

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

Agency Case No.: FEC 11-072

**John Wayne Smith,
Respondent.**

AMENDED ORDER OF PROBABLE CAUSE

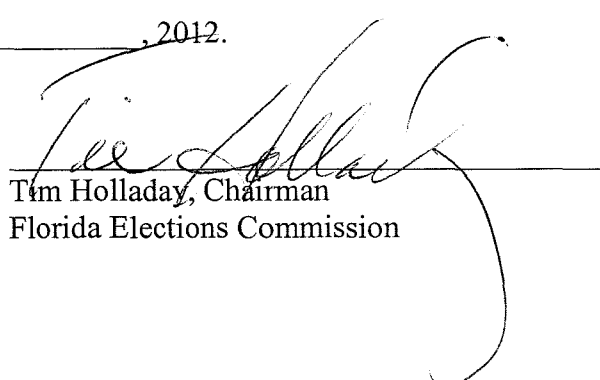
THIS CAUSE came on to be heard before the Florida Elections Commission at its meeting held on November 15, 2011, in Tallahassee, Florida.

The Commission has reviewed the complaint, Report of Investigation, Staff Recommendation, all documents submitted by the Respondent, any relevant documents, and considered all oral statements made at the probable cause hearing. Based on the facts set forth in the Staff Recommendation, which is incorporated herein and attached to this order, the Commission finds that there is probable cause that Respondent committed 1 count of violating Chapter 106, Florida Statutes:

Count 1:

On or about December 1, 2010, Respondent violated Section 106.141(1), Florida Statutes, when he failed to file his campaign termination report listing the disposition of surplus campaign funds within 90 days after the Respondent withdrew, became unopposed, was eliminated, or elected.

DONE AND ORDERED by the Florida Elections Commission this 3rd day
of January, 2012.



Tim Holladay, Chairman
Florida Elections Commission

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 violations and agree to the amount of the fine. The agreed to consent order is then presented to the Commission for its approval. To discuss a consent order, contact the attorney who signed the Staff Recommendation attached to 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 of the Order of Probable Cause to request such a hearing. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violations 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 of the Order of Probable Cause to request such a hearing. 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 of this Order of Probable Cause, the case will be sent to the Commission and you will be entitled to a formal or informal hearing.

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.

Copies furnished to:

Joshua B. Moye, Assistant General Counsel
John Wayne Smith, Respondent (certified mail)
Division of Elections, Complainant/Filing Officer

Attachment: Staff Recommendation

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

CASE No.: FEC 11-072

JOHN WAYNE SMITH,
RESPONDENT.

NOTICE OF INFORMAL HEARING

TO: John Wayne Smith
203 West Magnolia Street
Leesburg, Florida 34748

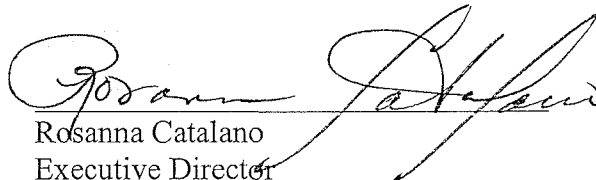
PLEASE TAKE NOTICE that on **February 21, 2012 at 9:00 a.m.** or as soon thereafter as the parties can be heard, the Florida Elections Commission will decide whether Respondent violated those sections of The Florida Election Code charged in the Order of Probable Cause. The Commission shall meet at: **City Hall, City Commission Chambers, 300 South Adams Street, Tallahassee, Florida 32399.**

Respondent and staff shall each have **ten minutes** to present their case to the Commission. Failure to appear in accordance with this notice will constitute a waiver of your right to a hearing, and the Commission will decide this case on the record before it. Convenience of location is not a basis for continuing or postponing the scheduled hearing. **See reverse side for additional instructions.**

If you require an accommodation due to a disability, contact Donna Ann Malphurs, Agency Clerk, Florida Elections Commission, at (850) 922-4539 or at the address listed below, at least 48 hours before the hearing.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Dated on January 13, 2012.


Rosanna Catalano
Executive Director

cc: Division of Elections, Complainant

INSTRUCTIONS FOR INFORMAL HEARING

An informal hearing is a hearing in which the Respondent does not dispute issues of material fact upon which the determination of probable cause is based. At the informal hearing, the Florida Elections Commission will decide whether Respondent violated those sections of The Florida Election Code charged in the Order of Probable Cause, whether to impose a fine, and the amount of the fine. At the informal hearing, Respondent must admit to the facts set forth in the Staff Recommendations.

The hearing will be conducted pursuant Sections 120.569 and 120.57, *Florida Statutes*; Chapter 28, *Florida Administrative Code*, the Uniform Rules of Procedures; and Commission Rule 2B-1.004, Florida, *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, at his own expense, provide a certified court reporter to also record the hearing.

Before the hearing, the Commission will review the Order of Probable Cause, the Staff Recommendation, and all the written documents filed by the parties with the Commission Clerk at least ten days before the hearing. If Respondent introduces any documents at the hearing, he or she should bring the original, if available, and a copy for each of the nine Commissioners and the staff attorney.

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. The Respondent will be sworn if he or she offers any factual evidence concerning the ability to pay. Staff will then have **ten minutes** to present his case to the Commission. Either party may reserve part of his time to respond to the other party's presentation.

After staff's presentation, Respondent will have the same amount of time to present his case. Respondent should explain why the facts in the Staff Recommendations do not support the violations charged in the Order of Probable Cause. At the request of Respondent, the Commission will consider and determine willfulness at the informal hearing. Because the hearing is informal, the Respondent should not argue that the facts in the Staff Recommendations are untrue.

Respondent may also argue the appropriate fine that the Commission should impose if violations are found. 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. A financial affidavit form is available from the Agency Clerk.

After the presentations are concluded, the Commissioners will discuss the case and may ask questions of Respondent, his attorney, and staff. The Commission's decision on whether Respondent violated The Florida Election Code and whether to impose a fine will be made by a majority vote of those members present and voting.

In a week to 10 days after the Commission meeting, the Commission will send to Respondent a written order reflecting the Commission's decision. If the Commission does not find a violation, the case will be dismissed. If the Commission finds a violation and imposes a fine, Respondent will have 30 days to pay the fine.

If you have any questions about the procedures for the hearing or to request a copy of the financial affidavit form, please contact Donna Ann Malphurs, Agency Clerk, at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399-1050, phone number: (850) 922-4539 and fax number: (850) 921-0783.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

CASE No.: FEC 11-072

JOHN WAYNE SMITH,
RESPONDENT.

NOTICE OF INFORMAL HEARING

**TO: Division of Elections
Attn: Ms. Kristi Reid Bronson
500 South Bronough Street, RM 316
Tallahassee, Florida 32399**

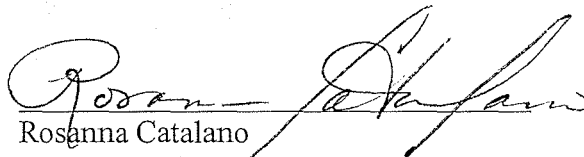
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cc: John Wayne Smith, Respondent

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AFFIDAVIT OF FINANCIAL RESOURCES
Case Number FEC 11-072

STATE OF FLORIDA
County of Leon

Tracie Aulet, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein.
3. I am an investigator employed by the Florida Elections Commission who was assigned to investigate In Re: John Wayne Smith, FEC 11-072. Pursuant to Section 106.265, Florida Statutes, I have taken the following steps to determine the Respondent's financial resources.
4. Respondent filed a 2009 Full and Public Disclosure of Financial Interest form (Form 6), with the Division of Elections on June 17, 2010. Respondent listed himself as "retired" with no primary source of income. Respondent listed assets totaling \$3,000, and no liabilities. To view a copy of the Form 6, please refer to Exhibit 1.
5. Information from the Florida Department of Highway Safety and Motor Vehicles reflects several vehicles owned by Respondent. Table 1 summarizes the information from the Florida Department of Highway Safety and Motor Vehicles. To view the registration information, please refer to Exhibit 2.

TABLE 1: VEHICLES LISTED AS OWNED BY RESPONDENT				
*MARKET VALUE FOR VEHICLES MADE PRIOR TO 1991 WAS UNAVAILABLE				
YEAR	MAKE/MODEL	REGISTERED (YES/NO)	LIEN (YES/NO)	VALUE
1969	Dodge	No	No	n/a
1980	Plymouth	No; expired 1994	No	n/a
1984	Plymouth Reliant	No	No	n/a
1985	Ford LTD Crown Victoria	No; expired 1999	No	n/a
1985	Ford LTD Crown Victoria	No	No	n/a
1978	Toyota	No	Yes	n/a
1979	GMC Truck	No; expired 2000	No	n/a
1986	Ford Bronco	No; expired 2003	No	n/a
1990	Ford F-150	No; expired 1998	No	n/a
1994	Ford F-350	No; expired 2005	No	\$2,258
1997	Chevrolet C-1500 Suburban	Yes; expires 2012	No	\$2,606

6. According to Respondent's campaign finance activity, as of August 19, 2010, Respondent had received contributions totaling \$8,757.19, and had made expenditures totaling \$8,650.28.¹ Respondent loaned his campaign a total of \$5,866. To view a copy of Respondent's campaign finance activity, please refer to Exhibit 3.

7. I searched the Lake County Property Appraiser's website and did not find Respondent listed as the owner of any property.

8. I searched the Division of Corporations' website and did not find Respondent listed as the registered agent or officer of any active corporations registered with the state of Florida.

9. I searched the Florida Lottery website and did not find Respondent as the recipient of any lottery winnings.

I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Tracie Queth

Signature of Affiant

Sworn to (or affirmed) and subscribed before me this _____ day of

_____, 2012

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

Case Investigator: ta

¹ Respondent did not file his termination report disclosing how the surplus funds of \$106.91 were spent.

FORM 6 FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTEREST 2009

Please print or type your name, mailing address, agency name, and position below:

FINANCIAL INTEREST

LAST NAME — FIRST NAME — MIDDLE NAME:

Smith John Wayne

MAILING ADDRESS:

203 W. Magnolia St

Leesburg 34748 Lake

Candidate

Governor of Florida

CHECK IF THIS IS A FILING BY A CANDIDATE

FOR OFFICIAL USE ONLY: 2010 JUN 17 PM 12:45

DEPARTMENT OF STATE
DIVISION OF ELECTIONS
ID Code

ID No.

Conf. Code

P. Req. Code

PART A -- NET WORTH

Please enter the value of your net worth as of December 31, 2009, or a more current date. [Note: Net worth is not calculated by subtracting your reported liabilities from your reported assets, so please see the instructions on page 3.]

My net worth as of *June 16*, 20*10* was \$ *4,200.00*

PART B -- ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ *3000.00*

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required - see instructions p.4)	VALUE OF ASSET
<i>1997 Chevy Suvvan</i>	<i>1200.00</i>

PART C -- LIABILITIES

LIABILITIES IN EXCESS OF \$1,000:

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
<i>N/A</i>	

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY
<i>N/A</i>	

PART D -- INCOME

You may **EITHER** (1) file a complete copy of your 2009 federal income tax return, including all attachments, **OR** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000, including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my 2009 federal income tax return. [If you check this box and attach a copy of your 2009 tax return, you need not complete the remainder of Part D.]

PRIMARY SOURCES OF INCOME:

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
Retired		
N/A		

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person--see instructions]:

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
N/A			

PART E -- INTERESTS IN SPECIFIED BUSINESSES

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY	N/A		
POSITION HELD WITH ENTITY			
DO I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

STATE OF FLORIDA
COUNTY OF Orange

Sworn to (or affirmed) and subscribed before me this 16 day of

June, 2010 by JOHN WAYNE SMITH

[Signature]
(Signature of Notary Public--State of Florida)

Cesar Mesa
(Print, Type, or Stamp Commissioned Name of Notary Public) Expires 4/7/2014



Personally Known N/A OR Produced Identification ✓
Florida CAL Driver License

Type of Identification Produced [Redacted]

[Signature]
SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE

FILING INSTRUCTIONS for when and where to file this form are located at the top of page 3.
INSTRUCTIONS on who must file this form and how to fill it out begin on page 3.
OTHER FORMS you may need to file are described on page 6.

MTRFQ050 FLORIDA DEPARTMENT OF HIGHWAY SAFETY PAGE: 1
 COUNTY/AGENCY: 68/31 MOTOR VEHICLE INQUIRY REPORT RUN DATE:01/12/2012
 RUN TIME:113604

VEHICLE INFO			
VEHICLE ID NUM:	[REDACTED]	NET WEIGHT: 2740	YEAR MAKE: 1969
VEHICLE TYPE:	AU	GVW:	VEHICLE MAKE: DODG
ODOMETER MILES:		VEHICLE USE:P	BODY: 2D
ODOMETER STATUS: X		FUEL TYPE:	INHOUSE MAKE:
ODOMETER TYPE: M		MAJOR COLOR:BLK	MINOR COLOR:
ODOMETER DATE:			
TITLE INFO			
TITLE NUMBER:	2949780	PENDING:NO	CANCEL DATE:
ISSUE DATE:	04/07/1995		CANCEL STATE: FL
SALVAGE TYPE:			EFS STATUS:
TITLE STATUS:	TITLE CORRECTION		ELT STATUS:
BRAND INFO			
BRAND CODE:	NO BRANDS ON FILE	JUR:	BRAND DATE:
OWNER INFO			
FEID/DL NUMBER:	[REDACTED]	OWNER NUMBER:	1
BIRTH DATE/SEX:	/ M	RES COUNTY:	12
OWNER NAME:	SMITH, JOHN WAYNE		
OWNER ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836		
LEGAL OWNERSHIP:			
REGISTRATION INFO			
LICENSE PLATE:		DECAL NUMBER:	
PLATE CODE:		DECAL YEAR:	
ISSUE DATE:		ISSUE DATE:	
ARF CREDIT:		EXPIRE DATE:	
REG USE:		UNIT NUM/FLEET:	
CLASS CODE:		LOCATION CODE:	
COMMENTS:			
REGISTRANT INFO			
FEID/DL NUMBER:		REGISTRANT NUM:	
REGIS. DOB/SEX:		RES COUNTY:	
REGISTRANT NAME:			
REGISTRANT ADDR:	NO REGISTRANTS ON FILE		
LIEN HOLDER INFO			
FEID/DL NUMBER:		LIEN NUMBER:	
LIEN DOB/SEX:		RES COUNTY:	
LIEN DATE:	LIEN RECEIVED:	ELT FLAG:	
LIEN HLDR NAME:			
LIEN HLDR ADDR:	NO LIENS ON FILE		

MTRFQ050 FLORIDA DEPARTMENT OF HIGHWAY SAFETY PAGE: 1
 COUNTY/AGENCY: 68/31 MOTOR VEHICLE INQUIRY REPORT RUN DATE:01/12/2012
 RUN TIME:113604

