

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Steven Berrey.

Case No.: FEC 11-283

NOTICE OF HEARING ON APPEAL OF AUTOMATIC FINE

TO: Steven Berrey 3354 Victoria Lake Drive North Jacksonville, Florida 32226	The Honorable Jerry Holland Duval County Supervisor of Elections 105 East Monroe Street Jacksonville, Florida 32202
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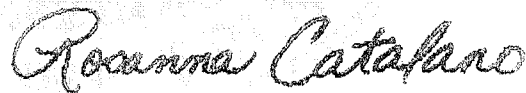
PLEASE TAKE NOTICE that on **February 21, 2012**, at **8:30 a.m.** or thereafter as the parties can be heard, the Florida Elections Commission will consider the Respondent's appeal of the automatic fine imposed by the filing officer. The Commission will meet at: **City Hall, City Commission Chambers, 300 S. Adams Street, Tallahassee, Florida.**

Although you did not request a hearing, this notice is to inform you that your case will be discussed at the meeting taking place on the above date and place. All documents you want the Commission to consider must be submitted at least 10 days prior to the hearing.

If you require an accommodation due to a disability, contact Donna Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 48 hours before the hearing.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Dated on January 19, 2012.



Rosanna Catalano
Executive Director

INSTRUCTIONS FOR HEARING ON APPEAL OF AUTOMATIC FINE

Please be advised that other cases have been scheduled for the same time. Therefore, your case may not be called exactly at the time set forth on this notice.

At the automatic fine hearing, the Florida Elections Commission will decide whether Respondent's campaign treasurers report was timely filed or whether there were unusual circumstances that excuse his failure to timely file his report.

Rule 2B-1.0055, *Florida Administrative Code*, defines **unusual circumstances** as "uncommon, rare or sudden events over which the actor has no control and which directly result in the failure to act in accordance with the filing requirements. Circumstances which allow for time in which to take those steps necessary to assure compliance with the filing requirement shall be deemed not to constitute unusual circumstances."

The hearing will be conducted pursuant to Section 106.07(8)(c), *Florida Statutes*, if Respondent is a candidate, a political committee, or an electioneering communications organization; Section 106.04(8)(c), *Florida Statutes*, if Respondent is a committee of continuous existence; or Section 106.29(3)(c), *Florida Statutes*, if Respondent is a political party; and Commission Rules 2B-1.005, 1.0052, & 1.0055, *Florida Administrative Code*.

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.

Before making a decision, the Commission will review the written documents submitted by Respondent and staff at least ten days before the hearing and the information presented at the hearing. Rule 2B-1.005, *Florida Administrative Code*, provides that unless good cause is shown, the Commission will not consider any written document unless it has been filed with the Commission Clerk at least ten days before the hearing.

When the case is called, the Chair will read a brief statement and may ask the Respondent and his attorney, if one is present, to state their names for the record. Respondent will then have time to present his case to the Commission. Witnesses may be called to testify under oath on Respondent's behalf. If Respondent calls witnesses, the staff attorney may cross-examine those witnesses after Respondent's questioning is finished. After Respondent's presentation, staff will have the same amount of time to present its case. If the staff attorney calls witnesses, Respondent may cross-examine those witnesses after staff's questioning is finished.

At any time during the presentations the Commissioners may ask questions of Respondent, his attorney, the witnesses, and staff. After the presentations are concluded, the Commissioners will discuss the case and decide whether Respondent's report was timely filed or whether there were unusual circumstances that excuse his failure to file timely his report. The Commission will make a decision by a majority vote of those members present and voting.

After the Commission meeting, the Commission will send Respondent a written order reflecting the Commission's decision. If the Commission upholds the fine, Respondent will have 30 days to pay the fine.

If you have any questions about the procedures for the hearing, please contact Donna Malphurs at 107 W. Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399-1050, phone number: (850) 922-4539.

**FLORIDA ELECTIONS COMMISSION
CASE REPORT**

Case Number: FEC-11-283

NAME: **STEVEN BERREY**

DATE APPEAL RECEIVED: 11/18/10

DATE HEARING REQUEST RECEIVED: n/a

DATE REPORT DUE: 8/20/10 (2010 F3)

DATE OF HAND DELIVERY: 8/23/10

DATE FILING OFFICER RECEIVED REPORT: 8/23/10

NUMBER OF DAYS LATE: 2*

AMOUNT OF FINE: \$1,000.00*

FINE BASED ON: (x) NUMBER OF DAYS (..) 25% OF RECEIPTS (..) 25% OF EXPENDITURES

TOTAL RECEIPTS FOR REPORTING PERIOD: \$4,538.00

TOTAL EXPENDITURES FOR REPORTING PERIOD: \$3,020.32

DATE OF FIRST NOTIFICATION: Reminder e-mail dated 8/17/10

SUMMARY: Steven Berrey was a candidate for County School Board, District 6 in the 2010 elections. Annette Berrey was his treasurer.

