight of the day designated is deemed timely filed. A report received by the filing officer within 5 days after the designated due date that was delivered by the U.S. Postal Service is deemed timely filed unless it has a postmark indicating the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing or a receipt from an established courier company, which bears a date on or before the date on which the report is due, is proof of mailing in a timely manner.

Reports filed with the Division through the [Electronic Filing System \(EFS\)](#) are due no later than midnight, Eastern Time, of the due date.

(Sections [106.07](#), [106.0705](#) and [106.141](#), F.S.; [Chapter 19, Electronic Filing of Campaign Reports](#))

Penalty for Late Filing

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first three days late

and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding the primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

For a candidate's termination report, the fine shall be \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater for the period covered by the late report. All fines must be paid from the candidate's **personal funds** – not campaign funds.

(Section [106.07\(2\)](#) and [\(8\)](#), F.S.)

Notice of No Activity

In any reporting period during which a candidate has not received funds or made any expenditures, the filing of the required report for that period is waived. **However, the candidate must notify the filing officer in writing on or before the prescribed reporting date that no report is being filed on that date.** (A notice of no activity filed with the Division must be filed electronically using the [EFS](#).) The next report filed must specify that the report covers the entire period between the last submitted report and the report being filed.

(Section [106.07](#), F.S.)

Department of State
Division of Elections

Candidate EFS User's Guide



Florida Department of State
Division of Elections
R.A. Gray Building, Room 316
500 S Bronough Street
Tallahassee, FL 32399-0250



EFS HELP LINE: [850-245-6280](tel:850-245-6280)

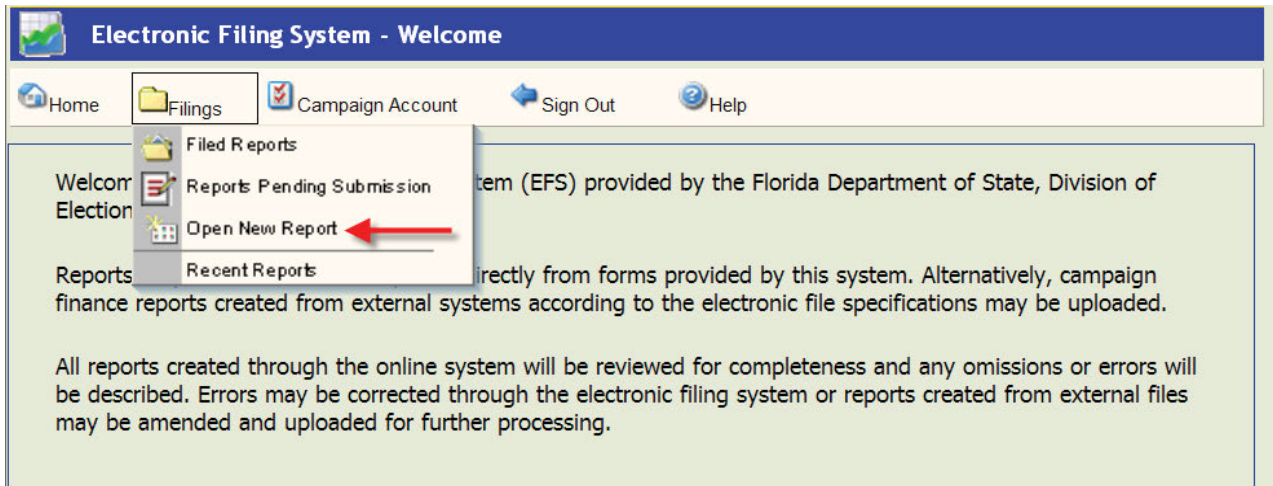
January 2011

Rule 1S-2.017, F.A.C.

DS-DE 110A (eff. 01/11)

Create a New Report by Data Entry

From the Welcome Screen, click  Filings and then  Open New Report.



Use this form to submit an original report. To submit an amendment to a previously filed report, first select the report from the 'Filed Reports' listing and then choose the 'Amend Report' option from the 'Edit' menu item.

Coverage Periods
Campaign finance reports itemize financial activity occurring during a specific reporting period. The reporting period is declared by first selecting the reporting year and then the report type. The beginning and ending coverage dates and the filing due date of the report are automatically associated with the *Reporting Year* and *Report Type*.


