

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: Josue Larose

Case No.: FEC 10-368

TO: Josue Larose
929 SW 15th Street
Deerfield Beach, FL 33441

Division of Elections
500 S Bronough Street, Room 316
Tallahassee, FL 32399-1050

NOTICE OF HEARING

A hearing will be held in this case before the Florida Elections Commission on **November 13, 2013, at 11:00 am**, or as soon thereafter as the parties can be heard, at the following location: **Senate Office Building, Room 110-S, 404 South Monroe Street, Tallahassee, FL 32399.**

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

This hearing will be conducted pursuant to Section 106 25, Florida Statutes, which governs your participation as follows:

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

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

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

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

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

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

See further instructions on the reverse side.

Amy McKeever Toman
Executive Director
Florida Elections Commission
October 24, 2013

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

If this is a hearing to consider **an appeal from an automatic fine**, the Filing Officer has imposed a fine on you for your failure to file a campaign treasurer's report on the designated due date and, by filing an appeal, you have asked the Commission to consider either (1) that the report was in fact timely filed; or (2) that there were unusual circumstances that excused the failure to file the report timely. You are required to prove your case. If the Commission finds that the report was filed timely or that there were unusual circumstances that excused the failure, it may waive the fine, in whole or in part. The Commission may reduce a fine after considering the factors in Section 106.265, Florida Statutes. If the Commission finds that the report was not timely filed and there were no unusual circumstances, the fine will be upheld. Pursuant to Rule 2B-1.005 F.A.C., you may file supplemental documents related to your appeal up to five business days before the hearing for consideration by the Commission.

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

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

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

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

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

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

FEC Case No.: 10-368

Josue Larose,
Respondent

REPORT TO THE COMMISSION AND PROPOSED RECOMMENDED ORDER

THIS CAUSE came on to be heard for a formal hearing on June 4, 2013 via video-teleconference in Tallahassee and Fort Lauderdale, Florida, before Commissioner Barbra Stern pursuant to *Rule 2B-1.004, Florida Administrative Code*.

APPEARANCES

For Commission: Eric Lipman, General Counsel
Jaakan Williams, Assistant General Counsel
David Grossman, Assistant General Counsel
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

For Respondent: No appearance

STATEMENT OF THE ISSUE

Whether the Respondent willfully violated Sections 106.07(5) and 106.19(1)(a), *Florida Statutes*, as alleged in the Florida Election Commission's ("FEC" or "Commission") Order of Probable Cause.

PRELIMINARY STATEMENT AND PROCEDURAL HISTORY

On December 3, 2010, the Commission received a referral from the Florida Division of

Elections alleging that Respondent had violated Florida's election laws. On November 15, 2011, the Petitioner, Florida Elections Commission, found probable cause to believe that Respondent violated the Florida Election Code.

Respondent requested a formal hearing before an administrative law judge ("ALJ") of the Division of Administrative Hearings ("DOAH"). Prior to the formal hearing, Respondent requested a continuance to allow him an opportunity to retain counsel. Following his request for a continuance and before the formal hearing, the ALJ ruled that Respondent failed to request the formal administrative hearing before the DOAH within 30 days. Therefore, Respondent was entitled to a Formal Hearing before the Commission. Pursuant to Rule 2B-1.004, *Florida Administrative Code*, FEC Chairman Tim Holladay appointed Commissioner Barbra Stern to serve as the hearing officer. At no time after the case was sent back to the Commission for a Formal Hearing did Respondent retain counsel to represent him in this matter.

On September 4, 2012, Respondent was served with Notice of Evidentiary Hearing Involving Disputed Issues of Material Fact for October 23, 24 and 25, 2012 commencing at 9:00 a.m. and to take place via video conference in Fort Lauderdale and Tallahassee, Florida. On September 4, 2012, Respondent was also served with a Pre-Hearing Order establishing the deadlines for the disclosure of witnesses, identification of exhibits, a submission of a joint pretrial statement, and other prehearing deadlines.

On October 8, 2012, Respondent served a request for continuance of the formal hearing on the grounds that he was a candidate for the United State House of Representatives for the November 6, 2012 General Election in the State of Louisiana and would be unable to participate in the formal hearing. On October 17, 2012 Respondent's Motion for Continuance was granted with the proviso that no further continuances would be granted absent good cause shown.

On March 26, 2013, a Pre-Hearing Order was executed resetting the Final Hearing for June 4, 6 and 7, 2013 by video conference in Fort Lauderdale, FL and Tallahassee, FL. The Pre-hearing Order required that at least seven business days before the final hearing, or by May 24, 2013, the parties shall file four copies of their proposed exhibits to be introduced in to evidence with the Commission Clerk. The Pre-Hearing Order further required that by May 28, 2013, the parties shall file a Joint Pre-Hearing Statement identifying witnesses, stipulations of facts that are in dispute, stipulations of fact that are not in dispute, a list of all exhibits that should be entered in to evidence, a list of exhibits to which each party objects. A copy of the Order and a Notice of Evidentiary Hearing was sent to the Respondent on April 3, 2013. The Notice of Evidentiary Hearing states "Failure to appear in accordance with this notice shall constitute a waiver of your right to a hearing, and the Commission shall decide this case on the record before it."