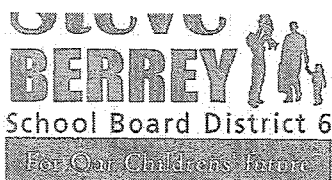
Mr. Berrey is appealing the fine claiming that he was delayed in returning to Jacksonville on 8/20/10, and was unable to sign his report. According to Mr. Berrey, his report was timely filed electronically, but due to bad weather his flight was delayed and he was unable to physically sign the report. Additionally, Mr. Berrey states that a very close friend suffered the loss of his wife and Mr. Berrey assisted his friend through the grieving process that weekend. However, Mr. Berrey did not submit any further documentation to support his appeal. Mr. Berrey also states he thought the fine would only apply to business days.

PRIOR CASES: Mr. Berrey has not had any prior cases before the Commission.

CORRECTION OF FINE: Relying on Section 106.07(8), Florida Statutes, the Division of Elections in DE 91-07 opined that the late dates begin accruing on the day after the due date and continue accruing, including holidays and weekends, up to and including the earlier of (1) the date the report is received, (2) the date the report is postmarked, (3) the date of the certificate of mailing, and (4) the date of the receipt from an established courier company. Mr. Berrey's report was due 8/20/10 and was hand-delivered to the filing officer on 8/23/10. Therefore, the report should have been deemed three days late.

Additionally, Section 106.07(8)(b), Florida Statutes, states "the fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 for each late day, not to exceed 25% of contributions or expenditures, whichever is greater, for the period covering the late report. However, for the reports immediately preceding each primary and general election, the fine shall be \$500 per each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report." Mr. Berrey's report was due 8/20/10, four days before the primary election. A fine based on the number of days the report was late would total \$1,500. Therefore, the correct fine amount is \$1,134.50 which is 25% of Mr. Berrey's contributions.

FEC ACTION:	FINE DUE: \$ _____	DATE: _____
TIMELY FILED: YES _____ NO _____	UNUSUAL CIRCUMSTANCES: YES _____ NO _____	
WAIVER: PARTIAL _____ FULL _____	FINE INCORRECTLY CALCULATED: YES _____ NO _____	
UC REASON: _____	INITIALS: _____	



3354 Victoria Lakes Dr. N Jacksonville, FL 32226 ■ (904) 476-9721 ■ forourchildrensfuture@comcast.net

September 24, 2010

Florida Elections Commission
107 West Gaines Street, Collins Building, Suite 224,
Tallahassee, FL 32399-1050

To whom it may concern,

Please allow this letter to serve as a formal appeal of the fine for \$1000 assessed by the state of Florida *Florida Statute, sec. 106.07 Par. (2) and (8)* for my late filing of my Campaign Treasurer's Report, due on August 20, 2010. My electronic report had been filed, but due to my travel schedule, I was unable to physically sign the report and file it with your office on time.

As I explained to Jerry Holland, supervisor of Elections in Duval County, I was delayed in returning to Jacksonville on August 20, 2010 due to inclement weather and was unable to physically sign my report which would have been filed with his office on time, had my flight not been delayed.

In addition, a very close friend suffered the loss of his wife, and my mind was simply on going to be with my friend and helping him through the grieving process that weekend. It never occurred to me to bring the report into his office during early voting period.

I did deliver the report on August 23, 2010 by hand because once I missed the deadline, I sincerely thought the fine would only apply to 'business day' and the normal business day of the Supervisor of Elections office is Monday through Friday.

Thank you in advance for your consideration.

Sincerely,

Steve Berrey

Candidate – Duval County School Board – District 6

August 27, 2010

Steve Berrey
2010 Candidate for School Board 6
3354 Victoria Lakes Dr. N.
Jacksonville, FL 32226

Dear Steve:

Your campaign treasurer's report, F3 was due on Friday, August 20, 2010 and was received on Monday, August 23. Remember, it is the policy of this office that financial reports are submitted on line through our financial reporting software and an original, hard copy of the report summary must be signed and received in this office on or before the due date for the report to be considered legally filed.

It is stated in Florida Statutes:

106.07 (8)(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chair of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for the first 3 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 each 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.** Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chair. Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from **personal funds** of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

(c) Any candidate or chair of a political committee may appeal or dispute the fine, based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in s. 106.265(1) when determining the amount of a fine, if any, to be waived. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the candidate or chair of the political committee shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

Steve Berrey, Page 2

Your report was filed two days late resulting in a fine of \$1,000.00. Fines must be paid out of personal funds, not campaign funds. Fines must be paid to the filing officer within 20 days of receipt of this payment due notice.

If you have any questions, please do not hesitate to contact me at (318-6877) or my candidate administrator, Beth Fleet at 630-8002.

Sincerely,

Jerry Holland
Duval County Supervisor of Elections

cc: Beth Fleet

Fleet, Beth

From: Fleet, Beth
Sent: Tuesday, August 17, 2010 2:13 PM
To: Fleet, Beth
Subject: F3 report due this Friday, 8/20/10

Good afternoon!

I know this is a very busy week for everyone and I hope that all is going well.

This email is to remind you that your **F3 report** (period covering 7/31 – 8/19) is due to this office on or before Friday, 8/20/10.

Deadline for contributions (from the candidate handbook, page 27):

As some of your campaigns will be winding down, I want to make you aware that expenditures made for the purpose of influencing the results of an election must be obligated before the election, providing there are adequate funds available to pay said expenses.