VEHICLE INFO		
VEHICLE ID NUM:	[REDACTED]	
VEHICLE TYPE:	AU	NET WEIGHT: 3341
ODOMETER MILES:		GVW:
ODOMETER STATUS:		VEHICLE USE:T
ODOMETER TYPE:	M	FUEL TYPE:
ODOMETER DATE:		MAJOR COLOR:UNK
		YEAR MAKE: 1980
		VEHICLE MAKE: PLYM
		BODY: SW
		INHOUSE MAKE:
		MINOR COLOR:
TITLE INFO		
TITLE NUMBER:	17008719	PENDING:NO
ISSUE DATE:	09/21/1987	CANCEL DATE:
SALVAGE TYPE:		CANCEL STATE: FL
TITLE STATUS:	TITLE CORRECTION	EFS STATUS:
		ELT STATUS:
BRAND INFO		
BRAND CODE:	T TAXI	JUR: FL
		BRAND DATE: 09/21/1987
OWNER INFO		
FEID/DL NUMBER:	[REDACTED]	OWNER NUMBER: 1
BIRTH DATE/SEX:	[REDACTED] / M	RES COUNTY: 12
OWNER NAME:	SMITH, JOHN WAYNE	
OWNER ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LEGAL OWNERSHIP:		
REGISTRATION INFO		
LICENSE PLATE:	LJR91R	DECAL NUMBER:
PLATE CODE:	RGR	DECAL YEAR:
ISSUE DATE:	08/06/1993	ISSUE DATE:
ARF CREDIT:	2.00	EXPIRE DATE: 07/13/1994
REG USE:	PR	UNIT NUM/FLEET:
CLASS CODE:	001	LOCATION CODE:
COMMENTS:		
REGISTRANT INFO		
FEID/DL NUMBER:	[REDACTED]	REGISTRANT NUM: 1
REGIS. DOB/SEX:	[REDACTED] / M	RES COUNTY: 12
REGISTRANT NAME:	SMITH, JOHN WAYNE	
REGISTRANT ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LIEN HOLDER INFO		
FEID/DL NUMBER:		LIEN NUMBER:
LIEN DOB/SEX:		RES COUNTY:
LIEN DATE:	LIEN RECEIVED:	ELT FLAG:
LIEN HLDNR NAME:		
LIEN HLDNR ADDR:	NO LIENS ON FILE	

MTRFQ050
COUNTY/AGENCY:

FLORIDA DEPARTMENT OF HIGHWAY SAFETY
68/31 MOTOR VEHICLE INQUIRY REPORT

PAGE: 1
RUN DATE:01/12/2012
RUN TIME:113604

VEHICLE INFO

VEHICLE ID NUM: [REDACTED]
VEHICLE TYPE: AU NET WEIGHT: 2450 YEAR MAKE: 1984
ODOMETER MILES: GVV: VEHICLE MAKE: PLYM
ODOMETER STATUS: X VEHICLE USE:P BODY: SW
ODOMETER TYPE: M FUEL TYPE: INHOUSE MAKE:
ODOMETER DATE: MAJOR COLOR:TAN MINOR COLOR:
Reliant Custom

TITLE INFO

TITLE NUMBER: 73676371 PENDING:NO CANCEL DATE:
ISSUE DATE: 10/19/1998 CANCEL STATE: FL
SALVAGE TYPE: EFS STATUS:
TITLE STATUS: TRANSFER ELT STATUS:

BRAND INFO

BRAND CODE: NO BRANDS ON FILE JUR: BRAND DATE:

OWNER INFO

FEID/DL NUMBER: [REDACTED] OWNER NUMBER: 1
BIRTH DATE/SEX: [REDACTED] / M RES COUNTY: 12
OWNER NAME: SMITH, JOHN WAYNE
OWNER ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LEGAL OWNERSHIP:

REGISTRATION INFO

LICENSE PLATE: DECAL NUMBER:
PLATE CODE: DECAL YEAR:
ISSUE DATE: ISSUE DATE:
ARF CREDIT: EXPIRE DATE:
REG USE: UNIT NUM/FLEET:
CLASS CODE: LOCATION CODE:
COMMENTS:

REGISTRANT INFO

FEID/DL NUMBER: REGISTRANT NUM:
REGIS. DOB/SEX: RES COUNTY:
REGISTRANT NAME:
REGISTRANT ADDR: NO REGISTRANTS ON FILE

LIEN HOLDER INFO

FEID/DL NUMBER: LIEN NUMBER:
LIEN DOB/SEX: RES COUNTY:
LIEN DATE: LIEN RECEIVED: ELT FLAG:
LIEN HLDR NAME:
LIEN HLDR ADDR: NO LIENS ON FILE

MTRFQ050 FLORIDA DEPARTMENT OF HIGHWAY SAFETY PAGE: 1
 COUNTY/AGENCY: 68/31 MOTOR VEHICLE INQUIRY REPORT RUN DATE:01/12/2012
 RUN TIME:113604

VEHICLE INFO		
VEHICLE ID NUM:	[REDACTED]	
VEHICLE TYPE:	AU	NET WEIGHT: 3950
ODOMETER MILES:		YEAR MAKE: 1985
ODOMETER STATUS:	X	GVM:
ODOMETER TYPE:	M	VEHICLE MAKE: FORD
ODOMETER DATE:		BODY: 4D
		INHOUSE MAKE:
		MINOR COLOR:
		MAJOR COLOR:BLU
		LTD Crown Victoria
TITLE INFO		
TITLE NUMBER:	62268361	PENDING:NO
ISSUE DATE:	05/04/1998	CANCEL DATE:
SALVAGE TYPE:		CANCEL STATE: FL
TITLE STATUS:	TRANSFER	EFS STATUS:
		ELT STATUS:
BRAND INFO		
BRAND CODE:	T TAXI	JUR: FL BRAND DATE: 05/04/1998
OWNER INFO		
FEID/DL NUMBER:	[REDACTED]	OWNER NUMBER: 1
BIRTH DATE/SEX:	[REDACTED] / M	RES COUNTY: 12
OWNER NAME:	SMITH, JOHN WAYNE	
OWNER ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LEGAL OWNERSHIP:		
REGISTRATION INFO		
LICENSE PLATE:	K5713M	DECAL NUMBER: 03131515
PLATE CODE:	RGR	DECAL YEAR: 1999
ISSUE DATE:	04/30/1998	ISSUE DATE: 04/30/1998
ARF CREDIT:	2.00	EXPIRE DATE: 07/13/1999
REG USE:	HF	UNIT NUM/FLEET:
CLASS CODE:	009	LOCATION CODE:
COMMENTS:		
REGISTRANT INFO		
FEID/DL NUMBER:	[REDACTED]	REGISTRANT NUM: 1
REGIS. DOB/SEX:	[REDACTED] / M	RES COUNTY: 12
REGISTRANT NAME:	SMITH, JOHN WAYNE	
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LIEN HOLDER INFO		
FEID/DL NUMBER:		LIEN NUMBER:
LIEN DOB/SEX:		RES COUNTY:
LIEN DATE:		ELT FLAG:
	LIEN RECEIVED:	
LIEN HLDR NAME:		
LIEN HLDR ADDR:	NO LIENS ON FILE	

MTRFQ050
COUNTY/AGENCY: 68/31

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MOTOR VEHICLE INQUIRY REPORT

PAGE: 1
RUN DATE:01/12/2012
RUN TIME:113604

VEHICLE INFO

VEHICLE ID NUM: [REDACTED]
VEHICLE TYPE: AU NET WEIGHT: 3604 YEAR MAKE: 1985
ODOMETER MILES: [REDACTED] GWV: VEHICLE MAKE: FORD
ODOMETER STATUS: X VEHICLE USE:P BODY: 4D
ODOMETER TYPE: FUEL TYPE: INHOUSE MAKE:
ODOMETER DATE: MAJOR COLOR:BLU MINOR COLOR:

LTD Crown Victoria

TITLE INFO

TITLE NUMBER: 44793988 PENDING:NO CANCEL DATE:
ISSUE DATE: 06/04/2001 CANCEL STATE: FL
SALVAGE TYPE: EFS STATUS:
TITLE STATUS: TRANSFER ELT STATUS:

BRAND INFO

BRAND CODE: NO BRANDS ON FILE JUR: BRAND DATE:

OWNER INFO

FEID/DL NUMBER: [REDACTED] OWNER NUMBER: 1
BIRTH DATE/SEX: [REDACTED] / M RES COUNTY: 12
OWNER NAME: SMITH, JOHN WAYNE
OWNER ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LEGAL OWNERSHIP:

REGISTRATION INFO

LICENSE PLATE: DECAL NUMBER:
PLATE CODE: DECAL YEAR:
ISSUE DATE: ISSUE DATE:
ARF CREDIT: EXPIRE DATE:
REG USE: UNIT NUM/FLEET:
CLASS CODE: LOCATION CODE:
COMMENTS:

REGISTRANT INFO

FEID/DL NUMBER: REGISTRANT NUM:
REGIS. DOB/SEX: RES COUNTY:
REGISTRANT NAME:
REGISTRANT ADDR: NO REGISTRANTS ON FILE

LIEN HOLDER INFO

FEID/DL NUMBER: LIEN NUMBER:
LIEN DOB/SEX: RES COUNTY:
LIEN DATE: LIEN RECEIVED: ELT FLAG:
LIEN HLDR NAME:
LIEN HLDR ADDR: NO LIENS ON FILE

MTRFQ050
COUNTY/AGENCY:

FLORIDA DEPARTMENT OF HIGHWAY SAFETY
68/31 MOTOR VEHICLE INQUIRY REPORT

PAGE: 1
RUN DATE:01/12/2012
RUN TIME:113604

VEHICLE INFO

VEHICLE ID NUM: [REDACTED]
VEHICLE TYPE: AU NET WEIGHT: 2510 YEAR MAKE: 1978
ODOMETER MILES: GVV: VEHICLE MAKE: TOYT
ODOMETER STATUS: X VEHICLE USE:P BODY: PK
ODOMETER TYPE: M FUEL TYPE: INHOUSE MAKE:
ODOMETER DATE: MAJOR COLOR:WHI MINOR COLOR:

TITLE INFO

TITLE NUMBER: 15881937 PENDING:NO CANCEL DATE:
ISSUE DATE: 04/29/1993 CANCEL STATE: FL
SALVAGE TYPE: EFS STATUS:
TITLE STATUS: TRANSFER ELT STATUS:

BRAND INFO

BRAND CODE: NO BRANDS ON FILE JUR: BRAND DATE:

OWNER INFO

FEID/DL NUMBER: [REDACTED] OWNER NUMBER: 1
BIRTH DATE/SEX: [REDACTED] / M RES COUNTY: 12
OWNER NAME: SMITH, JOHN WAYNE
OWNER ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LEGAL OWNERSHIP:

REGISTRATION INFO

LICENSE PLATE: DECAL NUMBER:
PLATE CODE: DECAL YEAR:
ISSUE DATE: ISSUE DATE:
ARF CREDIT: EXPIRE DATE:
REG USE: UNIT NUM/FLEET:
CLASS CODE: LOCATION CODE:
COMMENTS:

REGISTRANT INFO

FEID/DL NUMBER: REGISTRANT NUM:
REGIS. DOB/SEX: RES COUNTY:
REGISTRANT NAME:
REGISTRANT ADDR: NO REGISTRANTS ON FILE

LIEN HOLDER INFO

FEID/DL NUMBER: LIEN NUMBER: 1
LIEN DOB/SEX: RES COUNTY: 12
LIEN DATE: 04/26/1993 LIEN RECEIVED: ELT FLAG:
LIEN HLDR NAME: JAMES E MURRAY
LIEN HLDR ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

MTRFQ050 FLORIDA DEPARTMENT OF HIGHWAY SAFETY PAGE: 1
 COUNTY/AGENCY: 68/31 MOTOR VEHICLE INQUIRY REPORT RUN DATE:01/12/2012
 RUN TIME:113604

VEHICLE INFO		
VEHICLE ID NUM:	[REDACTED]	
VEHICLE TYPE:	TR	NET WEIGHT: 9130
ODOMETER MILES:		GW: 20000
ODOMETER STATUS:	X	VEHICLE USE:P
ODOMETER TYPE:		FUEL TYPE:
ODOMETER DATE:		MAJOR COLOR:WHI
		YEAR MAKE: 1979
		VEHICLE MAKE: GMC
		BODY: TK
		INHOUSE MAKE:
		MINOR COLOR:
TITLE INFO		
TITLE NUMBER:	16974345	PENDING:NO
ISSUE DATE:	09/20/1999	CANCEL DATE:
SALVAGE TYPE:		CANCEL STATE: FL
TITLE STATUS:	TRANSFER	EFS STATUS:
		ELT STATUS:
BRAND INFO		
BRAND CODE:	NO BRANDS ON FILE	JUR:
		BRAND DATE:
OWNER INFO		
FEID/DL NUMBER:	[REDACTED]	OWNER NUMBER: 1
BIRTH DATE/SEX:	/ M	RES COUNTY: 12
OWNER NAME:	SMITH, JOHN WAYNE	
OWNER ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LEGAL OWNERSHIP:		
REGISTRATION INFO		
LICENSE PLATE:	A71MAW	DECAL NUMBER: 07481605
PLATE CODE:	RGR	DECAL YEAR: 2000
ISSUE DATE:	09/20/1999	ISSUE DATE: 09/20/1999
ARF CREDIT:	2.00	EXPIRE DATE: 12/31/2000
REG USE:	FY	UNIT NUM/FLEET:
CLASS CODE:	041	LOCATION CODE:
COMMENTS:		
REGISTRANT INFO		
FEID/DL NUMBER:	[REDACTED]	REGISTRANT NUM: 1
REGIS. DOB/SEX:	/ M	RES COUNTY: 12
REGISTRANT NAME:	SMITH, JOHN WAYNE	
REGISTRANT ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LIEN HOLDER INFO		
FEID/DL NUMBER:		LIEN NUMBER:
LIEN DOB/SEX:		RES COUNTY:
LIEN DATE:	LIEN RECEIVED:	ELT FLAG:
LIEN HLDR NAME:		
LIEN HLDR ADDR:	NO LIENS ON FILE	

MTRFQ050
COUNTY/AGENCY:

FLORIDA DEPARTMENT OF HIGHWAY SAFETY
68/31 MOTOR VEHICLE INQUIRY REPORT

PAGE: 1
RUN DATE:01/12/2012
RUN TIME:113604

VEHICLE INFO

VEHICLE ID NUM: [REDACTED]
VEHICLE TYPE: AU NET WEIGHT: 3700 YEAR MAKE: 1986
ODOMETER MILES: GVN: VEHICLE MAKE: FORD
ODOMETER STATUS: X VEHICLE USE: P BODY: SW
ODOMETER TYPE: FUEL TYPE: INHOUSE MAKE:
ODOMETER DATE: MAJOR COLOR:BLK MINOR COLOR:

owned

TITLE INFO

TITLE NUMBER: 63662254 PENDING:NO CANCEL DATE:
ISSUE DATE: 02/10/2003 CANCEL STATE: FL
SALVAGE TYPE: EFS STATUS:
TITLE STATUS: TRANSFER ELT STATUS:

BRAND INFO

BRAND CODE: NO BRANDS ON FILE JUR: BRAND DATE:

OWNER INFO

FEID/DL NUMBER: [REDACTED] OWNER NUMBER: 1
BIRTH DATE/SEX: [REDACTED] / M RES COUNTY: 12
OWNER NAME: SMITH, JOHN WAYNE
OWNER ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LEGAL OWNERSHIP:

REGISTRATION INFO

LICENSE PLATE: V04KGQ DECAL NUMBER: 17551155
PLATE CODE: RGS DECAL YEAR: 2003
ISSUE DATE: 02/10/2003 ISSUE DATE: 02/10/2003
ARF CREDIT: 2.00 EXPIRE DATE: 07/13/2003
REG USE: PR UNIT NUM/FLEET:
CLASS CODE: 001 LOCATION CODE:
COMMENTS:

REGISTRANT INFO

FEID/DL NUMBER: [REDACTED] REGISTRANT NUM: 1
REGIS. DOB/SEX: [REDACTED] / M RES COUNTY: 12
REGISTRANT NAME: SMITH, JOHN WAYNE
REGISTRANT ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LIEN HOLDER INFO

FEID/DL NUMBER: LIEN NUMBER:
LIEN DOB/SEX: RES COUNTY:
LIEN DATE: LIEN RECEIVED: ELT FLAG:
LIEN HLDR NAME:
LIEN HLDR ADDR: NO LIENS ON FILE