Election Cycle:


Report Type:

Coverage Period: Due Date:

Special Election Report Waiver

Uploading a Campaign Finance Report
A Campaign Finance report file meeting the department's specifications may be uploaded at the time a report is opened. Use the Browse button to locate and select the report text or zip file to be uploaded. You may upload the report file in a compressed zip. The zip file must contain only one report file.

Click  arrow next to **Election Cycle**. Scroll to the cycle associated with the report you are entering.

Click  arrow next to **Report Type** and select the report type that corresponds to the appropriate cover period and due date.

The **Cover Period** dates will automatically fill in based on the **Calendar of Election and Reporting Dates**. The end date can be changed for candidate termination reports.

The **Due Date** will automatically fill in based on the **Calendar of Election and Reporting Dates**.

******NOTE******

If this report is a waiver of report (no activity), click the box next to Waiver.

Election Cycle: 2010 General Election
Report Type: F2 2010
Coverage Period: 7/17/2010 7/30/2010 Due Date: 08/06/2010
 Special Election Report Waiver

Click at the bottom of the screen. A **Report Detail** screen (view only) will appear. This screen will not indicate any activity until individual detail data is entered, saved and a review is performed.

Report: 2010 - G4 - 27 2010 General Election Covers: 10/16/2010-10/28/2010 Due: 10/29/2010
 Amendment Waiver Complete Status: Incomplete Detail Records
File Date: Review Status: Not Reviewed
Status: Data Entry Last Review:
of Transactions: 0

Contributions		Total Amount	Expenditures		Total Amount
Cash and Checks:		0.00	Monetary:		0.00
Loans:		0.00	Transfers to Off Acct:		0.00
Total Monetary:		0.00	Total Monetary:		0.00
In-Kind:		0.00	Other Distributions:		0.00

Review Messages
Created: 10/26/2010 11:41:25 AM By: 50552 Revised: 10/26/2010 11:41:25 AM By: 50552

File the Report

If the **Review Status** is Updated Detail – Needs Review the report has not been reviewed since the last update. (See page 38 for instructions on how to submit the report to the system for review.)

If the status of the report is Complete Detail Records, you are ready to file the report.

Report: 2010 - F3 - 26 2010 General Election Covers: 8/7/2010-8/19/2010 Due: 8/20/2010

Amendment Waiver Complete Status: **Complete Detail Records** ←

File Date: Review Status: Reviewed

Status: Data Entry Last Review: 8/19/2010 3:56:42 PM

of Transactions: 1 **Review** **Recalculate** **Go To File Report** **Append File** **Delete Report** **Save**

Contributions		Total Amount	Expenditures		Total Amount
Cash and Checks:	<input type="text"/>	0.00	Monetary:	<input type="text"/>	51.00
Loans:	<input type="text"/>	0.00	Transfers to Off Acct:	<input type="text"/>	0.00
Total Monetary:	<input type="text"/>	0.00	Total Monetary:	<input type="text"/>	51.00
In-Kind:	<input type="text"/>	0.00	Other Distributions:	<input type="text"/>	0.00

Review Messages:

Created: 8/19/2010 2:01:35 PM By: 50552 Revised: 8/19/2010 3:56:42 PM By: 50552

Click on **Go To File Report**.

The **candidate** enters his or her **PIN**, and then selects **Report Approved**.

NOTE: A PIN is the same as your signature attesting to the validity of the report.

Step 1: Enter the candidate/chairperson PIN.

Step 2: Select the 'Report Approved' button.