Please review the statute 106.11 (5b):

(5) A candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office may expend funds from the campaign account to:

(a) Purchase "thank you" advertising for up to 75 days after he or she withdraws, becomes unopposed, or is eliminated or elected.

(b) **Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected.**

(c) Pay for expenditures necessary to close down the campaign office and to prepare final campaign reports.

Also, have a look at this opinion that specifically addresses expenditures for campaign parties.



disposition of
campaign funds...

2010 Deadlines for Accepting Contributions

Any contribution received by a candidate with opposition in an election, or the campaign treasurer or deputy campaign treasurer, on the day of that election or less than five days prior to the day of that election must be returned to the contributor. It may not be used or expended by or on behalf of the candidate.

The primary and general elections are considered separate elections for contribution purposes.

If opposed in the primary election the candidate may accept:

\$500 no later than midnight on August 19, 2010

If opposed in the primary and general elections the candidate may accept:

\$500 no later than midnight on August 19, 2010

\$500 between August 25 and midnight on October 28, 2010

If opposed general election only the candidate may accept:

\$500 no later than midnight on August 19, 2010

\$500 between August 25 and midnight on October 28, 2010

Early Voting will conclude on Sunday, August 22 at 5 pm.

Please let me know if there is anything we may do to help you in these remaining days!

Best of luck to everyone,

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duvalelections.com
Supervisor of Elections
105 E. Monroe Street
Jacksonville, FL 32202

"Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure."

**FLORIDA DEPARTMENT OF STATE DIVISION OF ELECTIONS
CAMPAIGN TREASURER'S REPORT SUMMARY**

(1) Steve Berrey
Name
(2) 3354 Victoria Lakes Dr. N.
Address (number and street)
Jacksonville, FL 32226
City, State, Zip Code

OFFICE USE ONLY
RECEIVED
ONLINE SUBMISSION
[102] AUG 23 2010

Submitted on: DUVAL COUNTY ELEC.
8/20/2010 15:51:46 (eastern) *B7*

☐ CHECK IF ADDRESS HAS CHANGED

(3) ID Number: 231

(4) Check appropriate box(es):

☒ Candidate (office sought): School Board Dist 6

☐ Political Committee

☐ CHECK IF PC HAS DISBANDED

☐ Committee of Continuous Existence

☐ CHECK IF CCE HAS DISBANDED

☐ Party Executive Committee

☐ Electioneering Communication

☐ CHECK IF NO OTHER ELECTIONEERING
COMMUNICATION REPORTS WILL BE FILED

(5) REPORT IDENTIFIERS

Cover Period: From 7/31/2010 To 8/19/2010 / Report Type F3

☒ Original ☐ Amendment ☐ Special Election Report ☐ Independent Expenditure Report

(6) CONTRIBUTIONS THIS REPORT

Cash & Checks \$ 1,788.00
Loans \$ 2,750.00
Total Monetary \$ 4,538.00
In-Kind \$ 0.00

(7) EXPENDITURES THIS REPORT

Monetary
Expenditures \$ 3,020.32
Transfers to Office
Account \$ 0.00
Total
Monetary \$ 3,020.32

(8) Other Distributions
\$ 0.00

(9) TOTAL Monetary Contributions To Date

\$ 8,428.00

(10) TOTAL Monetary Expenditures To Date

\$ 6,369.88

(11) CERTIFICATION

It is a first degree misdemeanor for any person to falsify a public record (ss. 839.13, F.S.)

I certify that I have examined this report and it is true, correct, and complete.

(Type name) Annette Berrey
☐ Individual (only for electioneering commun.) ☒ Treasurer ☐ Deputy Treasurer

X Annette Berrey
Signature

I certify that I have examined this report and it is true, correct, and complete.

(Type name) Steven B. Berrey
☒ Candidate ☐ Chairperson (only for PC, PTY & electioneering commun. organization)

X Steven B. Berrey
Signature

Left mess on 11/16/10 about VR # 103629749
TR and appeal

6/18/10
Q E W
8/24

CANDIDATE CONTACT CHECKLIST

Name: Steve Berrey Office Sought: S B L
Party Affiliation: NOP Election Cycle: 2010
Home Address: 3354 Victoria Lakes Dr N Mailing Address: _____
Phone: 904-751-4361 Cell: [REDACTED] Fax: _____

3-4-10 Provide candidate current Candidate/Treasurer Handbook, FS publications and SOE Candidate Packet

3-4-10 Provide candidate with Reporting/Qualifying dates calendar. Highlight when first report is due.

4/5/10 Advise that a report must be filed even if there has been no bank account activity - **Waiver of Report**

4/5/10 Completed ☒ **DSDE 9**

4/5/10 Completed ☒ **DSDE 84** from candidate within 10 days of DSDE 9

4/5/10 Provide candidate with date stamped copies of all forms submitted

4/5/10 Advise candidate that (s)he can only sign checks/reports if (s)he is treasurer or deputy treasurer

4-5-10 Check the candidate's voter record: ☒ registered ☒ reside in district of office sought if not countywide

4/5/10 Check the candidate's voter record: ☒ voter record address matches address DSDE9 (if not, why?)