MTRFQ050 FLORIDA DEPARTMENT OF HIGHWAY SAFETY PAGE: 1
 COUNTY/AGENCY: 68/31 MOTOR VEHICLE INQUIRY REPORT RUN DATE:01/12/2012
 RUN TIME:113604

VEHICLE INFO			
VEHICLE ID NUM:	[REDACTED]	NET WEIGHT: 3524	YEAR MAKE: 1990
VEHICLE TYPE:	AU	GVW:	VEHICLE MAKE: FORD
ODOMETER MILES:	74280	VEHICLE USE:P	BODY: PK
ODOMETER STATUS:	E	FUEL TYPE:	INHOUSE MAKE:
ODOMETER TYPE:	M	MAJOR COLOR:WHI	MINOR COLOR: F150
ODOMETER DATE:	08/22/1996		
TITLE INFO			
TITLE NUMBER:	49021966	PENDING:NO	CANCEL DATE:
ISSUE DATE:	09/20/1996		CANCEL STATE: FL
SALVAGE TYPE:			EFS STATUS:
TITLE STATUS:	TITLE CORRECTION		ELT STATUS:
BRAND INFO			
BRAND CODE:	NO BRANDS ON FILE	JUR:	BRAND DATE:
OWNER INFO			
FEID/DL NUMBER:	[REDACTED]	OWNER NUMBER:	1
BIRTH DATE/SEX:	[REDACTED] / M	RES COUNTY:	12
OWNER NAME:	SMITH, JOHN WAYNE		
OWNER ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836		
LEGAL OWNERSHIP:			
REGISTRATION INFO			
LICENSE PLATE:	LJI71P	DECAL NUMBER:	03881950
PLATE CODE:	RGR	DECAL YEAR:	1998
ISSUE DATE:	04/26/1993	ISSUE DATE:	07/22/1997
ARF CREDIT:	10.00	EXPIRE DATE:	07/13/1998
REG USE:	PK	UNIT NUM/FLEET:	
CLASS CODE:	031	LOCATION CODE:	
COMMENTS:			
REGISTRANT INFO			
FEID/DL NUMBER:	[REDACTED]	REGISTRANT NUM:	1
REGIS. DOB/SEX:	[REDACTED] / M	RES COUNTY:	12
REGISTRANT NAME:	SMITH, JOHN WAYNE		
REGISTRANT ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836		
LIEN HOLDER INFO			
FEID/DL NUMBER:		LIEN NUMBER:	
LIEN DOB/SEX:		RES COUNTY:	
LIEN DATE:		ELT FLAG:	
		LIEN RECEIVED:	
LIEN HLDR NAME:			
LIEN HLDR ADDR:	NO LIENS ON FILE		

EXHIBIT 2 pg. 9 of 13

MTRFQ050
COUNTY/AGENCY:

FLORIDA DEPARTMENT OF HIGHWAY SAFETY
68/31 MOTOR VEHICLE INQUIRY REPORT

PAGE: 1
RUN DATE:01/12/2012
RUN TIME:113604

VEHICLE INFO

VEHICLE ID NUM: [REDACTED]
VEHICLE TYPE: TR NET WEIGHT: 5212 YEAR MAKE: 1994
ODOMETER MILES: GVM: 9999 VEHICLE MAKE: FORD
ODOMETER STATUS: X VEHICLE USE:P BODY: TK
ODOMETER TYPE: FUEL TYPE: INHOUSE MAKE:
ODOMETER DATE: MAJOR COLOR:RED MINOR COLOR:

F350

TITLE INFO

TITLE NUMBER: 68373724 PENDING:NO CANCEL DATE:
ISSUE DATE: 12/30/2004 CANCEL STATE: FL
SALVAGE TYPE: EFS STATUS:
TITLE STATUS: TRANSFER ELT STATUS:

BRAND INFO

BRAND CODE: NO BRANDS ON FILE JUR: BRAND DATE:

OWNER INFO

FEID/DL NUMBER: [REDACTED] OWNER NUMBER: 1
BIRTH DATE/SEX: [REDACTED] M RES COUNTY: 12
OWNER NAME: SMITH, JOHN WAYNE
OWNER ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LEGAL OWNERSHIP:

REGISTRATION INFO

LICENSE PLATE: A1112N DECAL NUMBER: 16918160
PLATE CODE: RGR DECAL YEAR: 2005
ISSUE DATE: 12/30/2004 ISSUE DATE: 12/30/2004
ARF CREDIT: 2.00 EXPIRE DATE: 12/31/2005
REG USE: FY UNIT NUM/FLEET:
CLASS CODE: 041 LOCATION CODE:
COMMENTS:

REGISTRANT INFO

FEID/DL NUMBER: [REDACTED] REGISTRANT NUM: 1
REGIS. DOB/SEX: [REDACTED] M RES COUNTY: 12
REGISTRANT NAME: SMITH, JOHN WAYNE
REGISTRANT ADDR: 203 W MAGNOLIA ST
LEESBURG, FL 34748-5836

LIEN HOLDER INFO

FEID/DL NUMBER:
LIEN DOB/SEX:
LIEN DATE: LIEN RECEIVED: LIEN NUMBER:
RES COUNTY:
ELT FLAG:
LIEN HLDR NAME:
LIEN HLDR ADDR: NO LIENS ON FILE

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EXHIBIT 2 pg. 11 of 13

MTRFQ050 FLORIDA DEPARTMENT OF HIGHWAY SAFETY PAGE: 1
 COUNTY/AGENCY: 68/31 MOTOR VEHICLE INQUIRY REPORT RUN DATE:01/12/2012
 RUN TIME:113604

VEHICLE INFO		
VEHICLE ID NUM:	[REDACTED]	
VEHICLE TYPE:	AU	NET WEIGHT: 5113
ODOMETER MILES:		YEAR MAKE: 1997
ODOMETER STATUS:	X	GVW:
ODOMETER TYPE:		VEHICLE MAKE: CHEV
ODOMETER DATE:		VEHICLE USE:P
		FUEL TYPE:
		MAJOR COLOR:GRN
		MINOR COLOR:
		<i>C1500 Suburban</i>
TITLE INFO		
TITLE NUMBER:	73758979	PENDING:NO
ISSUE DATE:	12/19/2008	CANCEL DATE:
SALVAGE TYPE:		CANCEL STATE: FL
TITLE STATUS:	TRANSFER	EFS STATUS:
		ELT STATUS:
BRAND INFO		
BRAND CODE:	NO BRANDS ON FILE	JUR: BRAND DATE:
OWNER INFO		
FEID/DL NUMBER:	[REDACTED]	OWNER NUMBER: 1
BIRTH DATE/SEX:	[REDACTED] / M	RES COUNTY: 12
OWNER NAME:	SMITH, JOHN WAYNE	
OWNER ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LEGAL OWNERSHIP:		
REGISTRATION INFO		
LICENSE PLATE:	H154LK	DECAL NUMBER: 09545817
PLATE CODE:	RGR	DECAL YEAR: 2012
ISSUE DATE:	11/06/2006	ISSUE DATE: 07/12/2011
ARF CREDIT:	13.60	EXPIRE DATE: 07/13/2012
REG USE:	PR	UNIT NUM/FLEET:
CLASS CODE:	001	LOCATION CODE:
COMMENTS:		
REGISTRANT INFO		
FEID/DL NUMBER:	[REDACTED]	REGISTRANT NUM: 1
REGIS. DOB/SEX:	[REDACTED] / M	RES COUNTY: 12
REGISTRANT NAME:	SMITH, JOHN WAYNE	
REGISTRANT ADDR:	203 W MAGNOLIA ST LEESBURG, FL 34748-5836	
LIEN HOLDER INFO		
FEID/DL NUMBER:		LIEN NUMBER:
LIEN DOB/SEX:		RES COUNTY:
LIEN DATE:		ELT FLAG:
	LIEN RECEIVED:	
LIEN HLDNR NAME:		
LIEN HLDNR ADDR:	NO LIENS ON FILE	

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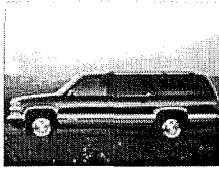
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Good
\$3,181

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EXHIBIT 2 pg. 13 of 13



**Florida Department of State
Division of Elections**

**2010 General Election
John Wayne Smith (LIB)
Governor**

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			
C	05/28/2009 - 06/30/2009	0.00	0.00	31.50	0.00	0.00	0.00
W	07/01/2009 - 09/30/2009	0.00	0.00	0.00	0.00	0.00	0.00
C	10/01/2009 - 12/31/2009	966.33	0.00	0.00	730.12	0.00	0.00
C	01/01/2010 - 03/31/2010	32.01	0.00	0.00	100.86	0.00	0.00
C	04/01/2010 - 07/16/2010	7,758.85	0.00	0.00	7,819.30	0.00	0.00
W	07/17/2010 - 07/23/2010	0.00	0.00	0.00	0.00	0.00	0.00
W	07/24/2010 - 07/30/2010	0.00	0.00	0.00	0.00	0.00	0.00
W	07/31/2010 - 08/06/2010	0.00	0.00	0.00	0.00	0.00	0.00
W	08/07/2010 - 08/19/2010	0.00	0.00	0.00	0.00	0.00	0.00
C	All Dates (Totals)	8,757.19	0.00	31.50	8,650.28	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]

Campaign Contributions

2010 General Election
John Wayne Smith (LIB)
Governor

[About the Campaign Finance Data Base](#)

Rpt Yr	Rpt Type	Date	Amount	Contributor Name	Address	City State Zip
2009	Q4	10/01/2009	866.00	SMITH, SR. JOHN WAYNE	203 W. MAGNOLIA ST.	LEESBURG, FL 34748
2009	Q4	10/01/2009	50.00	BRADEN CHAR-LEZ	518 HUNTER LANE	BRADENTON,, FL 34212
2009	Q4	10/18/2009	25.00	LAIBE PHILLIP A	8039 SAN JOSE VALLEY LANE #2	JACKSONVILLE, FL 32217
2009	Q4	11/24/2009	0.33	WWW.PAYPAL.COM PAYPAL ACCOUNT	INTERNET	UNKNOWN, CA
2009	Q4	12/11/2009	25.00	MINTON KENNETH	6801 VALRIE LANE	RIVERVIEW, FL 33569

966.33

5 Contribution(s) Selected

[Query the Campaign Finance Data Base](#)

[Department of State] [Division of Elections]
[Candidates and Races] [Campaign Finance
Information]

EXHIBIT 3 pg. 2 of 3

Campaign Contributions

2010 General Election
 John Wayne Smith (LIB)
 Governor

[About the Campaign Finance Data Base](#)

Rpt Yr	Rpt Type	Date	Amount	Contributor Name	Address	City State Zip
2010	F1	04/17/2010	0.15	HOLS WILLIAM PETER	928 ALLURE DR.	LAS VEGAS, NV 89128
2010	F1	04/17/2010	0.20	KALHORN MICHELLE D.	10507 SADDLE BACK PASS,	HOUSTON, TX 77095
2010	F1	04/17/2010	0.50	NEIGHBORS CHARLES THOMAS	19 DALE PLACE	LONGMONT, CO 80501
2010	F1	04/17/2010	1.00	BAILEY COLLINS A.	5200 CHRISTMAS PLACE	WALDORF, MD 20601
2010	F1	04/17/2010	1.00	CIACCIO EDWARD J.	630 WEST 168TH STREET	NEW YORK, NY 10032
2010	F1	04/17/2010	1.00	KRAPFF CARRIE SUE	2114 BONNYCASTLE LN	YUKON, OK 73099
2010	F1	04/17/2010	10.00	LANGDON DEBORAH A	5 ADMIRALS COURT	PALM BEACH GARDENS, FL 3341
2010	F1	04/17/2010	20.00	CONRAD JOHN G.	11302 ISLE OF WATERBRIDGE, APT. 105	ORLANDO, FL 32837
2010	F1	04/24/2010	100.00	CLIFFORD WILLIAM M	2785 PALO VERDE DR	AVON PARK, FL 33825
2010	F1	06/11/2010	20.00	THOMPSON JOTE'	4500 SW 44TH ST.,	GAINESVILLE, FL 32608
2010	F1	06/12/2010	5,000.00	SMITH JOHN WAYNE	203 W. MAGNOLIA ST	LEESBURG, FL 34748
2010	F1	06/14/2010	2,605.00	LIBERTARIAN PARTY OF FLORIDA	P.O. BOX 3012	WINTER PARK, FL 32790

7,758.85

12 Contribution(s) Selected

[Query the Campaign Finance Data Base](#)

[Department of State] [Division of Elections]
 [Candidates and Races] [Campaign Finance
 Information]

EXHIBIT 3 pg. 3 of 3

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Agency Case No.: FEC 11-072

John Wayne Smith,
Respondent.

ORDER OF PROBABLE CAUSE

THIS CAUSE came on to be heard before the Florida Elections Commission at its meeting held on November 15, 2011, in Tallahassee, Florida.

The Commission has reviewed the complaint, Report of Investigation, Staff Recommendation, all documents submitted by the Respondent, any relevant documents, and considered all oral statements made at the probable cause hearing. Based on the facts set forth in the Staff Recommendation, which is incorporated herein and attached to this order, the Commission finds that there is probable cause that Respondent committed 1 count of violating Chapter 106, Florida Statutes:

Section 106.141(1), Florida Statutes, when he failed to file his campaign termination report listing the disposition of surplus campaign funds within 90 days after the Respondent withdrew, became unopposed, was eliminated, or elected.

DONE AND ORDERED by the Florida Elections Commission this 15th day
of November, 2011.

Tim Holladay
Tim Holladay, Chairman
Florida Elections Commission

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 violations and agree to the amount of the fine. The agreed to consent order is then presented to the Commission for its approval. To discuss a consent order, contact the attorney who signed the Staff Recommendation attached to 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 of the Order of Probable Cause to request such a hearing. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violations 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 of the Order of Probable Cause to request such a hearing. 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 of this Order of Probable Cause, the case will be sent to the Commission and you will be entitled to a formal or informal hearing.

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.

Copies furnished to:

Joshua B. Moye, Assistant General Counsel
John Wayne Smith, Respondent (certified mail)
Division of Elections, Complainant/Filing Officer

Attachment: Staff Recommendation

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: John Wayne Smith

Case No.: FEC 11-072

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 106.141(1), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on September 14, 2011, the following facts and law support this staff recommendation:

1. On March 18, 2011, the Florida Elections Commission received a referral from the Department of State, Division of Elections (“Division”) alleging that John Wayne Smith (“Respondent”) violated Chapter 106, Florida Statutes.

2. Respondent was a candidate for Governor in the 2010 general election.

3. By letter dated April 4, 2011, the Executive Director notified Respondent that Commission staff would investigate an alleged violation of the following statutory provision:

Section 106.141(1), Florida Statutes. John Wayne Smith, a candidate for the Office of Governor, failed to file a report reflecting the disposition of all remaining funds within 90 days after his name was removed from the ballot during the 2010 general election cycle. The termination report was due on December 1, 2010, as alleged in the information.