Report: 2010 - F3 - 26 Coverage Period: 8/7/2010-8/19/2010 Due: 8/20/2010

Review Status: Reviewed

Original Amended

Waiver

PIN for Candidate/Chairperson: **Report Approved** ←

Candidate Name: Benjamin Alexander Thaddeus John Horbowy

Account: 74245

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
3/10/2020	M2		SNT	0	\$0.00		\$0.00	\$0.00
2/10/2020	M1	2/10/2020						
1/10/2020	M12	1/10/2020						
12/10/2019	M11	12/10/2019						
11/12/2019	M10	11/8/2019						
10/10/2019	M9	10/10/2019						
9/10/2019	M8	9/16/2019	CLO	6	\$6.57		\$6.57	\$6.57
8/12/2019	M7	8/12/2019						
7/10/2019	M6	8/12/2019	APP	33	\$55.35		\$55.35	\$0.00
6/10/2019	M5	8/12/2019	CLO	63	\$0.00		\$0.00	\$0.00
5/10/2019	M4	8/12/2019	CLO	94	\$0.00		\$0.00	\$0.00



**Florida Department of State
Division of Elections**

**2020 General Election
Benjamin Alexander Thaddeus John Horbowy (REP)
State Senator**

Campaign Finance Activity

Note: The information presented below was obtained from the Committee's/Candidate's Campaign Treasurer's Report filed with the Division of Elections. [About the Campaign Finance Data Base.](#)

	Filing Period	Contributions			Expend	Other	Transfers
		Monetary	Loans	InKind			
<input checked="" type="checkbox"/>	04/05/2019 - 04/30/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	05/01/2019 - 05/31/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input type="checkbox"/>	06/01/2019 - 06/30/2019	221.40	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	07/01/2019 - 07/31/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input type="checkbox"/>	08/01/2019 - 08/31/2019	26.27	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	09/01/2019 - 09/30/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	10/01/2019 - 10/31/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	11/01/2019 - 11/30/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	12/01/2019 - 12/31/2019	0.00	0.00	0.00	0.00	0.00	0.00
<input type="checkbox"/>	01/01/2020 - 01/31/2020	52.23	0.00	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	All Dates (Totals)	299.90	0.00	0.00	0.00	0.00	0.00

Note: ^(E) indicates that report was filed electronically

X Indicates that detail has not been released

W Indicates that a waiver was filed and **L** Indicates that a loan report was filed

Select Detail Type

Contributions

Select Sort Order

Date(Ascending)

Select Output Type

Display On Screen

[Submit Query Now](#)

[Query the Campaign Finance Data Base](#)

[\[Department of State\]](#) [\[Division of Elections\]](#) [\[Candidates and Races\]](#) [\[Campaign Finance Information\]](#)

REC'D: FL ELECTIONS COM
20 NOV 19 AM 11:08

FROM THE DESK OF
BENJAMIN ALEXANDER THADDEUS JOHN HORBOWY
FOR FLORIDA SENATE DISTRICT 3.

November 8, 2019

From
BENJAMIN ALEXANDER HORBOWY
1113 OLD BUMPY ROAD
TALLAHASSEE, FLORIDA 32317
850-565-9333

To
Florida Division of Elections
R.A. Gray Building Room 316
500 South Bronough Street
Tallahassee, Florida 32399

Florida Elections Commissions
107 West Gaines Street Set 224
Tallahassee, Florida 32399

To Whom This May Concern

I was out of state for a period over the summer and out of country for a period in the fall. I just returned to Florida and will address some issues.

First, let's get my address straight 1113 Old Bumpy Road, Tallahassee Florida 32317. There has been some letters sent to an apartment in Palm Harbor. I do not live there an have not lived there in sometime; there was no reason for any mail to be delivered to Palm Harbor. I filed to run with the Tallahassee address and that's what's on my drivers license. Please address all letters here.

Second, I have a new Treasurer named Tracy Gill Sysk. I have the forms to turn in with original signatures and we will drop them off next week. At that time, we will discuss three issues face to face: a fine of \$55.35, a fine of \$6.57, and an error report for M8.

Third, Case **No FEC 19-417**. There was an attempt to serve me while I was out of country. I went into the Florida Elections Commission office to get the info as soon as I could. While waiting in the lobby, I heard the security guards speak for more than 5 minutes about how Florida democrats get away with

many unethical matters. They went on and on talking about Gwen Graham and Julie Meadows Keefe. I feel that's relative because it shows the professional culture of Florida Elections. When I was presented with what I was served with, the package was incomplete. It said at the bottom of the pages "1 of 4" but I wasn't handed pages 2, 3, 4. When I pointed it out, the polite gentlemen apologized over and over about how unprofessional handing me letters with a form or two upside down was, but didn't mention not giving me the full package. What were on those pages? The gentleman went to another room and came back with the 3 pages that I suppose were correct. They were three sheets of evidence you have against me and it was public info. Mild evidence of a simple late fee proceedings, why not share this? Seems fishy.