6/14/10 Check residency requirements for office sought (prior to Qualifying Week)

4/5/10 Obtain e-mail address Steve@you4reports.com ☒ Private ☐ Public ☐ Add to Distribution List

4/5/10 Prepare original candidate file folder. Marketing.Com

If a candidate intends to qualify by petition:

3-4-10 Provide candidate with approved petition
format sample

3-4-10 Inform candidate of # petitions required

3-4-10 Explain/obtain Affidavit of Undue Burden

4/5/10 Review deadline for petition submission

4-5-10 Added to Duval County Candidate Financial Reporting System

231

4-5-10 Added to Excel contact spread sheet

4-5-10 Added to internal Candidate tracking system # 1849

4-5-10 Added to SOE Website Active Candidates

____ Added to Media Candidate list

____ ☐ Bio ☐ Picture (Published)

4-5-10 Emailed

Other data:

Treasurer Name: Annette Berrey

Campaign Manager: _____

Treasurer Address: Same

Phone: _____ Cell: _____

Treasurer Phone/Cell: [REDACTED]

Email Address: _____

Treasurer Email: [REDACTED]@comcast.net

DE 91-07 - October 21, 1991

**Calculation of Late Days Under Automatic Fine Provisions
Sections 106.04(8) and 106.07(8), F.S.**

*TO: Honorable Dorothy Ruggles, Supervisor of Elections, Pinellas County, 315 Court Street,
Clearwater, Florida 34616-5190*

Prepared by: Division of Elections

This is in response to your letter of September 10, 1991, wherein you request an opinion from the Division of Elections. You are the Pinellas County Supervisor of Elections and are requesting an opinion concerning the Florida Election Code, the division has authority under Section 106.23(2), Florida Statutes, to issue this opinion.

You ask:

How are the number of late days determined under the late report automatic fine provisions of Chapter 106, Florida Statutes, when a campaign treasurer's report is late and a fine must be assessed?

It is the opinion of the division that the calculation of late days begins on the day after the campaign treasurer's report is due, including weekends and holidays, and continues and includes the day of the postmark, courier receipt, or certificate of mailing, whichever is earlier.

Section 106.07(8), Florida Statutes, provides a per day fine for late reports of political committees and candidates. Section 106.04(8), Florida Statutes, sets forth the applicable fine provisions for late reports of committees of continuous existence. The fine provisions of these two sections are substantially the same. Section 106.07(8), Florida Statutes, provides in part:

(8)(a) Any candidate or political committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day....

(b) ...The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.

Though the first day on which the fine is to begin is not specifically stated in the statute, the division and the Florida Elections Commission have construed the statute to mean that the late days begin accruing on the day after the due date. The statute provides that the accruing of late days will continue until the earlier of when the report is actually received, when the report is postmarked, when a certificate of mailing is dated, or when the receipt from an established courier company is dated.

Therefore, it is the opinion of the division that the accruing of late days continues, including holidays and weekends, up to and including the earlier of the above-referenced dates. For example, if a report was required to be filed on the first of the month and was received on the tenth, bearing a postmark dated on the fifth of the month, the late days would include the second, third, fourth, and fifth days of the month. Therefore, the report is four days late.

SUMMARY

It is the opinion of the division that the calculation of late days begins on the day after the campaign treasurer's report is due, including weekends and holidays, and continues and includes the day of the postmark, courier receipt, or certificate of mailing, whichever is earlier.



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street, Collins Building

Suite 224

Tallahassee, Florida 32399-1050

(850) 922-4539

January 6, 2012

Mr. Steven Berrey
3354 Victoria Lake Drive North
Jacksonville, FL 32226

RE: Case No.: FEC 11-283; Campaign Treasurer's Report due August 20, 2010

Dear Mr. Berrey:

The Florida Elections Commission received your letter appealing the fine assessed against you for failing to timely file your campaign treasurer's report. I anticipate that the Commission will hear your case at its next meeting, which is presently scheduled for February 21 & 22, 2012, in Tallahassee. However, please call our office to verify when your case will be heard.

In reaching its decision, the Commission will consider the documents gathered by Commission staff and any documents you submit for the Commission's consideration before its meeting. Unless good cause is shown, the Commission will not consider any written document unless it has been filed with the Commission Clerk at least ten days before the meeting. Rules 2B-1.005, 1.0052, and 1.0055, *Florida Administrative Code*, are the Commission's rules on the appeal of automatic fines.

The Commission will uphold the fine imposed by the filing officer unless you provide credible evidence that the report was timely filed or credible evidence that unusual or other circumstances caused the report to be filed late.

If you are a county, municipal, or special district candidate or committee and your report was received by the filing officer without a postmark or with an illegible postmark more than five days after the due date or it was delivered to the filing officer by a mail delivery service other than the United States Postal Service, it will not be found timely filed unless you submit a copy of a proof of mailing or at a hearing before the Commission, presents the oral testimony of the person who timely mailed the report.