4. On May 29, 2009, Kristi Reid Bronson, Chief of the Bureau of Election Records with the Division, sent Respondent a letter acknowledging that Respondent had been placed on the 2010 active candidate list. The letter advised Respondent that all candidates filing reports with the Division are required to use the electronic filing system (EFS), and provided Respondent with a user identification number and initial password to grant access to the EFS. (ROI Exhibit 1)¹

5. By letter dated September 9, 2010, Ms. Bronson informed Respondent that his name was removed from the ballot because the Division had not received his written designation of a Lieutenant Governor prior to the September 2, 2010 qualifying deadline. (ROI Exhibit 2)

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

6. By letters dated September 9, 2010, December 6, 2010, and February 17, 2010, the Division notified Respondent that his 2010 termination report had not been received. (ROI Exhibit 3, 4, 6)

7. On February 22, 2011, Respondent went to the Division's office and asked to see Erika Bowen; however, Ms. Bowen was currently unavailable. As he left the Divisions office, Respondent stated that he was not going to file the report. (ROI Exhibit 5)

8. On February 22, 2011, Respondent hand delivered a letter entitled "Final Report" to the Division. The handwritten note reflected a "donation" of \$25.00 on August 23, 2011. The note further listed two expenditures of \$1.03 and \$131.38 on August 23, 2011. (ROI Exhibit 7)

9. On August 29, 2011, the Commission's investigator telephoned Respondent. During the telephone conversation Respondent admitted not filing his campaign termination report.

10. Despite receiving two written notices and an email notice to file his campaign termination report, as of this Staff Recommendation, Respondent has not filed his campaign termination report.

11. "Probable Cause" is defined as reasonable ground 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).

12. The facts set forth above show that Respondent was a candidate for Governor in the 2010 election. Respondent's name was removed from the ballot for failure to deliver a written designation of his Lieutenant Governor. Respondent was required to file his 2010 campaign termination report no later than December 1, 2010. Respondent received two written notices, and an email notifying him that his campaign termination report had not been received. However, to date, Respondent has not filed his campaign termination report.

Based upon these facts and circumstances, I recommend that the Commission find probable cause to charge Respondent with violating the following:

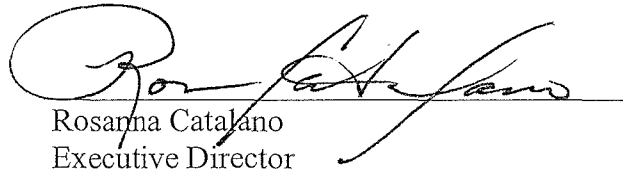
Count 1:

On or about December 1, 2010, Respondent violated Section 106.141(1), Florida Statutes, when he failed to file his campaign termination report listing the disposition of surplus campaign funds within 90 days after the Respondent withdrew, became unopposed, was eliminated, or elected.

Respectfully submitted on October 5, 2011,

for  _____
Eric Lipman
General Counsel

I reviewed this Staff Recommendation this 6th day of October 2011.

 _____
Rosanna Catalano
Executive Director

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: John Wayne Smith, Respondent.

Case No.: FEC 11-072

NOTICE OF PROBABLE CAUSE HEARING

TO: Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, Florida 32319

PLEASE TAKE NOTICE that on **November 15, 2011**, at **1:00 p.m.** or thereafter as the parties can be heard, the Florida Elections Commission will bring on to be heard whether there is probable cause that Respondent violated a provision of The Florida Election Code. The Commission shall meet at: **City Hall, City Commission Chambers, 300 S. Adams Street, Tallahassee, FL.**

Respondent and staff shall each have time to make a brief oral argument to the Commission before it determines probable cause. Complainant will be permitted to attend the probable cause hearing. Failure to appear in accordance with this notice will constitute a waiver of oral argument and the Commission will decide this matter on the record before it. Convenience of location is not a basis for continuing or postponing the hearing. Please note that this matter may not be addressed individually and it may be voted on en masse by the Commission. **See reverse side for additional instructions.**

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

PLEASE GOVERN YOURSELF ACCORDINGLY.

Dated on October 11, 2011.



Rosanna Catalano
Executive Director

cc: John Wayne Smith, Respondent

INSTRUCTIONS FOR PROBABLE CAUSE HEARING

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. Please note that this matter may not be addressed individually and it may be voted on en masse by the Commission.

At the probable cause hearing, the Florida Elections Commission will decide whether there is **probable cause to believe** that Respondent has violated one or more provisions of The Florida Election Code.

Respondent, each Complainant, and their counsel are permitted to attend the probable cause hearing.

The hearing will be conducted pursuant to Section 106.25, *Florida Statutes*; Chapter 28, *Florida Administrative Code*, the Uniform Rules of Procedures; and Commission Rule 1.0027, *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, at his or her own expense, may provide a certified court reporter also to record the hearing.

Before making a decision on probable cause, the Commission will review the complaint, the Report of Investigation, the Staff Recommendation, any written responses submitted by Respondent, all relevant documents, and any oral statements made by Respondent and Staff at the probable cause hearing.

When your case is called, the Chair will read a brief statement and may ask Respondent, Complainant, and their attorneys, if an attorney is present, to state their names for the record.

Staff will then have time to summarize the case and make a recommendation to the Commission on probable cause. After staff's presentation, if the Respondent is present he or she will have time to make a statement to the Commission in the nature of an oral argument.

Pursuant to Section 106.25(4), *Florida Statutes*, Respondent's statement should explain how the staff erred in applying the law to the facts enumerated in the Staff Recommendation. Respondent may not testify or call others to testify or introduce any documentary or other evidence at the probable cause hearing.

At the probable cause hearing, the Commission is not deciding whether Respondent has violated a provision of The Florida Election Code or the amount of the fine. The Commission is only deciding whether Respondent should be charged with violating a provision of the election code. Before the Commission determines whether a violation has occurred or a fine should be imposed, Respondent will have an opportunity for a second hearing, where Respondent may testify, call others to testify on his or her behalf, and introduce documentary or other evidence that shows Respondent did not commit the violations charged.

After the presentations are concluded, the Commissioners will discuss the case and may ask questions of Respondent and staff. The Commission's decision on probable cause will be made by a majority vote of those members present and voting.

After the Commission decides whether there is or is not probable cause to believe that Respondent violated a provision of the election code, the case will become public. In some cases, the Commission may not make a decision, such as when further investigation is ordered. If the Commission does not make a decision on probable cause, the case will remain confidential, unless confidentiality has been waived.

After the Commission meeting, the Commission will send Respondent and Complainant a written order reflecting the Commission's decision on probable cause. If the Commission finds no probable cause, the case will be dismissed. If the Commission finds probable cause, Respondent will receive instructions on how to either settle the matter or select a hearing before the Commission or the Division of Administrative Hearings. These hearings will determine whether a violation has occurred and whether a fine should be imposed.

If Respondent has not received the Staff Recommendation or if you have any questions about the procedures for the probable cause hearing, please contact Donna Malphurs at (850) 922-4539.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: John Wayne Smith, Respondent.

Case No.: FEC 11-072

NOTICE OF PROBABLE CAUSE HEARING

TO: John Wayne Smith
203 W. Magnolia Street
Leesburg, Florida 34748

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PLEASE GOVERN YOURSELF ACCORDINGLY.

Dated on October 11, 2011.


Rosanna Catalano
Executive Director

cc: Division of Elections, Complainant

INSTRUCTIONS FOR PROBABLE CAUSE HEARING

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If Respondent has not received the Staff Recommendation or if you have any questions about the procedures for the probable cause hearing, please contact Donna Malphurs at (850) 922-4539.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

FLORIDA ELECTIONS COMMISSION,

PETITIONER,

v.

AGENCY CASE No.: FEC 11-072

JOHN WAYNE SMITH,

RESPONDENT.

MOTION TO APPROVE QUALIFIED REPRESENTATIVE

COMES NOW, Staff, by and through its undersigned counsel, pursuant to Rule 28-106.106, *Florida Administrative Code*, and requests the Florida Elections Commission (“Commission”) approve Bryan Lee Baysinger as a Qualified Representative to assist in representing the Florida Elections Commission at the Commissioners hearing in this matter:

1. The Commission hearing is set to determine probable cause on November 15, 2011.
2. Bryan Lee Baysinger is a legal intern with the Florida Elections Commission. The Commission is aware of the legal services that Mr. Baysinger can provide in addition to the legal services of the undersigned attorney.
3. Mr. Baysinger is qualified to participate as a Qualified Representative in the Commission’s prosecution of this matter. Mr. Baysinger’s affidavit listing his qualifications is attached hereto as Exhibit “A.”
4. Mr. Baysinger will work with, and under, the direction of the undersigned attorney during his representation of the Commission in this matter.
5. Mr. Baysinger has attempted contact with Respondent by telephone. However, Respondent did not answer and a voicemail was left.

WHEREFORE, the Staff requests that the Commission enter an order approving Bryan Lee Baysinger as a Qualified Representative to assist the Florida Election Commission's prosecution of this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided to John Wayne Smith via US mail on this 3rd day of November 2011.



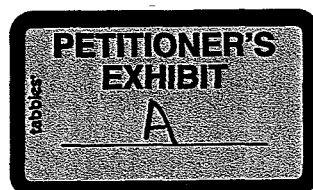
Eric M. Lipman, General Counsel
Florida Bar Number 958247
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
Phone: (850) 922-4539
Fax: (850) 921-0783

AFFIDAVIT

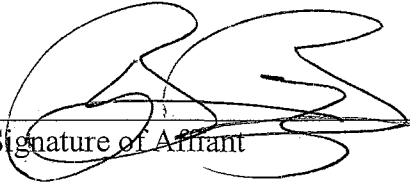
STATE OF FLORIDA
County of Leon

Bryan Lee Baysinger, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by the Florida Elections Commission as a legal intern.
3. I am currently enrolled in my third year of law school at Florida State University, College of Law, in Tallahassee, Florida. My completed coursework includes Civil Procedure, Florida Civil Practice, Evidence, Professional Responsibility, Constitutional Law, Contracts, Criminal Law, Property, Torts, Sales and Leases, Business Associations, Environmental Law, Ocean Law, Renewable Energy Law, Remedies, Patent Law, Advanced Legal Research, and Legal Research and Legal Writing. I anticipate graduating from law school in the summer of 2012 and sitting for the Florida July Bar.
4. I have taken the Multistate Professional Responsibility Examination, receiving a grade that qualifies for the State of Florida Board of Bar Examiners requirement.
5. I am a current member of the Journal of Transnational Law and Policy, and the Journal of Land Use and Environmental Law, at Florida State University, College of Law.
6. In 2008, I received the degree of Bachelor of Science from The University of Florida, Gainesville, Florida, with a major in Environmental Science and a cumulative GPA of 3.24.

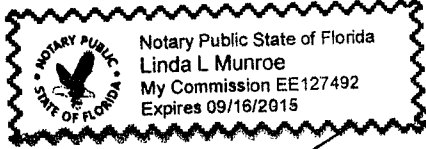


I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.


Signature of Affrant

Sworn to (or affirmed) and subscribed before me this 2nd day of November, 2011


Signature of Notary Public - State of Florida
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known or Produced Identification
Type of Identification Produced: _____

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: John Wayne Smith

Case No.: FEC 11-072

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 106.141(1), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on September 14, 2011, the following facts and law support this staff recommendation:

1. On March 18, 2011, the Florida Elections Commission received a referral from the Department of State, Division of Elections (“Division”) alleging that John Wayne Smith (“Respondent”) violated Chapter 106, Florida Statutes.
2. Respondent was a candidate for Governor in the 2010 general election.
3. By letter dated April 4, 2011, the Executive Director notified Respondent that Commission staff would investigate an alleged violation of the following statutory provision:

Section 106.141(1), Florida Statutes. John Wayne Smith, a candidate for the Office of Governor, failed to file a report reflecting the disposition of all remaining funds within 90 days after his name was removed from the ballot during the 2010 general election cycle. The termination report was due on December 1, 2010, as alleged in the information.

4. On May 29, 2009, Kristi Reid Bronson, Chief of the Bureau of Election Records with the Division, sent Respondent a letter acknowledging that Respondent had been placed on the 2010 active candidate list. The letter advised Respondent that all candidates filing reports with the Division are required to use the electronic filing system (EFS), and provided Respondent with a user identification number and initial password to grant access to the EFS. (ROI Exhibit 1)¹

5. By letter dated September 9, 2010, Ms. Bronson informed Respondent that his name was removed from the ballot because the Division had not received his written designation of a Lieutenant Governor prior to the September 2, 2010 qualifying deadline. (ROI Exhibit 2)

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

6. By letters dated September 9, 2010, December 6, 2010, and February 17, 2010, the Division notified Respondent that his 2010 termination report had not been received. (ROI Exhibit 3, 4, 6)

7. On February 22, 2011, Respondent went to the Division's office and asked to see Erika Bowen; however, Ms. Bowen was currently unavailable. As he left the Divisions office, Respondent stated that he was not going to file the report. (ROI Exhibit 5)

8. On February 22, 2011, Respondent hand delivered a letter entitled "Final Report" to the Division. The handwritten note reflected a "donation" of \$25.00 on August 23, 2011. The note further listed two expenditures of \$1.03 and \$131.38 on August 23, 2011. (ROI Exhibit 7)

9. On August 29, 2011, the Commission's investigator telephoned Respondent. During the telephone conversation Respondent admitted not filing his campaign termination report.

10. Despite receiving two written notices and an email notice to file his campaign termination report, as of this Staff Recommendation, Respondent has not filed his campaign termination report.

11. "Probable Cause" is defined as reasonable ground 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).

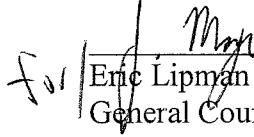
12. The facts set forth above show that Respondent was a candidate for Governor in the 2010 election. Respondent's name was removed from the ballot for failure to deliver a written designation of his Lieutenant Governor. Respondent was required to file his 2010 campaign termination report no later than December 1, 2010. Respondent received two written notices, and an email notifying him that his campaign termination report had not been received. However, to date, Respondent has not filed his campaign termination report.

Based upon these facts and circumstances, I recommend that the Commission find probable cause to charge Respondent with violating the following:

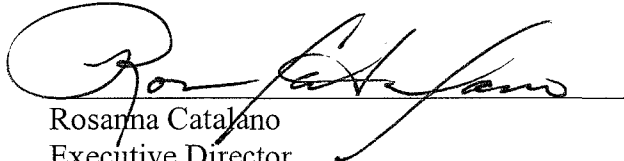
Count 1:

On or about December 1, 2010, Respondent violated Section 106.141(1), Florida Statutes, when he failed to file his campaign termination report listing the disposition of surplus campaign funds within 90 days after the Respondent withdrew, became unopposed, was eliminated, or elected.

Respectfully submitted on October 5, 2011,

Full 
Eric Lipman
General Counsel

I reviewed this Staff Recommendation this 6th day of October 2011.


Rosanna Catalano
Executive Director

**FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Case No.: FEC 11-072**

Respondent: John Wayne Smith

Complainant: Division of Elections

Pursuant to Section 106.25, Florida Statutes, on March 18, 2011, the Florida Elections Commission received information from the Division of Elections that Respondent violated Chapter 106, Florida Statutes. The Division's referral was mandated pursuant to Section 106.07(8)(d), Florida Statutes. Commission staff, therefore, investigated whether Respondent violated the following statute:

Section 106.141(1), Florida Statutes, failure of a candidate to file a termination report reflecting the disposition of all remaining funds in his campaign account within 90 days after he withdrew, became unopposed, was eliminated, or elected.

I. Preliminary Information:

1. Respondent was a candidate for Governor in the 2010 elections; his name was removed from the ballot. Respondent was a candidate for this position on two previous occasions; he was defeated in the 2002 and 2006 general elections. Respondent has also run for State Representative, District 42; he was defeated in the 2000 and 2004 elections.

2. Complainant is the Division of Elections.

3. Respondent's filing officer is Kristi Reid-Bronson, Chief, Bureau of Election Records.

II. Alleged Violation of Section 106.141(1), Florida Statutes:

4. I investigated whether Respondent violated this section of election laws by not filing his termination report.

5. On May 29, 2009, Ms. Bronson sent Respondent a letter acknowledging his name had been placed on the 2010 active candidate list. The letter advised Respondent that all candidates filing reports with the Division are required to use the electronic filing system (EFS), and provided Respondent with his user identification number and initial password allowing him access to the EFS.