The gentlemen went on to explain that I can close this case with a simple omission of guilt and an agreement to pay \$50 dollars. I asked what if I challenge it... what would be the worst case scenario and what would be the best case. He informed me that \$50 dollars is probably the worst case and the best case would be mercy and a waiver of the fee.

After hearing the professional culture overview from the guards at the front door, having be served incomplete information, someone apologizing about handing me upside down sheets but not mentioning missing information, I feel that it's my patriotic duty to challenge this as experience in full the appeal process of the Florida Elections Commission. I feel there is a need for someone to lay out on public the antics of what goes on? Need I mention (maybe this is another commission)I was in the room when Andrew Gillum was slapped on the wrist with a small fine where many people thought he would be locked up for the infraction/crime that he did. This case is over \$50 bucks for a late fee to say "there's no money in the account" and now the account with about \$250. You want to take 20% from me; I'm up against someone with over half a million. Really, it's we the people up against the establishment full of lawyers, lobbyist ,and cronies.

Politely, I wish to challenge and appeal No FEC 19-417. Humbly I request compassion from the commission and a forgiveness of the fine.

Respectfully

Benjamin Horbowy



**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 19-588**

Respondent: Benjamin Alexander Thaddeus J. Horbowy

Complainant: Division of Elections

1. **Date and time:** February 10, 2020
Name: Respondent
Phone #: (850) 565-9333
Summary: I called Mr. Horbowy to review the three legal sufficiency letters filed against him. I was unable to make contact with the client and left a general voicemail at the number provided. There was no confirmation that this was Mr. Horbowy's number.
Memo to File? No
Entered by: Brian Ayres

2. **Date and time:** February 10, 2020 @ 12:20 pm
Name: Respondent
Phone #: (850) 565-9333
Summary: Mr. Horbowy called me back after receiving my voicemail. We discussed the Legal sufficiency letters he has received as well as the procedures of my investigation. I explained what each case will be looking into.

Mr. Horbowy stated he has read the Treasurer's Handbook with his treasurer, but will do so again soon so they both can be on the same page. I referred Mr. Horbowy to the Division website that stores information on campaign filing and financial activity. Mr. Horbowy was notified an affidavit was being sent to his address for additional information with specific questions pertaining to the investigation.
Memo to File? No
Entered by: Brian Ayres

3. **Date and time:** March 17, 2020 @ 8:59 a.m.
Name: Respondent
Phone #: (850) 565-9333
Summary: I called Mr. Horbowy to notify him I will move forward with my investigation as I do not have his affidavit that was sent on February 10, 2020. I left a generic voicemail with the number to have Respondent call me back as the voicemail message did not indicate if it was Respondent's solely or not.
Memo to File? No
Entered by: Brian Ayres

4. **Date and time:**
Name:
Phone #:
Summary:
Memo to File? No
Entered by:



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539 · Facsimile: (850) 921-0783
FEC@myfloridalegal.com · www.fec.state.fl.us



November 21, 2019

Benjamin Alexander Thaddeus J. Horbowy
1113 Old Bumpy Road
Tallahassee, FL 32317

RE: Case No.: FEC 19-417; Respondent: Benjamin Alexander Thaddeus J. Horbowy

Dear Mr. Horbowy:

On June 25, 2019, the Florida Elections Commission received a complaint alleging you violated Florida's election laws. I have reviewed the complaint and find that it contains one or more **legally sufficient allegations**. The Commission staff will investigate the following alleged violation(s):

Section 106.07(7), Florida Statutes: As alleged in the complaint, Respondent, a 2020 candidate for State Senator, District 3, failed to notify the filing officer on the prescribed reporting date that no report would be filed on that date because he had not received funds, made contributions, or expended reportable funds during the 2019 M4 reporting period.

However, prior to an investigation, you have the option to **resolve your case now by** signing a minor violation consent order and **paying a fine of \$50**, per Rule 2B-1.003, Florida Administrative Code, **rather than the potential \$1,000 per violation** provided for in Section 106.265, Florida Statutes.