The proof of mailing submitted shall reflect that it was obtained from the United States Postal Service or other mail delivery service at the time of mailing and shall reflect that the report was mailed before midnight on the due date. A metered postage mark does not constitute a postmark or a proof of mailing.

If you cannot show that your report was timely filed, the Commission may still grant you relief,

but only if you show unusual circumstances. **Unusual circumstances is defined in Rule 2B-1.005(4), Florida Administrative Code, to mean “uncommon, rare, or sudden events over which the actor has no control and which directly result in the failure to act in accordance with the filing requirements.”** Unusual circumstances must occur within a time period that would clearly have prevented you from filing the report in a timely manner. Unusual circumstances shall not include the failure of the United States Postal Service or other mail delivery service to postmark an envelope, legibly postmark an envelope, or timely deliver mail. Further, unusual circumstances shall not include the failure of the sender to affix sufficient postage to a report that is being mailed.

Without credible evidence, the Commission will not find unusual circumstances. The following circumstances may constitute unusual circumstances so long as credible evidence is presented that unusual circumstances caused the report to be filed late.

1. **Natural disaster or other emergency that prevented timely filing.** Evidence submitted must include copies of newspaper reports or other documents from an independent and reliable source that shows the nature, date, and location of the natural disaster or emergency.
2. **Death of the candidate or campaign treasurer or an immediate family member of the candidate or campaign treasurer.** Evidence submitted must include a copy of the death certificate, newspaper obituary, or funeral program, or notice.
3. **Serious illness, disability or non-elective surgery of the candidate or campaign treasurer.** Evidence submitted must include a physician's certification on professional letterhead stationery that includes the dates of the illness, disability, or surgery; a statement regarding the period of time that the patient was incapacitated; and a statement that surgery, if any, was not elective. Copies of hospital records reflecting the dates of hospitalization may also show the period of incapacitation.
4. **Serious illness, disability, or non-elective surgery of the immediate family member of the candidate or campaign treasurer.** Evidence submitted must include evidence of the relationship of the candidate or treasurer to the family member, the location of the family member, and the reason the presence of the candidate or campaign treasurer was required. Evidence submitted must also include a physician's certification on professional letterhead stationery that includes the dates of the illness, disability or surgery; a statement regarding the period of time that the patient was incapacitated; a statement that surgery, if any, was not elective; and a statement that the patient required the care of a family member.
5. **Computer or equipment failure caused by events that could not have been anticipated and that made timely filing of the report impossible.** Power outages or program failure does not constitute unusual circumstances unless it is established that reasonable precautions to assure the safety of the equipment or the ability of the program to perform as anticipated were taken before the events causing failure of the equipment or program. Evidence must include a written statement made under oath in the presence

of a notary or other person authorized to administer oaths indicating the cause and the duration of the power outage and the reasonable precautions taken to assure the safety of the equipment or the ability of the program to perform as anticipated.


6. **The abrupt and unexpected loss of the campaign treasurer, over which you had no control.** The loss of the campaign treasurer does not constitute unusual circumstances if the appealing party failed to monitor the campaign treasurer's performance before his or her departure or if the appealing party failed to assure prompt preparation of the report after the treasurer's departure. Evidence must include a written statement made under oath in the presence of a notary or other person authorized to administer oaths explaining the departure of your treasurer and the steps taken to monitor the treasurer's performance before his or her departure.

You may, of course, send any additional evidence that you believe supports your position that your report was timely filed or that unusual circumstances cause your report to be filed late. Rule 2B-1.005(3), Florida Administrative Code, provides that if you send additional documentary evidence, the Commission must receive it no later than 20 days from the date of this letter. Remember that the Commission will not consider any written document unless it has been filed with the Commission Clerk at least ten days before the meeting, unless good cause is shown. If the documentary evidence is timely received, it will be presented to the Commission when it considers your appeal of the assessed fine.

It is your responsibility to provide the Commission with credible evidence that the report was timely filed or credible evidence that unusual circumstances caused the report to be filed late. If you do not provide the evidence requested in this letter or in the Commission rules, the Commission will uphold the fine assessed by the filing officer.

If you have any questions or need additional information, please contact **Tracie Aulet**, the investigator assigned to this case, at extension 114.

Sincerely,



Tracie Aulet
Investigation Specialist

**FLORIDA DEPARTMENT OF STATE DIVISION OF ELECTIONS
CAMPAIGN TREASURER'S REPORT SUMMARY**

(1) Steve Berrey
Name

(2) 3354 Victoria Lakes Dr. N.