6. The letter also advised 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. To view a copy of the acknowledgement letter, please refer to Exhibit 1.

7. On September 9, 2010, Ms. Bronson sent Respondent a letter informing him that his name was removed from the ballot because the Division had not received his written designation of a Lieutenant Governor prior to the September 2, 2010 qualifying deadline. The letter also advised Respondent that his termination report was due no later than December 1, 2010. To view a copy of the letter, please refer to Exhibit 2.

8. The Division sent Respondent a letter dated December 6, 2010 informing him that his termination report had not been received. According to History Notes provided by the Division, a second copy of the failure-to-file letter was e-mailed to Respondent on February 17, 2011. The notes further reflect that Respondent replied to the e-mail on February 19, 2011 stating, "I can no longer find my pass words. I will be in town Tuesday and will be by to see you." To view a copy of the letter, please refer to Exhibit 3. To view a copy of the History Notes, please refer to Exhibit 4.

9. In an affidavit dated February 22, 2011, Joel Mynard of the Division states that Respondent came to the Division's office on February 22, 2011 and asked to see Erika Bowen, another Division employee. According to Mr. Mynard, upon hearing that Ms. Bowen was not available, Respondent left a letter with Mr. Mynard and stated, "I am not filing it anyway" as he was leaving the office. To view a copy of Mr. Mynard's affidavit, please refer to Exhibit 5.

10. In an affidavit dated March 15, 2011, Erin NeSmith of the Division states that the letter hand delivered by Respondent on February 22, 2011 was labeled "Final Report." To view a copy of Ms. NeSmith's affidavit, please refer to Exhibit 6.

11. The "Final Report" hand delivered by Respondent is a one page, handwritten note reflecting one "donation" of \$25.00 on August 23, 2011; one expenditure in the amount of \$1.03 on August 23, 2011; and a second expenditure in the amount of \$131.38. There is no indication of what date the \$131.38 expenditure took place. Respondent did not sign the document submitted as his "Final Report." To view a copy of the "Final Report," please refer to Exhibit 7.

12. I interviewed Respondent by telephone on August 29, 2011. Respondent readily admitted he was aware that his report had not been filed and stated he has no intention of doing so.

13. According to Respondent, he was illegally "kicked off" the ballot. Respondent was adamant that he personally drove to Tallahassee and hand delivered his forms, including his designation of a running mate, to the Division prior to the qualifying deadline. Respondent claimed that his paperwork was "intentionally destroyed" by the Division to prevent him from running, and that the Division "stole \$8,500" from him "by not maintaining their records."¹

14. I asked Respondent if there was a reason he delivered a hand-written report to the Division instead of electronically filing the report as he had done for all his other campaign reports. Respondent replied, "Because the law says I can and I no longer have my credentials." Respondent added, "I wanted them to have it."

15. No history of Respondent having previously violated this section of law was

¹ Respondent clarified that he was referring to the qualifying fee of \$7,816.38 he paid the Division on June 17, 2011.

found.

III. FEC History:

16. Respondent was found to have violated Section 106.07(1) Florida Statutes, on one occasion. In FEC 06-041, the Commission entered a Final Order on September 1, 2006, assessing a civil penalty of \$1,000 against Respondent for failing to file his 2005 Q3 report during his 2006 campaign. Respondent paid the assessed penalty on December 6, 2007. To view a copy of the Final Order, please refer to Exhibit 8.

17. Respondent was a Complainant in FEC 08-071; however, the complaint was deemed legally insufficient because the Commission lacked jurisdiction. In FEC 06-377, the Commission entered a default Final Order against Respondent on October 26, 2006, for failing to pay an assessed fine of \$82.59 for the untimely filing of his 2006 F2B report. Respondent paid the fine on October 22, 2007.

18. It is noted that Respondent failed to file termination reports following his 2002 and 2006 campaigns for Governor. However, there is no indication that the Commission received referrals for Respondent's failure to file these reports, and they are beyond the two-year statute of limitations.

Conclusion:

19. During the telephone interview on August 29, 2011, Respondent stated he "has been playing this game since 1969" and that he reads Chapters 104 and 106, Florida Statutes "every time they release a new edition." Respondent further stated he has read the *Candidate and Campaign Treasurer Handbook*. However, according to Respondent, "it doesn't do any good because the Division doesn't abide by their own election laws."

20. Respondent concluded the interview by re-stating his position that he has no intention of filing the report and he has no intention to do anything else "until I get my \$8,500 back that they stole." Respondent added, "All the FEC can do is say \$1,000 fine which I may or not pay."

21. The phone log reflecting all telephone contacts by Commission staff in this matter is provided as Exhibit 9.

Respectfully submitted on September 14, 2011,



Tracie Aulet
Investigation Specialist

Current address of Respondent

Mr. John Wayne Smith
203 West Magnolia Street
Leesburg, FL 34748

Current address of Complainant

Division of Elections
500 South Bronough Street
Tallahassee, FL 32399

Name and Address of Filing Officer:

Ms. Kristi Reid-Bronson, Chief
Bureau of Election Records
500 South Bronough Street
Tallahassee, FL 32399

Copy furnished to:

Mr. David Flagg, Investigations Manager

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
John Wayne Smith -- FEC 11-072

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	Acknowledgement letter dated 5/29/09
Exhibit 2	Removal letter dated 9/9/10
Exhibit 3	Failure to file letter dated 12/6/10
Exhibit 4	History Notes
Exhibit 5	Affidavit of Joel Mynard
Exhibit 6	Affidavit of Erin NeSmith
Exhibit 7	Hand-written "Final Report"
Exhibit 8	Final Order issued in FEC 06-041
Exhibit 9	Phone Log



FLORIDA DEPARTMENT OF STATE
Kurt S. Browning
Secretary of State
DIVISION OF ELECTIONS

May 29, 2009

Mr. John Wayne Smith
203 West Magnolia Street
Leesburg, Florida 34748

Dear Mr. Smith:

This will acknowledge receipt of the Appointment of Campaign Treasurer and Designation of Campaign Depository for the office of Governor, which was placed on file in our office on May 28, 2009. Your name has been placed on the 2010 active candidate list.

Campaign Treasurer's Reports

Your first campaign treasurer's report will be due on **July 10, 2009**. The report will cover the period of April 1 - June 30, 2009. All candidates who file reports with the Division of Elections are required to file by means of the Division's electronic filing system (EFS).

Credentials and Sign-ons

Below is the web address to access the EFS and your user identification number. The enclosed sealed envelope contains your initial password. Once you have logged in using the initial password, you will be immediately prompted to change it to a confidential sign-on. You, your campaign treasurer, and deputy treasurers are responsible for protecting this password from disclosure and are responsible for all filings using these credentials, unless the Division is notified that your credentials have been compromised.

EFS Web site Address: <https://efs.dos.state.fl.us>
Identification Number: [REDACTED]

EXHIBIT 1 pg. 1 of 3

Mr. John Wayne Smith
May 29, 2009
Page Two

Pin Numbers

Pin numbers are confidential secure credentials that allow you to submit reports and update personal information. The enclosed sealed envelope contains a confidential pin number for you. By copy of this letter, a confidential pin number to access the Division of Election's EFS was sent to your treasurer.

Each candidate is required to provide the Division of Elections with confidential personal information that may be used to allow access in the event this password is forgotten or lost. When you enter the campaign account screen, there will be a drop down box where you pick a question (such as *What is your mother's maiden name?*) and supply an answer. All passwords and answers to questions are stored as encrypted data and cannot be viewed by Division staff and given out over the phone. Please notify the Division if your credentials have been compromised.

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.

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.

Mr. John Wayne Smith
May 29, 2009
Page Three

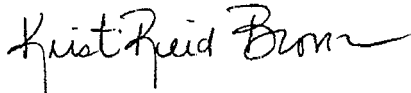
Instructions and Assistance

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) 245-6240.

All of the Division's publications and reporting forms are available on the Division of Elections' web site at <http://elections.myflorida.com>. 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 (June 2008 edition), 2009 Calendar of Reporting Dates, and Rule 1S-2.017, Florida Administrative Code.*

Please let me know if you need additional information.

Sincerely,



Kristi Reid Bronson, Chief
Bureau of Election Records

KRB/jmc

Enclosures

pc Mr. Alexander George, Treasurer



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

DAWN K. ROBERTS
Interim Secretary of State

September 9, 2010

Mr. John Wayne Smith (50567)
Candidate for Governor
203 West Magnolia Street
Leesburg, Florida 34748

Dear Mr. Smith:

Pursuant to Section 99.063(5), Florida Statutes, the failure of a Lieutenant Governor candidate to be designated and qualified by 5 p.m., on September 2, 2010, shall result in forfeiture of ballot position for the candidate for Governor for the general election. The Division Elections did not receive your written designation of a Lieutenant Governor prior to this deadline. Accordingly, your name has been removed from the general election ballot.

You are required to file a 90 day termination report no later than **December 1, 2010**, documenting disposition of funds pursuant to Section 106.141, Florida Statutes.

If you have any questions, or if we may be of assistance, please do not hesitate to contact **Miguel Hernandez at (850) 245-6247**.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Reid Bronson".


Kristi Reid Bronson, Chief
Bureau of Election Records

KRB/mah

EXHIBIT 2 pg. 1 of 2

Division of Elections

R. A. Gray Building, Room 316 • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6200 • Facsimile: (850) 245-6217
<http://www.elections.myflorida.com>

 Open New Report

Home Filings Campaign Account Sign Out Help

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: 2010 General Election

Report Type: TR 2010

Coverage Period: 8/20/2010 *12/1/2010 Due Date: 12/01/2010

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.

Browse...

Florida Department of State, Division of Elections 2005

***This date must be changed in order to file your report before 12/1/2010.**

EXHIBIT 2 pg. 2 of 2



FLORIDA DEPARTMENT OF STATE
Dawn K. Roberts
Interim Secretary of State
DIVISION OF ELECTIONS

December 6, 2010

Mr. John Smith
Candidate for Governor
203 West Magnolia Street
Leesburg, FL 34748-4748

Dear Mr. Smith:

Your campaign treasurer's report, which was due December 1, 2010, has not been received.

Section 106.07(8)(b), Florida Statutes, requires that the filing officer immediately notify you of the failure to file said report. The fine for termination reports for candidates, shall be \$50 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.

Once your report is filed, this office will notify you of the specific amount of your fine. Fines must be paid to the filing officer within 20 days of receipt of the payment due notice.

Please be advised, however, that failure to file a campaign treasurer's report may constitute a violation of Chapter 106, Florida Statutes, independent of the automatic fine violation referenced above. Therefore, if you fail to file a report, the division will turn the matter over to the Florida Elections Commission.

If you have any questions, please do not hesitate to contact Erika Bowen at (850) 245-6240.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Reid Bronson".

Kristi Reid Bronson, Chief
Bureau of Election Records

EXHIBIT 3

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
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22469	2/21/2011 7:57:00 AM		ebowen
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RE: 2010 Termination FF

email response 2/19/11 from John Smith-

I no longer can find my pass words. I will be in town Tuesday and will be by to see you.

John Wayne Smith

In a message dated 2/19/2011 9:09:27 P.M. Eastern Standard Time, EBowen@dos.state.fl.us writes:
Mr. Smith-

The 2010 Termination Report which was due December 1, 2010, has not been received. I have attached the failure to file letters that were mailed to you previously, regarding the report. Contact me upon receipt of this e-mail to discuss the outstanding report.

Please be advised, failure to file campaign treasurer's reports may constitute a violation of Chapter 106, Florida Statutes.

Thanks,

Erika Bowen

Division of Elections

(850)245-6250

22434	2/17/2011 8:57:00 AM		ebowen
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RE: 2010 Termination FF

email sent to John Smith-

Mr. Smith-

The 2010 Termination Report which was due December 1, 2010, has not been received. I have attached the failure to file letters that were mailed to you previously, regarding the report. Contact me upon receipt of this e-mail to discuss the outstanding report.

Please be advised, failure to file campaign treasurer's reports may constitute a violation of Chapter 106, Florida Statutes.

Thanks,

Erika Bowen

Division of Elections

(850)245-6250

EXHIBIT 4 pg. 1 of 4

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
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19469	9/29/2010 10:14:00 AM		ebowen
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RE: 2010 F1 Incomplete Report

e-mail sent to John Wanye Smith:

Mr. Smith-

Your 2010 F1 campaign treasurer's has one error that needs to be corrected. In contributions, seq #11, the contributor type needs to be changed to "S". Please amend the report ASAP. I have attached the error report for your convenience. I can be reached directly if you need assistance with amending your report. Or you may call the helpdesk at (850)245-6280 for assistance.

Thanks,

Erika Bowen
Division of Elections
(850)245-6250

18750	8/4/2010 3:28:00 PM		ebowen
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RE: EFS Credentials

Per Kristi, I reset the password and both the candidate and treasurer pin numbers for Mr. Smith. The credentials were e-mailed to Mr. Smith today.

18627	7/29/2010 3:04:00 PM		lbelvin
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RE: Release of password and pin
2:41pm

Mr. Smith called in the hotline and said that he needed his password and pin numbers. He said that he had to call last week about this but he just can not find them again. I explained that we will need him to fax a letter authorizing our office to release this information. He said that he did not have a fax machine at home and that there was not a fax mahine to he could use near by. He said that we would just have to fine him and asked why our department makes things so difficult for people. I explained that we are not trying to make things difficult but we have procedures that we have to follow. He said thank you and hung up the phone.

EXHIBIT 4 pg. 2 of 4

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
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17417	5/13/2010 2:38:00 PM		ebowen
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RE: 2010 Q1 Incomplete Audit

I called [REDACTED] several times for John Smith, phone rang busy. E-mailed error report to him as well to JWSmith42000@aol.com:

Mr. Smith-

Attached is the error report for the 2010 Q1 campaign report. You will need to amend the report accordingly. Please give me a call if you have questions or need help filing the amendment.

Thanks,

Erika Bowen
Division of Elections
(850)245-6250

14486	8/19/2009 1:41:00 PM		jmcollins
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re: email to candidate Smith

From: Collins, John M. "Jack"
Sent: Wednesday, August 19, 2009 1:48 PM
To: [REDACTED]
Subject: campaign address/treasurer

Mr. Smith,

I am writing in regard to a letter of resignation we received from your treasurer Alexander L. George. He resigned, and also says the address for your campaign is now:

203 West Magnolia Street
Leesburg, Florida 34748.

Is the address change acceptable to you?

Also, you need to appoint a new treasurer as soon as possible.

Jack Collins
Division of Elections, etc.

14436	8/18/2009 10:52:00 AM		jmcollins
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re: address change/treasurer

we received a letter from treasurer Alexander L. George advising us that he is resigning and that the new address for the campaign is 203 West Magnolia St., Leesburg 34748. I left a message for Mr. Smith at [REDACTED] requesting him to call me to verify the address change, and also to advise him that he needs to appoint a new treasurer.

13654	6/19/2009 8:58:00 AM		krbronson
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RE: email address for treasurer

Alexander George: ageorge@polklp.org

EXHIBIT 4 pg. 3 of 4

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
13650	6/19/2009 8:08:00 AM		taburkes
RE: Address Change 6/18/2009 3:45 P.M. We received a letter from Mr. Alexander George (Treasurer) requesting that we change the address for the candidate and the treasurer. I made the changes in the system, per his request.			
13257	6/1/2009 8:18:00 AM		jmcollins
re: treasurer's address I initially incorrectly put John Wayne Smith treasurer George's address as box 2278 Davenport FL 32897, instead of box 2278 Winter Haven FL 33883-2278. Mr. Smith called to inform us of the error so I printed out the COR 13 from imaging and re-mailed it on May 29, 2009, along with the treasurer PIN, to the correct address.			