If you sign the consent order, you would not be required to admit or deny the allegation(s) in the complaint, but you would be required to immediately correct the violation, if feasible.

The signed consent order would then be considered by the Commission at its next available meeting and would constitute final action by the Commission once it is accepted and approved by the Commission. You and the Complainant will receive notice at least 14 days before any hearing at which your case is to be considered.

Please contact Mike McGuckin at (850) 922-4539, or at the address listed above, to accept this minor violation consent order.

If you choose not to resolve this case by consent order, an investigation will be conducted, the Commission will hold one or more hearings to determine whether the alleged violation(s) occurred and, if so, the amount of fine to be imposed upon you.

Benjamin Alexander Thaddeus J. Horbowy
November 21, 2019
Page 2
FEC 19-417

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

For additional information, please refer to the “Frequently Asked Questions” section on the Commission’s website.

Sincerely,

Tim Vaccaro
Executive Director

TV/med

REC'D: FL ELECTIONS COM
20 NOV 19 AM 11:03

FROM THE DESK OF
BENJAMIN ALEXANDER THADDEUS JOHN HORBOWY
FOR FLORIDA SENATE DISTRICT 3.

November 8, 2019

From
BENJAMIN ALEXANDER HORBOWY
1113 OLD BUMPY ROAD
TALLAHASSEE, FLORIDA 32317
850-565-9333

To
Florida Division of Elections
R.A. Gray Building Room 316
500 South Bronough Street
Tallahassee, Florida 32399

Florida Elections Commissions
107 West Gaines Street Set 224
Tallahassee, Florida 32399

To Whom This May Concern

I was out of state for a period over the summer and out of country for a period in the fall. I just returned to Florida and will address some issues.

First, let's get my address straight 1113 Old Bumpy Road, Tallahassee Florida 32317. There has been some letters sent to an apartment in Palm Harbor. I do not live there and have not lived there in sometime; there was no reason for any mail to be delivered to Palm Harbor. I filed to run with the Tallahassee address and that's what's on my drivers license. Please address all letters here.

Second, I have a new Treasurer named Tracy Gill Sysk. I have the forms to turn in with original signatures and we will drop them off next week. At that time, we will discuss three issues face to face: a fine of \$55.35, a fine of \$6.57, and an error report for M8.

Third, Case **No FEC 19-417**. There was an attempt to serve me while I was out of country. I went into the Florida Elections Commission office to get the info as soon as I could. While waiting in the lobby, I heard the security guards speak for more than 5 minutes about how Florida democrats get away with

many unethical matters. They went on and on talking about Gwen Graham and Julie Meadows Keefe. I feel that's relative because it shows the professional culture of Florida Elections. When I was presented with what I was served with, the package was incomplete. It said at the bottom of the pages "1 of 4" but I wasn't handed pages 2, 3, 4. When I pointed it out, the polite gentlemen apologized over and over about how unprofessional handing me letters with a form or two upside down was, but didn't mention not giving me the full package. What were on those pages? The gentleman went to another room and came back with the 3 pages that I suppose were correct. They were three sheets of evidence you have against me and it was public info. Mild evidence of a simple late fee proceedings, why not share this? Seems fishy.

The gentlemen went on to explain that I can close this case with a simple omission of guilt and an agreement to pay \$50 dollars. I asked what if I challenge it... what would be the worst case scenario and what would be the best case. He informed me that \$50 dollars is probably the worst case and the best case would be mercy and a waiver of the fee.

After hearing the professional culture overview from the guards at the front door, having be served incomplete information, someone apologizing about handing me upside down sheets but not mentioning missing information, I feel that it's my patriotic duty to challenge this as experience in full the appeal process of the Florida Elections Commission. I feel there is a need for someone to lay out on public the antics of what goes on? Need I mention (maybe this is another commission)I was in the room when Andrew Gillum was slapped on the wrist with a small fine where many people thought he would be locked up for the infraction/crime that he did. This case is over \$50 bucks for a late fee to say "there's no money in the account" and now the account with about \$250. You want to take 20% from me; I'm up against someone with over half a million. Really, it's we the people up against the establishment full of lawyers, lobbyist ,and cronies.

Politely, I wish to challenge and appeal No FEC 19-417. Humbly I request compassion from the commission and a forgiveness of the fine.