Address (number and street)

Jacksonville, FL 32226

City, State, Zip Code

☐ CHECK IF ADDRESS HAS CHANGED

OFFICE USE ONLY

ONLINE SUBMISSION
[1021308]

Submitted on:

8/20/2010 15:51:46 (eastern)

(3) ID Number: 231

(4) Check appropriate box(es):

☒ Candidate (office sought): School Board Dist 6

☐ Political Committee

☐ CHECK IF PC HAS DISBANDED

☐ Committee of Continuous Existence

☐ CHECK IF CCE HAS DISBANDED

☐ Party Executive Committee

☐ Electioneering Communication

☐ CHECK IF NO OTHER ELECTIONEERING
COMMUNICATION REPORTS WILL BE FILED

(5) REPORT IDENTIFIERS

Cover Period: From 7/31/2010 To 8/19/2010 / Report Type F3

☒ Original ☐ Amendment ☐ Special Election Report ☐ Independent Expenditure Report

(6) CONTRIBUTIONS THIS REPORT

Cash & Checks \$ 1,788.00

Loans \$ 2,750.00

Total Monetary \$ 4,538.00

In-Kind \$ 0.00

(7) EXPENDITURES THIS REPORT

Monetary
Expenditures \$ 3,020.32

Transfers to Office
Account \$ 0.00

Total
Monetary \$ 3,020.32

(8) Other Distributions
\$ 0.00

(9) TOTAL Monetary Contributions To Date

\$ 8,428.00

(10) TOTAL Monetary Expenditures To Date

\$ 6,369.88

(11) CERTIFICATION

It is a first degree misdemeanor for any person to falsify a public record (ss. 839.13, F.S.)

I certify that I have examined this report and it is true, correct, and complete.

(Type name)

☐ Individual (only for
electioneering commun) ☐ Treasurer ☐ Deputy Treasurer

X

Signature

I certify that I have examined this report and it is true, correct, and complete.

(Type name)

☐ Candidate ☐ Chairperson (only for PC, PTY &
electioneering commun organization)

X

Signature

CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Steve Berrey (2) I.D. Number 231
 7/31/2010 8/19/2010
 (3) Cover Period 7/31/2010 through 8/19/2010 (4) Page 1 of 2

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type Occupation		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
8/14/2010 / /	Wharton, Linda 2339 Caney Oaks Dr. Jacksonville, FL 32226	I		CH			\$100.00
1							
8/19/2010 / /	Greene, Christopher 176 San Juan Dr. Ponte Vedra, FL 32082	I	attorney	CH			\$250.00
2							
8/19/2010 / /	Baroncelli, Craig 11880 28th St. N, Suite 101 St. Petersburg, FL 33716	I	publisher	CH			\$250.00
3							
8/19/2010 / /	Malinowski, Deanna 5311 Magna Carta St Orlando, FL 32821	I		CH			\$20.00
4							
8/19/2010 / /	Youth Sports Marketing LLC, PO Box 26039 Jacksonville, FL 32226	B	sports marketing agency	CH			\$218.00
5							
8/19/2010 / /	Berrey, Steven 3354 Victoria Lakes Dr. N Jacksonville, FL 32226	I	business owner	CH			\$500.00
6							
8/19/2010 / /	Berrey, Steven B 3354 Victoria Lakes Dr. N Jacksonville, FL 32226	I	business owner	LO			\$2,000.00
7							
8/19/2010 / /	Porter, Derek 13773 Chipperfield Ln. Jacksonville, FL 32226	I		CH			\$50.00
8							

CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Steve Berrey (2) I.D. Number 231
 7/31/2010 8/19/2010
 (3) Cover Period 7/31/2010 through 8/19/2010 (4) Page 2 of 2

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type Occupation	(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
8/19/2010 / /	Berrey, Annette K 3354 Victoria Lakes Dr. N Jacksonville, FL 32226	I teacher	CH			\$400.00
9						
8/12/2010 / /	Berrey, Steve 3354 Victoria Lakes Dr. N Jacksonville, FL 32226	I business owner	LO			\$750.00
10						
/ /						
/ /						
/ /						
/ /						
/ /						
/ /						

CAMPAIGN TREASURER'S REPORT - ITEMIZED EXPENDITURES

(1) Name Steve Berrey

(2) I.D. Number 231

(3) Cover Period 7/31/2010 through 8/19/2010

(4) Page 1 of 1

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Expenditure Type	(10) Amendment	(11) Amount
8/12/2010 / /	WOKV Radio, 8000 Belfort Parkway Jacksonville, FL 32257	advertising	MO		\$300.00
1					
8/12/2010 / /	Fast Signs, 2141 St. Johns Bluff Road Jacksonville, FL 32246	advertising - signs	MO		\$240.00
2					
8/18/2010 / /	Postmaster, 1100 New Kings Road Jacksonville, FL 32202	postage	MO		\$955.57
3					
8/18/2010 / /	Primax LLC, 2821 Gibson Road Jacksonville, FL 32207	printing materials	MO		\$1,524.75
4					
/ /					
/ /					
/ /					
/ /					
/ /					
/ /					

Steven Berrey - Autofine Appeal

Rosanna Catalano to: jholland

11/28/2011 01:09 PM

Cc: Tracie Aulet

Bcc: David Flagg, Donna Malphurs

Dear Mr. Holland,

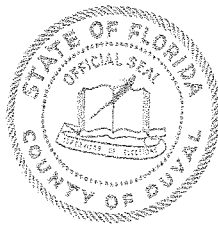
I writing you in response to your letter dated November 21, 2011 regarding the appeal of Steven Berrey's automatic fine. Tracie Aulet from our office will be contacting Beth Fleet today regarding this case. We plan to have this case on our February 2012 agenda for our Commissioners.