EXHIBIT 4 pg. 4 of 4

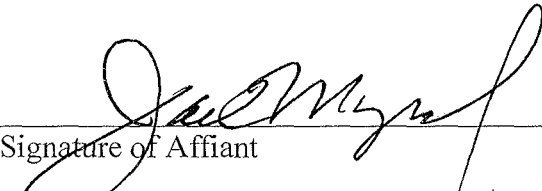
AFFIDAVIT

**STATE OF FLORIDA
County of Leon**

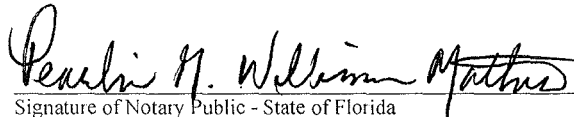
Joel Mynard, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein.
3. I am currently employed by the Division of Elections as an Administrative Assistant.
4. On February 22, 2011, John Wayne Smith approached the front counter and asked to see Erika Bowen. Erika was busy and suggested Erin could help him. I asked Mr. Smith if Erin NeSmith could help him, he declined to see her, left a letter for Erika and while leaving said "I am not filing it anyway".

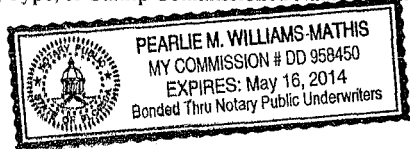
I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.



Signature of Affiant
Sworn to (or affirmed) and subscribed before me this 22nd day of February, 2011.



Signature of Notary Public - State of Florida
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known

EXHIBIT 5

AFFIDAVIT

STATE OF FLORIDA
County of Leon

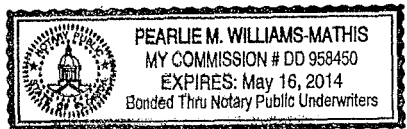
Erin NeSmith, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein.
3. **John Wayne Smith(50567)** was a candidate for the office of Governor during the 2010 election cycle. The Termination Report (TR) report which was due December 1, 2010, has not been received.
4. On May 28, 2009, Mr. Smith filed the Appointment of Campaign Treasurer and Designation of Campaign Depository with the Division.
5. On September 2, 2009, Mr. Smith appointed himself as treasurer.
6. On September 9, 2010, the Division mailed Mr. Smith a letter notifying him that the TR report would be due no later than December 1, 2010.
7. On December 6, 2010, the Division mailed Mr. Smith a letter notifying him that the TR had not been filed.
8. On February 19, 2011, the Division emailed Mr. Smith notification regarding the outstanding report. Mr. Smith responded to the email.
9. On February 22, 2011, Mr. Smith hand-delivered a letter that he labeled "Final Report." He made the indication to Joel Mynard that he would not file the report electronically. (See attached affidavit)
10. As of March 15, 2011 the termination report has not been filed.

I hereby swear or affirm that the foregoing information is true and correct to the best of my knowledge.

Erin NeSmith

Signature of Affiant



Sworn to (or affirmed) and subscribed before me this 15 day of March, 2011.

Pearlie M. Williams Mathis

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known

EXHIBIT 6

Final Report

Donation:

Michael Griffin 6714 Mission Club Blvd - 307
Orlando FL 32821 8-23 \$25.00

Expenditure

PayPal Co 2211 North First Street, San Jose, Ca.
95131 Funds Transfer 8/23 \$1.03

John Wayne Smith, 203 W. Magnolia St Leesburg FL
34748

Return of funds not used \$131.38

Donations \$132.41

Expenditures \$132.41

RECEIVED
DEPARTMENT OF STATE
2011 FEB 22 AM 10:40
DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

AGENCY CASE No.: FEC 06-041
F.O. No.: DOSFEC 06-086

JOHN WAYNE SMITH,
RESPONDENT.

FINAL ORDER

THIS CAUSE came on to be heard before the Florida Elections Commission (Commission) at its regularly scheduled meeting held on August 17 and 18, 2006, in Tallahassee, Florida.

FINDINGS OF FACT

1. The Respondent is a candidate for governor in the 2006 elections. In addition, he is the treasurer for his campaign. Respondent ran unsuccessfully for the House of Representative, District 42, in 2000 and 2004, and ran unsuccessfully for governor in 2002. He is a member of the Libertarian Party of Florida.

2. The Complainant is the Division of Elections, Respondent's filing officer.

3. On April 20, 2006, the staff of the Commission drafted a Staff Recommendation recommending to the Commission that there was probable cause to believe that the Respondent committed a violation of The Florida Election Code.

4. On May 26, 2006, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

Count 1:

Respondent violated Section 106.07(1), Florida Statutes, when the Respondent failed to file with the Division of Elections the

EXHIBIT 8 pg. 1 of 4

candidate's 2005 Q3 report due on October 11, 2005, listing all contributions received, and all expenditures made, by or on behalf of the candidate.

5. On June 13, 2006, Respondent was served by certified mail with a copy of the Commission's Order of Probable Cause to which the Staff Recommendation was attached and incorporated by reference. Respondent signed the certified mail receipt indicating that he had received the Order of Probable Cause. The Order of Probable Cause included a Notice of Right to A Hearing advising Respondent that he was entitled to a hearing and describing how he obtained such a hearing.

6. The Respondent failed to request a hearing before the Commission within 30 days of receiving the Order of Probable Cause. By failing to exercise their right to seek administrative review within the time specified in the notice, Respondents have waived the right to a hearing. *See Lamar Advertising Company v. Department of Transportation*, 523 So.2d 712 (Fla. 1st DCA 1988); *Environmental Resource Associates of Florida, Inc., v. State of Florida, Department of General Services*, 624 So.2d 330 (Fla. 1st DCA 1993); and *Eric Patz M.D. v. Department of Health, Florida Board of Medicine*, 864 So.2d 79 (Fla. 3rd DCA 2003) (affirming a default judgment entered by the Board).

7. On July 7, 2006, staff filed a Motion for Determination of Waiver of Hearing and for A Final Order that was sent to Respondent by U. S. mail.

8. On July 31, 2006, the Commission issued a Notice of Hearing on the motion notifying Respondent that the Commission would hear the motion on August 17, 2006, at 4:30 p.m. in Tallahassee, Florida. Neither the Respondent nor anyone on Respondent's behalf responded to the motion or appeared at the scheduled hearing.

CONCLUSIONS OF LAW

9. The Commission has jurisdiction over the parties to and subject matter of this

EXHIBIT 8 pg. 2 of 4

cause, pursuant to Section 106.26, Florida Statutes.

10. Based on the information in the Staff Recommendation, the Commission finds that Respondent committed the violation set forth in the Order of Probable Cause and this order.

11. Attached to the motion was a copy of Respondent's financial disclosure forms for 2005. The Commission finds that Respondent has sufficient financial resources to pay the fine imposed by the Commission. In addition, the Commission considered the other mitigating and aggravating circumstances in Section 106.265, Florida Statutes, before imposing the fine.

ORDER

Based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent waived the right to a hearing and that Respondent committed one count of violating Section 106.07(1), Florida Statutes. Therefore, it is

ORDERED that the Respondent shall remit a civil penalty of \$1,000. The penalty shall be paid to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050, within 30 days of the date this Final Order is received by the Respondent.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on September 1, 2006, in Tallahassee, Florida.



Chance Irvine, Chairman
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 120.68, Florida Statutes, the Respondent may appeal the

EXHIBIT 8 pg. 3 of 4

Commission's Final Order to the appropriate district court of appeal by filing a notice of appeal both with the Clerk of the Florida Elections Commission and the Clerk of the district court of appeal. The notice must be filed within 30 days of the date this Final Order was filed and must be accompanied by the appropriate filing fee.

Copies furnished to:

Barbara M. Linthicum, Executive Director
John Wayne Smith, Respondent (certified mail)
Division of Elections, Filing Officer

EXHIBIT 8 pg. 4 of 4

**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 11-072**

Respondent: John Wayne Smith

Complainant: Division of Elections

1. **Date and time:** April 27, 2011; 11:26 a.m.
Name: Respondent
Phone #: [REDACTED]
Summary: There was no answer; I left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
2. **Date and time:** May 23, 2011; 12:37 p.m.
Name: Respondent
Phone #: [REDACTED]
Summary: There was no answer; I left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
3. **Date and time:** June 29, 2011; 10:30 a.m.
Name: Respondent
Phone #: [REDACTED]
Summary: I received a busy signal. I called again approximately 5 minutes later and left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
4. **Date and time:** August 29, 2011; 4:25 p.m.
Name: Respondent
Phone #: [REDACTED]
Summary: There was no answer; I left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
5. **Date and time:** August 29, 2011; 4:38 p.m.
Name: Respondent
Phone #: returned my call
Summary: I stated I was calling in reference to the referral I received from the Division regarding the failure to file his termination report. R stated he personally drove to Tallahassee to file his paperwork, including his designation of a running mate, which was filed a bit early. R claims his forms "disappeared" and stated that the Division kicked him off the ballot illegally. R stated "these people are crooked and that's the only way to say it." R claims the Division "stole" \$8,500 from him (the qualifying fee) by not maintaining their records. R stated "I don't see any reason to talk to anyone in your office; no matter what I say, they are going to lie. They intentionally destroyed that paperwork so I

EXHIBIT 9 pg. 1 of 2

wouldn't run against Bill McCollum because every time I debated him I beat him." I asked R if there was a reason why he didn't file his TR electronically like he had filed all the others. R stated "because the law says that I can and I no longer have my credentials." R also claimed he no longer has his PIN and password information. R stated he tried to file charges against the Division but the state attorney would not listen to him; he put his effort into another candidate. R stated regarding the TR: "I wanted them to have it." R stated it turns him into a "red flame" every time he thinks about it so he tries not to think about it anymore. R stated he has read Chapters 104 and 106, Florida Statutes; he reads them every time a new edition is released, "I've been playing this game since 1969." R stated he is the only person in his party that knows the law because he "can't get the rest of these people to read." R stated reading the statutes and handbook doesn't do any good because the Division doesn't abide by their own election laws. R stated he purposely ignored our letter because it wouldn't do any good to respond; "I knew you'd come sooner or later and here you are!" R stated he actually helped write the Handbook and he has read them since 1980. R stated he has been a candidate 9 times starting in 1986. R asserted he has no intention of filing the report electronically and he has no intention of doing anything else until he gets his \$8,500 back that the Division stole from him. R stated "all the FEC can do is say \$1,000 fine, which I may or may not pay." R stated the best way to reach him is by his cell phone [REDACTED].

Memo to File? No

Entered by: ta

6. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

Entered by:

7. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

Entered by:

8. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

Entered by:

9. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

EXHIBIT 9 pg. 2 of 2

**DIVISION OF ELECTIONS
FEC REFERRAL FORM**

NAME	Account Number
------	----------------

John Wayne Smith

50567

Candidate: John Wayne Smith

Treasurer: John Wayne Smith

The Division of Elections is referring this issue to the Florida Elections Commission pursuant to Section 106.25, Florida Statutes. Section 106.07(8)(d) F.S. requires the filing officer to notify the FEC of a candidate's or political committee's alleged failure to file reports as set forth in the notification.

The following reports are outstanding after notification:

2010 Termination Report

Sent By: Kristi Reid Bronson

Date: 3/16/11

KRB

RECEIVED
MARCH 16 2011
DIVISION OF ELECTIONS

FILED

OFFICE USE ONLY

09 MAY 28 AM 10: 08

SECRETARY OF STATE

STATE OF FLORIDA
APPOINTMENT OF CAMPAIGN TREASURER
AND DESIGNATION OF CAMPAIGN
DEPOSITORY FOR CANDIDATES
(Section 106.021(1), F.S.)

(PLEASE TYPE)

CHECK APPROPRIATE BOX:

Original Appointment Deputy Treasurer Reappointment of Treasurer

Name of Candidate: John Wayne Smith
1. Address (include post office box or street, city, state, zip code):
203 W Magnolia ST Leesburg FL 34748

Telephone (optional): 352 1787 5550
2. Party (Partisan candidates only): Libertarian
3. Office (add district, circuit, group number): Governor

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

4. Name of Treasurer or Deputy Treasurer:
Alexander George

5. Mailing Address (If post office box or drawer add street address):
P.O. Box 2278 (931 Orchid Drive Davenport, FL 32897)
6. Telephone: 407-484-1073

7. City: Winter Haven 8. County: Polk 9. State: FL 10. Zip Code: 33883-2278

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

11. Name of Bank: United Southern Bank 12. Street Address: 505 W Main ST
13. City: Leesburg 14. County: Lake 15. State: Florida 16. Zip Code: 34748

17. Signature of Candidate: John Wayne Smith Date: May 2, 2009

Campaign Treasurer's Acceptance of Appointment

I, Alexander George, do hereby accept the appointment as
(Please Print or Type)

Campaign Treasurer Deputy Treasurer for the campaign of John Wayne Smith

who is seeking nomination or election as a Libertarian candidate to the office of
(Party)

Governor

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING CAMPAIGN TREASURER'S
ACCEPTANCE OF APPOINTMENT AND THAT THE FACTS STATED ARE TRUE.

May 22, 2009
Date

X Alexander George
Signature of Campaign Treasurer or Deputy Treasurer

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please Type)

OFFICE USE ONLY
FILED

09 MAY 28 AM 10: 08

SECRETARY OF STATE

I, John Wayne Smith,

candidate for the office of Governor of Florida;

have received, read and understand the requirements of Chapter 106,
Florida Statutes.

X John Wayne Smith
Signature of Candidate

May 23 2009
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).

STATE OF FLORIDA
APPOINTMENT OF CAMPAIGN TREASURER
AND DESIGNATION OF CAMPAIGN
DEPOSITORY FOR CANDIDATES
(Section 106.021(1), F.S.)

OFFICE USE ONLY FILED

09 SEP -2 AM 11:11
SECRETARY OF STATE

(PLEASE TYPE)

CHECK APPROPRIATE BOX:

Original Appointment Deputy Treasurer Reappointment of Treasurer

Name of Candidate: John Wayne Smith
1. Address (include post office box or street, city, state, zip code):
203 W Magnolia St
Leesburg FL

Telephone (optional): 352-787-5558
2. Party (Partisan candidates only): Libertarian
3. Office (add district, circuit, group number): Governor of Florida

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

4. Name of Treasurer or Deputy Treasurer:
John Wayne Smith

5. Mailing Address (If post office box or drawer add street address):
203 W Magnolia St
6. Telephone: 352-787-5558

7. City: Leesburg 8. County: Lake 9. State: Florida 10. Zip Code: 34748 5836

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

11. Name of Bank: United Southern Bank
12. Street Address: 15108 SR 50
13. City: Clemonst 14. County: Lake 15. State: Florida 16. Zip Code: 34748-5125

17. Signature of Candidate: John Wayne Smith Date: Aug 29 2009

Campaign Treasurer's Acceptance of Appointment

John Wayne Smith do hereby accept the appointment as
(Please Print or Type)

Campaign Treasurer Deputy Treasurer for the campaign of John Wayne Smith
who is seeking nomination or election as a Libertarian candidate to the office of
(Party)

Governor of Florida

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING CAMPAIGN TREASURER'S
ACCEPTANCE OF APPOINTMENT AND THAT THE FACTS STATED ARE TRUE.