Respectfully

Benjamin Horbowy

A handwritten signature in dark ink, appearing to be "Benjamin Horbowy", written over a horizontal line that extends across the page.

1113 Old Bumply Rd
Tallahassee FL 32317

RECEIVED

2019 NOV 20 A 11:01

STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission
107 W. Gaines St 224
Tallahassee FL 32399



32399-55399



**DIVISION OF ELECTIONS
FEC NOTICE FORM**

To FEC from Division of Elections

Name: Benjamin Alexander Thaddeus J. Horbowy
Account Number: 74245
Treasurer: Nancy Horbowy

The Division of Elections hereby provides this notice to the Florida Elections Commission pursuant to Sections 106.07(8)(d), 106.22(7) and 106.25, Florida Statutes. An apparent violation of Chapter 106, F.S., has occurred based upon the candidate's alleged failure to file a report after notice as required by section 106.07(8)(d), Florida Statutes, or failure to notify the filing officer on the prescribed reporting date that no report was to be filed as required by Section 106.07(7), Florida Statutes.

The following report or notice is outstanding after notification:

2019 M4

- Benjamin Alexander Thaddeus J. Horbowy (74245) is a 2020 candidate for the office of State Senator.
- On April 5, 2019, Mr. Horbowy filed the Appointment of Campaign Treasurer and Designation of Campaign Depository with the Division.
- The 2019 M4 campaign treasurer's report was due on May 10, 2019. On May 13, 2019, the Division mailed Mr. Horbowy notification that the 2019 M4 campaign treasurer's report had not been filed.
- On May 22, 2019, the Division mailed Mr. Horbowy second notification that the 2019 M4 campaign treasurer's report had not been filed.
- On June 3, 2019, the Division mailed Mr. Horbowy final notification with delivery confirmation that the 2019 M4 report had not been filed. (See attached letter and delivery confirmation.)
- Mr. Horbowy did not notify the Division of Elections prior to or on the prescribed reporting date for the 2019 M4 report that no report was to be filed.

- As of June 20, 2019, Mr. Horbowy has not filed the 2019 M4 report.

Sent By: Kristi Reid Willis *KRW*
Date: June 20, 2019

jcs



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

Final Notice

Delivery Confirmation:

USPS TRACKING #
& CUSTOMER
RECEIPT

9114 9023 0722 4129 6175 63

For Tracking or Inquiries go to USPS.com
or call 1-800-222-1811.

June 3, 2019

Benjamin Alexander Thaddeus J Horbowy
Candidate for State Senator, District 3
1113 Old Bumpy Road
Tallahassee, FL 32317-2317

CAN 74245

Dear Mr. Horbowy:

A recent review of the Division's records show that the Division has not yet received the below-referenced campaign treasurer's report or the required notification that no reportable activity occurred, whichever is applicable, during the following cover period:

<u>Year</u>	<u>Report</u>	<u>Cover Period</u>
2019	M4	4/1/19 - 4/30/19

The Division has previously notified you of the unfiled report or notification. Please file your report or notification. If the report is not filed within 7 days of receipt of this letter, the Division will refer this matter to the Florida Elections Commission, which may impose civil penalties of up to \$1000 per violation, apart from that automatic fine provisions of s. 106.07(8)(b), Fla. Stat.) that are applicable only to campaign finance reports.

As we stated in the prior notices, even if you now file the report or notification, the untimely filing of a report of reportable activity, or if applicable, a notice that no reportable activity occurred, may constitute an apparent violation of chapter 106, Fla. Stat. If we refer such matter to the Florida Elections Commission, the Commission may subsequently impose a civil penalty for each violation under chapter 106.265(1), Fla. Stat.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

Kristi Reid Willis, Chief
Bureau of Election Records

cc: Nancy Horbowy, Treasurer



FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Track Another Package +

Tracking Number: 9114902307224129617563

Remove X

Expected Delivery on

WEDNESDAY

5 JUNE 2019 ⓘ

by 8:00pm ⓘ

✓ Delivered

June 5, 2019 at 11:57 am
Delivered, Front Door/Porch
TALLAHASSEE, FL 32317

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Go to our FAQs section to find answers to your tracking questions.