I have been working closely with our new Agency Clerk to develop policies and procedures to ensure that cases are heard by our Commission in a timely manner so I appreciate you bringing this case to my attention.

Best regards,
Rosanna Catalano

Rosanna Catalano
Executive Director
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
rosanna.catalano@myfloridalegal.com
(850) 922-4539
(850) 921-0783 fax
www.fec.state.fl.us

** Florida has broad public record laws Please note that all correspondence to or from me may be subject to disclosure.



OFFICE OF THE SUPERVISOR OF ELECTIONS

JERRY HOLLAND
SUPERVISOR OF ELECTIONS
OFFICE (904) 630-7777
CELL (904) 318-6877

RECEIVED
2011 NOV 28 A 9:45
STATE OF FLORIDA
ELECTIONS COMMISSION
105 EAST MONROE STREET
JACKSONVILLE, FLORIDA 32202
FAX (904) 630-2920
E-MAIL JHOLLAND@COJ.NET

November 21, 2011

Ms. Rosanna Catalano
Executive Director
Florida Elections Commission
107 W. Gaines St.
Collins Building, Suite 224
Tallahassee, FL 32399-1050

Re: Steven Berrey Automatic Fine/Appeal 9/24/10

Dear Ms. Catalano:

I am writing to inquire about an automatic fine appeal that should have been processed in September, 2010. The individual, Mr. Steven Berrey has patiently waited to hear from your office regarding his appeal letter. He is considering running again and realizes that this must be resolved before he can move forward. What appears below is a chronology of this case:

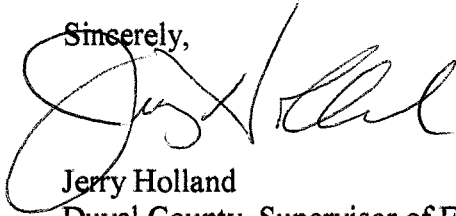
- 8/27/10** Letter sent to candidate informing him of late filed report
- 9/24/10** Candidate prepares a letter of appeal (it was initially sent to the wrong address. Upon discovering this, we gave him the correct address and asked that he re-submit the letter.)
- 11/18/10** As a follow up, the letter was re-submitted via email to the attention of Tracie Aulet by this office. She stated that she did not need an "original."
- 9/19/11** We received an email from Tracie stating the cases for both Theresa Graham and Steve Berrey would be heard at the November, 2011 meeting.
- 11/1/11** Received notification of hearing for Theresa Graham but not Steve Berrey.
- 11/3/11** Spoke with Donna Malphurs about Theresa Graham case and that of Steve Berrey. Asked Donna to provide us with status on Steve Berrey. Did not hear back from Donna.
- 11/14/11** Tracie Aulet left a voice mail message asking about our report policy – "Do we accept reports on the web after we receive the hard copy report?" This question was answered on a voice mail back to her. She did not call back for additional information.

Rosanna Catalano, November 21, 2011

Mr. Berrey has expressed frustration and concern that this issue has not been resolved in a timely manner. Obviously, I agree with his sentiments and respectfully request resolution as soon as possible.

Please feel free to contact my Candidate Administrator, Beth Fleet at 904-630-8002 or bfleet@coj.net to request further documentation about this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Holland". The signature is fluid and cursive, with a large initial "J" and "H".

Jerry Holland
Duval County, Supervisor of Elections

Fleet, Beth

From: Fleet, Beth
Sent: Wednesday, October 20, 2010 8:43 AM
To: 'Steve - Campaign'
Subject: RE: appeal?

Maybe call to check they received it? 850-922-4539

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duvalelections.com
Supervisor of Elections
105 E. Monroe Street
Jacksonville, FL 32202

"Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure."

From: Steve - Campaign [<mailto:saveourchildrensfuture@comcast.net>]
Sent: Tuesday, October 19, 2010 6:22 PM
To: Fleet, Beth
Subject: RE: appeal?

Sent the letter in late September.. haven't heard a word back...

Do I need to resubmit?

From: Fleet, Beth [<mailto:BFleet@coj.net>]
Sent: Monday, October 18, 2010 4:29 PM
To: Steve - Campaign
Subject: RE: appeal?

Hi Steve:

Hope all is well. Any word on your appeal?

Beth

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duvalelections.com
Supervisor of Elections

105 E. Monroe Street
Jacksonville, FL 32202

"Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure."

From: Steve - Campaign [<mailto:saveourchildrensfuture@comcast.net>]
Sent: Friday, September 24, 2010 3:46 PM
To: Fleet, Beth
Subject: RE: appeal?

No ma'am...

From: Fleet, Beth [<mailto:BFleet@coj.net>]
Sent: Friday, September 24, 2010 2:53 PM
To: Steve - Campaign
Subject: RE: appeal?

Did you get my email on 9/20/10?

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duvalelections.com
Supervisor of Elections
105 E. Monroe Street
Jacksonville, FL 32202

"Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure."

From: Steve - Campaign [<mailto:saveourchildrensfuture@comcast.net>]
Sent: Tuesday, September 14, 2010 2:58 PM
To: Fleet, Beth
Subject: FW: appeal?