August 29 2009
Date

John Wayne Smith
Signature of Campaign Treasurer or Deputy Treasurer



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

DAWN K. ROBERTS
Interim Secretary of State

September 9, 2010

Mr. John Wayne Smith (50567)
Candidate for Governor
203 West Magnolia Street
Leesburg, Florida 34748

Dear Mr. Smith:

Pursuant to Section 99.063(5), Florida Statutes, the failure of a Lieutenant Governor candidate to be designated and qualified by 5 p.m., on September 2, 2010, shall result in forfeiture of ballot position for the candidate for Governor for the general election. The Division Elections did not receive your written designation of a Lieutenant Governor prior to this deadline. Accordingly, your name has been removed from the general election ballot.

You are required to file a 90 day termination report no later than **December 1, 2010**, documenting disposition of funds pursuant to Section 106.141, Florida Statutes.

If you have any questions, or if we may be of assistance, please do not hesitate to contact **Miguel Hernandez at (850) 245-6247**.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Reid Bronson".

Kristi Reid Bronson, Chief
Bureau of Election Records

KRB/mah



FLORIDA DEPARTMENT OF STATE

Dawn K. Roberts

Interim Secretary of State

DIVISION OF ELECTIONS

December 6, 2010

Mr. John Smith
Candidate for Governor
203 West Magnolia Street
Leesburg, FL 34748-4748

Dear Mr. Smith:

Your campaign treasurer's report, which was due December 1, 2010, has not been received.

Section 106.07(8)(b), Florida Statutes, requires that the filing officer immediately notify you of the failure to file said report. The fine for termination reports for candidates, shall be \$50 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.

Once your report is filed, this office will notify you of the specific amount of your fine. Fines must be paid to the filing officer within 20 days of receipt of the payment due notice.

Please be advised, however, that failure to file a campaign treasurer's report may constitute a violation of Chapter 106, Florida Statutes, independent of the automatic fine violation referenced above. Therefore, if you fail to file a report, the division will turn the matter over to the Florida Elections Commission.

If you have any questions, please do not hesitate to contact Erika Bowen at (850) 245-6240.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Reid Bronson".

Kristi Reid Bronson, Chief
Bureau of Election Records

Bowen, Erika

From: JWSMITH42000@aol.com
Sent: Saturday, February 19, 2011 10:45 PM
To: Bowen, Erika
Subject: Re: 2010 Termination Report

I no longer can find my pass words. I will be in town Tuesday and will be by to see you.

John Wayne Smith

In a message dated 2/19/2011 9:09:27 P.M. Eastern Standard Time, EBowen@dos.state.fl.us writes:

Mr. Smith-

The 2010 Termination Report which was due December 1, 2010, has not been received. I have attached the failure to file letters that were mailed to you previously, regarding the report. Contact me upon receipt of this e-mail to discuss the outstanding report.

Please be advised, failure to file campaign treasurer's reports may constitute a violation of Chapter 106, Florida Statutes.

Thanks,

Erika Bowen

Division of Elections

(850)245-6250

AFFIDAVIT

STATE OF FLORIDA

County of Leon

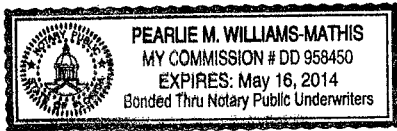
Erin NeSmith, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein.
3. **John Wayne Smith(50567)** was a candidate for the office of Governor during the 2010 election cycle. The Termination Report (TR) report which was due December 1, 2010, has not been received.
4. On May 28, 2009, Mr. Smith filed the Appointment of Campaign Treasurer and Designation of Campaign Depository with the Division.
5. On September 2, 2009, Mr. Smith appointed himself as treasurer.
6. On September 9, 2010, the Division mailed Mr. Smith a letter notifying him that the TR report would be due no later than December 1, 2010.
7. On December 6, 2010, the Division mailed Mr. Smith a letter notifying him that the TR had not been filed.
8. On February 19, 2011, the Division emailed Mr. Smith notification regarding the outstanding report. Mr. Smith responded to the email.
9. On February 22, 2011, Mr. Smith hand-delivered a letter that he labeled "Final Report." He made the indication to Joel Mynard that he would not file the report electronically. (See attached affidavit)
10. As of March 15, 2011 the termination report has not been filed.

I hereby swear or affirm that the foregoing information is true and correct to the best of my knowledge.

Erin NeSmith

Signature of Affiant



Sworn to (or affirmed) and subscribed before me this 15 day of March, 2011.

Pearlie M. Williams Mathis

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known

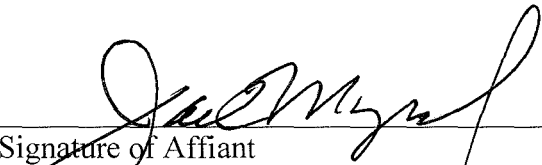
AFFIDAVIT

STATE OF FLORIDA
County of Leon

Joel Mynard, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein.
3. I am currently employed by the Division of Elections as an Administrative Assistant.
4. On February 22, 2011, John Wayne Smith approached the front counter and asked to see Erika Bowen. Erika was busy and suggested Erin could help him. I asked Mr. Smith if Erin NeSmith could help him, he declined to see her, left a letter for Erika and while leaving said "I am not filing it anyway".

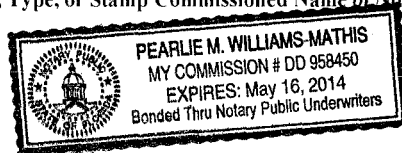
I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.


Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 22nd day of February, 2011


Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known

Final Report

Donation:

Michael Griffin 6714 Mission Club Blvd - 307

Oaklands Fl 32821 8-23 \$25.00

Expenditure

PayPal Co 2211 North First Street, San Jose, Ca

95131 Funds Transfer 8/23 \$1.03

John Wayne Smith, 203 W. Magnolia St Leesburg Fl

34748

Return of funds not used \$131.38

Donations \$132.41

Expenditures \$132.41

RECEIVED
DEPARTMENT OF STATE
2011 FEB 22 AM 10:40
DIVISION OF ELECTIONS
TALLAHASSEE, FL

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
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22469	2/21/2011 7:57:00 AM		ebowen
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RE: 2010 Termination FF

email response 2/19/11 from John Smith-

I no longer can find my pass words. I will be in town Tuesday and will be by to see you.

John Wayne Smith

In a message dated 2/19/2011 9:09:27 P.M. Eastern Standard Time, EBowen@dos.state.fl.us writes:
Mr. Smith-

The 2010 Termination Report which was due December 1, 2010, has not been received. I have attached the failure to file letters that were mailed to you previously, regarding the report. Contact me upon receipt of this e-mail to discuss the outstanding report.

Please be advised, failure to file campaign treasurer's reports may constitute a violation of Chapter 106, Florida Statutes.

Thanks,

Erika Bowen

Division of Elections

(850)245-6250

22434	2/17/2011 8:57:00 AM		ebowen
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RE: 2010 Termination FF

email sent to John Smith-

Mr. Smith-

The 2010 Termination Report which was due December 1, 2010, has not been received. I have attached the failure to file letters that were mailed to you previously, regarding the report. Contact me upon receipt of this e-mail to discuss the outstanding report.

Please be advised, failure to file campaign treasurer's reports may constitute a violation of Chapter 106, Florida Statutes.

Thanks,

Erika Bowen
Division of Elections
(850)245-6250

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
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19469	9/29/2010 10:14:00 AM		ebowen
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RE: 2010 F1 Incomplete Report

e-mail sent to John Wanye Smith:

Mr. Smith-

Your 2010 F1 campaign treasurer's has one error that needs to be corrected. In contributions, seq #11, the contributor type needs to be changed to "S". Please amend the report ASAP. I have attached the error report for your convenience. I can be reached directly if you need assistance with amending your report. Or you may call the helpdesk at (850)245-6280 for assistance.

Thanks,

Erika Bowen
Division of Elections
(850)245-6250

18750	8/4/2010 3:28:00 PM		ebowen
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RE: EFS Credentials

Per Kristi, I reset the password and both the candidate and treasurer pin numbers for Mr. Smith. The credentials were e-mailed to Mr. Smith today.

18627	7/29/2010 3:04:00 PM		lbelvin
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RE: Release of password and pin
2:41pm

Mr. Smith called in the hotline and said that he needed his password and pin numbers. He said that he had to call last week about this but he just can not find them again. I explained that we will need him to fax a letter authorizing our office to release this information. He said that he did not have a fax machine at home and that there was not a fax mahine to he could use near by. He said that we would just have to fine him and asked why our department makes things so difficult for people. I explained that we are not trying to make things difficult but we have procedures that we have to follow. He said thank you and hung up the phone.

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
17417	5/13/2010 2:38:00 PM		ebowen
RE: 2010 Q1 Incomplete Audit			
I called [REDACTED] several times for John Smith, phone rang busy. E-mailed error report to him as well to [REDACTED]:			
Mr. Smith-			
Attached is the error report for the 2010 Q1 campaign report. You will need to amend the report accordingly. Please give me a call if you have questions or need help filing the amendment.			
Thanks,			
Erika Bowen Division of Elections (850)245-6250			
14486	8/19/2009 1:41:00 PM		jmcollins
re: email to candidate Smith			
From: Collins, John M. "Jack" Sent: Wednesday, August 19, 2009 1:48 PM To: [REDACTED] Subject: campaign address/treasurer			
Mr. Smith, I am writing in regard to a letter of resignation we received from your treasurer Alexander L. George. He resigned, and also says the address for your campaign is now: 203 West Magnolia Street Leesburg, Florida 34748. Is the address change acceptable to you? Also, you need to appoint a new treasurer as soon as possible. Jack Collins Division of Elections, etc.			
14436	8/18/2009 10:52:00 AM		jmcollins
re: address change/treasurer			
we received a letter from treasurer Alexander L. George advising us that he is resigning and that the new address for the campaign is 203 West Magnolia St., Leesburg 34748. I left a message for Mr. Smith at (352) 787-5550 requesting him to call me to verify the address change, and also to advise him that he needs to appoint a new treasurer.			
13654	6/19/2009 8:58:00 AM		krbranson
RE: email address for treasurer			
Alexander George: ageorge@polklp.org			

HISTORY NOTES
John Wayne Smith - 50567

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
13650	6/19/2009 8:08:00 AM		taburkes
RE: Address Change			
6/18/2009 3:45 P.M.			
We received a letter from Mr. Alexander George (Treasurer) requesting that we change the address for the candidate and the treasurer. I made the changes in the system, per his request.			
13257	6/1/2009 8:18:00 AM		jmcollins
re: treasurer's address			
I initially incorrectly put John Wayne Smith treasurer George's address as box 2278 Davenport FL 32897, instead of box 2278 Winter Haven FL 33883-2278. Mr. Smith called to inform us of the error so I printed out the COR 13 from imaging and re-mailed it on May 29, 2009, along with the treasurer PIN, to the correct address.			

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>John Wayne Smith</i></p> <p>B. Received by (Printed Name) C. Date of Delivery <i>John Wayne Smith 12-8-2011</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><i>John Wayne Smith 203 West Magnolia St. Leesburg, FL 34748</i></p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

2. Article Number (Transfer from service label) 7004 1160 0004 9186 4047

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

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OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To

Street, Apt. No.;
or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

7004 1160 0004 9186 4047



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
(850) 922-4539

CERTIFIED MAIL: 70041160000491864047

Mr. John Wayne Smith
203 West Magnolia Street
Leesburg, Florida 34748

RE: Case No.: FEC 11-072

Dear Mr. Smith:

The Florida Elections Commission at its last regularly scheduled meeting considered this case and issued the order that is enclosed with this letter. Please read the order carefully. As the Respondent, you are entitled to a hearing. The Order of Probable Cause will explain in detail how you obtain a hearing.

If you prefer to enter into a consent order, please contact me at the telephone number or address listed above and I will attempt to reach an agreement with you.

Since the Commission has determined probable cause, Section 106.25, Florida Statutes, provides that all investigative reports and other documents related to this case are no longer confidential.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Rosanna Catalano".

Rosanna Catalano
Executive Director

Enclosures: Order of Probable Cause and Staff Recommendation

cc: Division of Elections, Complainant w/ enclosures



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

Telephone: (850) 922-4539

Fax: (850) 921-0783

October 6, 2011

Mr. John Wayne Smith
203 West Magnolia Street
Leesburg, Florida 34748

RE: Case No.: FEC 11-072

Dear Mr. Smith:

The Commission staff has completed its investigation of the complaint filed against you on March 18, 2011, and is recommending the Commission find probable cause to charge you with violating Florida's election laws. As required by section 106.25, Florida Statutes, you are being provided with a copy of the Staff Recommendation. If you choose to file a response to the recommendation, you must file your response with the Commission within 14 days from the date of this letter. If you timely file a response to the staff recommendation, the Commission will consider your response when determining probable cause.

At its meeting scheduled for November 15, 2011, the Commission will hold a hearing to determine whether there is probable cause to charge you with violating Chapter 104 or 106, Florida Statutes. You and the complainant will receive a notice of hearing at least 14 days before the hearing. The notice of hearing will indicate the location, date, and time of your hearing. You will have the opportunity to make a brief oral statement to the Commission, but you will not be permitted to testify or call others to testify, or introduce any documentary or other evidence.

The Notice of Hearing will be mailed to the same address as this letter. Therefore, if your address changes, you must notify the Commission of your new address. Otherwise, you may not receive the correspondence from the Commission staff. Failure to receive the documents will not delay the probable cause hearing.

Unless you have waived your privilege of confidentiality, please remember that the Staff Recommendation and all other documents related to the complaint filed against you are confidential until the Commission finds probable cause or no probable cause, or unless you waive confidentiality in writing. If you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

~~After reviewing the Staff Recommendation, if you desire to enter negotiations directed towards reaching a settlement via consent agreement, please notify us in writing.~~

If you have any questions or need additional information, please contact Patsy Rushing, Commission Clerk, at extension 103.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosanna Catalano". The signature is fluid and cursive, with the first name being the most prominent.

Rosanna Catalano
Executive Director

Enclosure: Staff Recommendation



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street, Suite 224
Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783

September 14, 2011

John Wayne Smith
203 West Magnolia Street
Leesburg, FL 34748

RE: Case No.: FEC 11-072

Dear Mr. Smith:

The Commission staff has completed its investigation of the complaint filed against you on March 18, 2011. As required by section 106.25, Florida Statutes, you are being provided a copy of the Report of Investigation. Should you choose to file a response to the report, you must file your response with the Commission within 14 days from the date of this letter. If your response is timely filed, the Commission will consider it when determining probable cause.

Commission staff will review the Report of Investigation and make a written recommendation to the Commission on whether there is probable cause to charge you with violating Chapter 104 or 106, Florida Statutes. You will receive a copy of this staff recommendation and will have the opportunity to file a response. Should you choose to do so, your response must be filed with the Commission within 14 days from the date the recommendation is mailed to you. If your response is timely filed, the Commission will consider it when determining probable cause.

The Commission will then hold a hearing to determine whether there is probable cause to believe you have violated Chapter 104, 105 or 106, Florida Statutes. You and the complainant will receive a notice of hearing at least 14 days before the hearing. The notice of hearing will indicate the location, date, and time of your hearing. You will have the opportunity to make a brief oral statement to the Commission, but you will not be permitted to testify or call others to testify, or introduce any documentary or other evidence.

At any time before a probable cause finding, you may notify us in writing that you want to enter into negotiations directed towards reaching a settlement via consent agreement.

The Staff Recommendation and the Notice of Hearing will be mailed to the same address as this letter. Therefore, if your address changes, you must notify the Commission of your new address. Otherwise, you may not receive the correspondence from the Commission staff. Failure to receive the documents will not delay the probable cause hearing.

Under section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are **confidential** until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing. The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

If you have any questions or need additional information, please contact Patsy Rushing, Commission Clerk, at extension 103.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rosanna Catalano".