Steve, did you get my email dated 9/20/10?

From: Steve - Campaign [<mailto:saveourchildrensfuture@comcast.net>]
Sent: Tuesday, September 14, 2010 2:58 PM

To: 'bfleet@coj.net'; 'jholland@coj.net'
Subject: appeal?

Does the letter have to be postmarked by the 20 day period?

Steve Berrey
Candidate - Duval County School Board - District 6
website - www.saveourchildrensfuture.com

<< OLE Object: Picture (Device Independent Bitmap) >>

contact us at
saveourchildrensfuture@comcast.net
Phone : 904-476-9721

Fleet, Beth

From: Fleet, Beth
Sent: Thursday, September 02, 2010 9:40 AM
To: 'Steve Berrey - Campaign'
Cc: Holland, Jerry
Subject: RE: intent

Steve:

As outlined in this paragraph:

"...limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in s. 106.265(1) when determining the amount of a fine, if any, to be waived. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the candidate or chair of the political committee shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission."

I suggest you review 106.265(1) in the election law book. Send us a letter with your intention to bring the matter before the commission. Make a copy of the Supervisor's letter and include your letter to the Florida Elections Commission (within 20 days of our letter). This is the link for address and contact names at the FEC:

www.fec.gov

The process will continue from there.

Good luck!

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duvalelections.com
Supervisor of Elections
105 E. Monroe Street
Jacksonville, FL 32202

"Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure."

From: Steve Berrey - Campaign [<mailto:saveourchildrensfuture@comcast.net>]
Sent: Wednesday, September 01, 2010 8:49 PM
To: Holland, Jerry; Fleet, Beth
Subject: intent

It is my request that I appeal the fine of \$1000.

Please advise my next steps.

Steve Berrey

Candidate - Duval County School Board - District 6

website - www.saveourchildrensfuture.com

<< OLE Object: Picture (Device Independent Bitmap) >>

contact us at

saveourchildrensfuture@comcast.net

Phone : 904-476-9721

Fleet, Beth

From: Steve Berrey [steve@youthsportsmarketing.com]
Sent: Monday, August 23, 2010 9:42 AM
To: Fleet, Beth
Subject: RE: well

Thought it had to be 'postmarked'... so I'm en route to your office with the report...

It's been a very emotional and trying weekend with my friend and I've been back and forth to Gainesville at least twice.

Very sorry... Will see you soon.

From: Fleet, Beth [mailto:BFleet@coj.net]
Sent: Monday, August 23, 2010 9:34 AM
To: Steve Berrey
Subject: RE: well

Why didn't you take it to the post office on Saturday? Steve.....

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duvalelections.com
Supervisor of Elections
105 E. Monroe Street
Jacksonville, FL 32202

"Please note that under Florida's very broad public records law, email communications to and from City officials are subject to public disclosure."

From: Steve Berrey [mailto:steve@youthsportsmarketing.com]
Sent: Saturday, August 21, 2010 12:23 AM
To: Fleet, Beth
Cc: Holland, Jerry
Subject: well

I guess I goofed.

I got so caught up in my son's activities tonight (he has his first Pop Warner jamboree) and the inclement weather that I didn't make it to the post-office ... that and the fact that a very close friend (and supporter) lost his wife this evening and I've been with him for the last three hours.

If there's a fine, I'll pay it. Since I've already missed the postmark deadline, I'll hand-deliver the report on Monday

11/16/2010

Steve Berrey

Youth Sports Marketing LLC

PO Box 26039

Jacksonville, FL 32226

904-520-4520 ext. 701 (office)

██████████ (cell)

www.youthsportsmarketing.com

The key question in life is not "How strong am I? but rather "How strong is God?"

IMPORTANT - this e-mail and the information that it contains may be confidential, legally privileged and protected by law. Access by the intended recipient only is authorized. Any liability (in negligence or otherwise) arising from any third party acting, or refraining from acting, on any information contained in this e-mail is hereby excluded. If you are not the intended recipient, please notify the sender immediately and do not disclose the contents to any other person, use it for any purpose, or store or copy the information in any medium. Copyright in this e-mail and attachments created by Youth Sports Marketing LLC belongs to Youth Sports Marketing LLC: the author also asserts the right to be identified as such and object to any misuse or retransmission thereof.

11/16/2010



Duval co. Steve Berrey fine appeal letter
Fleet, Beth
to:
tracie.aulet
11/18/2010 02:04 PM
Show Details

History: This message has been replied to.

1 Attachment



steve berrey appeal letter.JPG

Tracie:

Attached is the letter I was speaking about earlier this week. The letter was sent to the FEC (Feds) not FEC (Tallahassee). This was due to my providing incorrect contact information. The letter was sent on September 24. This letter contains the corrected address. Do you need to have an original for the files?

<<steve berrey appeal letter.JPG>>

Please let me know that you have received this and it goes into your stack for tomorrow. Thank you so much!!!

Beth

Beth Fleet

Candidate and Records Director
(904) 630-8002 Fax (904) 630-1894
www.duval elections.com
Supervisor of Elections
105 E. Monroe Street
Jacksonville, FL 32202

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