Rosanna Catalano
Executive Director

Enclosure: Report of Investigation



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

(850) 922-4539

April 4, 2011

CERTIFIED MAIL 7004 1160 0004 9190 3180

John Wayne Smith
203 West Magnolia Street
Leesburg, FL 34748

RE: Case No.: FEC 11-072

Dear Mr. Smith:

The Florida Elections Commission has received information from your filing officer that you failed to file a campaign report due on December 1, 2010. I have enclosed a copy of the information with this letter. The staff will investigate the following statutory provision(s):

Section 106.141(1), Florida Statutes: John Wayne Smith, candidate for the Office of Governor, failed to file a report reflecting the disposition of all remaining funds within 90 days after his name was removed from the ballot during the 2010 election cycle. The termination report was due December 1, 2010, as alleged in the information.

You may respond to the alleged violation by filing a notarized statement providing any information regarding the facts and circumstances surrounding the allegation(s). If you choose to file a response, the response should be filed within 20 days of the date of receipt of this letter. If you file a response, it will be included in the information that is provided to the Commission.

When staff completes their review of the allegations, I will mail you a copy of the review. If you choose to file a response to the review, you must file your response with the Commission within 14 days of the date I mail the report to you. If you timely file a response to the review, the Commission will consider your response when determining probable cause.

After reviewing the allegations, staff will make a written recommendation to the Commission on whether there is probable cause that you violated Chapter 104 or 106, Florida Statutes. If staff recommends probable cause, I will mail you a copy of the recommendation. If you choose to file a response to the staff recommendation, you must file your response with the Commission within 14 days of the date I mail the

recommendation to you. If you timely file a response to the staff recommendation, the Commission will consider your response when determining probable cause.

The Commission will then hold a hearing to determine whether there is probable cause that you violated Chapter 104 or 106, Florida Statutes. I will mail you a notice of hearing at least 14 days before the hearing. The notice of hearing will indicate the location, date, and time of your hearing. If you attend the hearing, you will be permitted to make a brief oral statement to the Commission, but you will not be permitted to testify or call others to testify or introduce any documentary or other evidence.

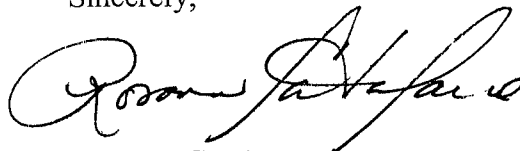
The Commission staff will mail the investigator's report, the staff recommendation, and the notice of the probable cause hearing to the same address as this letter. Therefore, if your address changes, you must notify the Commission of your new address. Otherwise, you may not receive the correspondence from the Commission staff. Failure to receive the documents will not delay the probable cause hearing.

Section 106.25, Florida Statutes, provides that complaints, Commission investigations, and investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are **confidential**. The section also provides that the information remains confidential until the Commission finds no probable cause or probable cause. A breach of confidentiality is a criminal violation of the law.

The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, the attorney you choose must file a notice of appearance with the Commission's Clerk before any member of the Commission's staff can discuss this case with him.

If you have any questions or need additional information, please contact **Tracie Aulet**, at extension 114.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosanna Catalano". The signature is fluid and cursive, with a large initial "R" and "C".

Rosanna Catalano
Executive Director

cc: Dept. of State, Division of Elections, Filing Officer

Enclosure: Filing officer information

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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Total Postage & Fees \$	

Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002 See Reverse for Instructions

7004 1160 0004 9190 3180

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p style="font-size: 1.2em; font-family: cursive;">John Wayne Smith 203 West Magnolia Street Leesburg, FL 34748</p>	<p>A. Signature</p> <p style="font-size: 1.2em; font-family: cursive;">[Signature]</p> <p style="text-align: right;"><input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p> <p style="font-size: 1.2em; font-family: cursive;">4/16/11</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
	<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

7004 1160 0004 9190 3180

**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 11-072**

Respondent: John Wayne Smith

Complainant: Division of Elections

1. **Date and time:** April 27, 2011; 11:26 a.m.
Name: Respondent
Phone #: [REDACTED]
Summary: There was no answer; I left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
2. **Date and time:** May 23, 2011; 12:37 p.m.
Name: Respondent
Phone #: [REDACTED]
Summary: There was no answer; I left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
3. **Date and time:** June 29, 2011; 10:30 a.m.
Name: Respondent
Phone #: [REDACTED]
Summary: I received a busy signal. I called again approximately 5 minutes later and left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
4. **Date and time:** August 29, 2011; 4:25 p.m.
Name: Respondent
Phone #: [REDACTED]
Summary: There was no answer; I left a voicemail asking that R return my call.
Memo to File? No
Entered by: ta
5. **Date and time:** August 29, 2011; 4:38 p.m.
Name: Respondent
Phone #: returned my call
Summary: I stated I was calling in reference to the referral I received from the Division regarding the failure to file his termination report. R stated he personally drove to Tallahassee to file his paperwork, including his designation of a running mate, which was filed a bit early. R claims his forms "disappeared" and stated that the Division kicked him off the ballot illegally. R stated "these people are crooked and that's the only way to say it." R claims the Division "stole" \$8,500 from him (the qualifying fee) by not maintaining their records. R stated "I don't see any reason to talk to anyone in your office; no matter what I say, they are going to lie. They intentionally destroyed that paperwork so I

wouldn't run against Bill McCollum because every time I debated him I beat him." I asked R if there was a reason why he didn't file his TR electronically like he had filed all the others. R stated "because the law says that I can and I no longer have my credentials." R also claimed he no longer has his PIN and password information. R stated he tried to file charges against the Division but the state attorney would not listen to him; he put his effort into another candidate. R stated regarding the TR: "I wanted them to have it." R stated it turns him into a "red flame" every time he thinks about it so he tries not to think about it anymore. R stated he has read Chapters 104 and 106, Florida Statutes; he reads them every time a new edition is released, "I've been playing this game since 1969." R stated he is the only person in his party that knows the law because he "can't get the rest of these people to read." R stated reading the statutes and handbook doesn't do any good because the Division doesn't abide by their own election laws. R stated he purposely ignored our letter because it wouldn't do any good to respond; "I knew you'd come sooner or later and here you are!" R stated he actually helped write the Handbook and he has read them since 1980. R stated he has been a candidate 9 times starting in 1986. R asserted he has no intention of filing the report electronically and he has no intention of doing anything else until he gets his \$8,500 back that the Division stole from him. R stated "all the FEC can do is say \$1,000 fine, which I may or may not pay." R stated the best way to reach him is by his cell phone [REDACTED].

Memo to File? No

Entered by: ta

6. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

Entered by:

7. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

Entered by:

8. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No

Entered by:

9. **Date and time:**

Name:

Phone #:

Summary:

Memo to File? No



**Florida Department of State
Division of Elections**

**2010 General Election
John Wayne Smith (LIB)
Governor**

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			
C	05/28/2009 - 06/30/2009	0.00	0.00	31.50	0.00	0.00	0.00
W	07/01/2009 - 09/30/2009	0.00	0.00	0.00	0.00	0.00	0.00
C	10/01/2009 - 12/31/2009	966.33	0.00	0.00	730.12	0.00	0.00
C	01/01/2010 - 03/31/2010	32.01	0.00	0.00	100.86	0.00	0.00
C	04/01/2010 - 07/16/2010	7,758.85	0.00	0.00	7,819.30	0.00	0.00
W	07/17/2010 - 07/23/2010	0.00	0.00	0.00	0.00	0.00	0.00
W	07/24/2010 - 07/30/2010	0.00	0.00	0.00	0.00	0.00	0.00
W	07/31/2010 - 08/06/2010	0.00	0.00	0.00	0.00	0.00	0.00
W	08/07/2010 - 08/19/2010	0.00	0.00	0.00	0.00	0.00	0.00
E	All Dates (Totals)	8,757.19	0.00	31.50	8,650.28	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

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**Division of
Elections**

Candidate Tracking System

2010 General Election

Governor

John Wayne Smith

Libertarian

Address

203 West Magnolia Street
Leesburg, FL 34748

Campaign Treasurer

John Wayne Smith
203 West Magnolia Street
Leesburg, FL 34748-5836

Phone [REDACTED]

Status: Removed

Date Filed: 05/28/2009

Date Qualified: 06/17/2010

Method: Paid Qualifying Fee

Website: www.JohnWayne4Gov.gov

Email: [REDACTED]

Campaign Finance Activity

Campaign Documents



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: John Wayne Smith

Name:

Account: 50567

Election:

Acct:

Type:

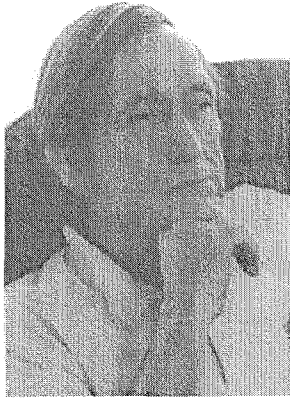
Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
12/1/2010	TR		FEC	0	\$0.00		\$0.00	\$0.00
8/20/2010	F3	8/23/2010	CLO	3	\$0.00		\$0.00	\$0.00
8/13/2010	F2B	8/14/2010	CLO	1	\$0.00		\$0.00	\$0.00
8/6/2010	F2	8/4/2010						
7/30/2010	F1B	8/4/2010	CLO	5	\$0.00		\$0.00	\$0.00
7/23/2010	F1	7/20/2010						
4/12/2010	Q1	4/6/2010						
1/11/2010	Q4	1/8/2010						
10/13/2009	Q3	10/8/2009						
7/10/2009	Q2	7/10/2009						

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**Division of
Elections**

Candidate Tracking System



2006 General Election

Governor

John Wayne Smith

No Party Affiliation

Running Mate: James J. Kearney

Address

203 West Magnolia Street
Leesburg, FL 34748

Campaign Treasurer

John Wayne Smith
203 West Magnolia Street
Leesburg, FL 34748

Phone: [REDACTED]

Status: Defeated

Date Filed: 09/12/2005

Date Qualified: 07/19/2006

Method: Paid Qualifying Fee

Campaign Finance Activity



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: John Wayne Smith

Name:

Account: 41869

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
2/5/2007	TR		SOL	0	\$0.00		\$0.00	\$0.00
11/17/2006	LR	11/19/2006						
11/3/2006	G4	11/9/2006	CLO	6	\$0.00		\$0.00	\$0.00
10/27/2006	G3B	10/31/2006						
10/20/2006	G3	10/31/2006	CLO	11	\$0.00		\$0.00	\$0.00
10/13/2006	G2B	10/7/2006						
10/6/2006	G2	10/7/2006	CLO	1	\$0.00		\$0.00	\$0.00
9/29/2006	G1B	10/7/2006	CLO	8	\$0.00		\$0.00	\$0.00
9/22/2006	G1	9/24/2006	CLO	2	\$0.00		\$0.00	\$0.00
9/15/2006	G0	9/11/2006						
9/1/2006	F3	9/1/2006						
8/25/2006	F2B	8/27/2006	CLO	2	\$82.59		\$82.59	\$82.59
8/18/2006	F2	8/27/2006	CLO	9	\$0.00		\$0.00	\$0.00
8/11/2006	F1B	8/27/2006	CLO	16	\$0.00		\$0.00	\$0.00
8/4/2006	F1	8/2/2006						
7/10/2006	Q2	8/2/2006	CLO	23	\$0.00		\$0.00	\$0.00
4/10/2006	Q1	8/2/2006	CLO	114	\$0.00		\$0.00	\$0.00
1/10/2006	Q4		SOL	0	\$0.00		\$0.00	\$0.00
10/11/2005	Q3		FEC	0	\$0.00		\$0.00	\$0.00

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**Division of
Elections**

Candidate Tracking System

2004 General Election

State Representative

District 42

John Wayne Smith

Libertarian

Address

203 W Magnolia St
Leesburg, FL 34748

Campaign Treasurer

John Wayne Smith

Phone: [REDACTED]

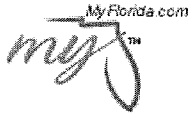
Status: Defeated

Date Filed: 03/05/2004

Date Qualified: 07/16/2004

Method: Filed intent to qualify by petition method
but paid qualifying fee

Campaign Finance Activity



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: John Wayne Smith

Name:

Account: 38160

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
1/31/2005	TR	11/15/2004						
10/29/2004	G4	10/29/2004						
10/15/2004	G2	10/4/2004						
10/15/2004	G3	10/16/2004	CLO	1	\$50.00		\$50.00	\$50.00
9/17/2004	G1	10/4/2004	CLO	17	\$0.00		\$0.00	\$0.00
8/27/2004	F3	8/28/2004	CLO	1	\$0.00		\$0.00	\$0.00
8/13/2004	F2	8/9/2004						
7/30/2004	F1	7/31/2004	CLO	1	\$50.00		\$50.00	\$50.00
7/12/2004	Q2	7/10/2004						
4/12/2004	Q1	4/10/2004						

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**Division of
Elections**

Candidate Tracking System

2002 General Election

Governor

John Wayne Smith

Write-In

Running Mate: Bobby G. Hess

Address

203 West Magnolia Street
Leesburg, FL 34748

Campaign Treasurer

John Wayne Smith
203 West Magnolia Street
Leesburg, FL 34748-5836

Phone: [REDACTED]

Status: Defeated

Date Filed: 01/31/2002

Date Qualified: 07/26/2002

Method:

Website: Hometown.AOL.COM/JWSmith42000

Email: [REDACTED]

Campaign Finance Activity



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: John Wayne Smith

Name:

Account: 34829

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
10/25/2003	G3B	10/11/2002						
2/3/2003	TR		FEC	0	\$0.00		\$0.00	\$0.00
11/1/2002	G4	10/28/2002						
10/18/2002	G3	10/11/2002						
10/11/2002	G2B	10/28/2002	CLO	17	\$0.00		\$0.00	\$0.00
10/4/2002	G2	9/28/2002						
9/27/2002	G1B	9/28/2002	CLO	1	\$0.00		\$0.00	\$0.00
9/20/2002	G1	9/19/2002						
9/13/2002	G0	9/19/2002	CLO	6	\$0.00		\$0.00	\$0.00
9/6/2002	F3	8/28/2002						
8/30/2002	F2B	8/28/2002						
8/23/2002	F2	8/23/2002						
8/16/2002	F1B	8/26/2002	CLO	10	\$0.00		\$0.00	\$0.00
8/9/2002	F1	8/7/2002						
7/10/2002	Q2	7/2/2002						
4/10/2002	Q1	3/28/2002						

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**Division of
Elections**

Candidate Tracking System

2000 General Election

State Representative

District 42

John Wayne Smith

Libertarian

Address

203 W. Magnolia St
Leesburg, FL 34748

Campaign Treasurer

John Wayne Smith
203 W. Magnolia St.
Leesburg, FL 32748

Phone: [REDACTED]

Status: Defeated

Date Filed: 04/02/1999

Date Qualified: 07/18/2000

Method: Filed intent to qualify by petition method
but paid qualifying fee

Website: www.lpf.org

Campaign Finance Activity



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: John Wayne Smith

Name:

Account: 30144

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
2/5/2001	TR	1/17/2001						
11/3/2000	G3	11/6/2000	CLO	3	\$0.00		\$0.00	\$0.00
10/20/2000	G2	10/23/2000	CLO	3	\$135.75		\$135.75	\$135.75
9/29/2000	S3	9/29/2000						
9/15/2000	S2	9/13/2000						
9/1/2000	F3	9/1/2000						
8/18/2000	F2	8/14/2000						
8/4/2000	F1	7/31/2000						
7/10/2000	Q2	7/10/2000						
4/10/2000	Q1	4/8/2000						
1/10/2000	Q4	1/6/2000						
10/12/1999	Q3	10/6/1999						
7/12/1999	Q2	7/9/1999						