Following the issuance of the March 26, 2013 Order, no requests for a continuance were submitted by either party. Prior to the final hearing, Respondent failed to submit any evidence and failed to participate in the preparation of a Joint Pre-Hearing Statement. During the hearing, Commission staff presented the oral testimony of four witnesses through deposition transcripts in lieu of live testimony,¹ five live witnesses, and 16 exhibits which were admitted into evidence. Respondent was properly noticed for the hearing and was provided with an opportunity to present evidence, refute testimony of the Commission's witnesses and to cross examine the witnesses. After having been duly noticed and served with a subpoena for attendance, Respondent did not

¹ Because of the voluminous amount of documents in this case, some of the exhibits had several sub-parts within a single exhibit.

appear at the final hearing.² During the hearing it was noted on the record that Respondent was provided with an opportunity to cross examine the witness but that Respondent failed to appear. Following the conclusion of the hearing, Respondent failed to submit a proposed recommended Order for consideration.

REFERENCES

Respondent will be referred to as "Respondent," "Mr. Larose," or "Larose."

The trial transcript will be referred to as "Tr", followed by the page number.

Exhibits that are not part of a witness deposition will be referred to as "Ex," followed by a tab number and page number.

Tabs within exhibits will be referred to as "Tbs." followed by the tab number.

Page will be referred to as "P" followed by the page number.

Depositions will be referred to as "Depo. of " followed by the name of the deponent and page number.

Deposition Exhibits will be referred to as "Depo. of " followed by the deposition exhibit number.

FINDINGS OF FACT

1. Respondent is Josue Larose. Respondent was the chairman and treasurer of 331 Political Committees registered with the State of Florida, Division of Elections. ("Division")³ The political committees at issue in this case start with the words, "American," "Florida," and

² Mr. Larose and his wife Valencia St. Louis were served with a Subpoena for Hearing, but failed to appear at the hearing. Therefore, their depositions that were taken before the Final Hearing were entered into evidence. Additionally, Miguel Hernandez's and Ricky Cole's Depositions in Lieu of Live Testimony were accepted into evidence because they live more 100 miles from the sites of the Final Hearing.

³ Mr. Larose has several more political committees registered with the Division of Elections and political committees registered with various county Supervisors of Elections.

“Billionaire Josue Larose.”⁴ (Depo. of Josue Larose, Ex. 4-6; Ex. H, Tbs. 23-25.)

2. Mr. Larose was also an unsuccessful candidate for Governor in 2010. His wife, Valencia St. Louis was designated as his campaign treasurer. However, she gave her treasurer’s credentials (Password and Personal Information Number) (“PIN”) to Respondent so Respondent could file electronically his campaign reports while running for Governor. (Depo. of Valencia St. Louis, pp. 12, 17.)

3. Gary Holland is the Assistant Director for the Division. At the time Respondent was running his gubernatorial campaign, Mr. Holland was an Assistant General Counsel at the Department of State and was representing the Division of Elections at the time the events in this case took place. (Tr. p. 41.)

4. After discovering unusual activity concerning alarmingly large contributions to Respondent’s registered political committees and his campaign for Governor, Mr. Holland became involved with the issues in this case. (Tr. p. 43.)

5. Mr. Holland issued subpoenas to four banks in order to determine the existence of the accounts listed on Respondent’s gubernatorial campaign and committees’ Appointment of Campaign Treasurer and Designation of Campaign Depository forms, and to verify whether the contributions and expenditures that Respondent listed on his campaign reports was supported by the bank information. (Tr. p. 43; Ex. H, Tbs. 36-44.)⁵

6. Respondent did not have any campaign accounts at the banks that he listed on his Appointment of Campaign Treasurer and Designation of Campaign Depository forms for his

⁴ Examples would be committees such as American Film Studios Political Committee, Florida Architects Political Committee, and Billionaire Josue Larose’s Best Friends Political Committee.

⁵ The four banks that received subpoenas from the Division are TD Bank, CitiBank, AmTrust Bank, and Bank Atlantic.

political committees, or for his gubernatorial campaign. (Tr. p. 43; Ex. H, Tbs. 43-48)

Respondent's 2010 Candidacy for Governor

7. On October 8, 2008, Respondent filed an Appointment of Campaign Treasurer and Designation of Campaign Depository ("DS-DE 9") form for his gubernatorial campaign designating CitiBank as his campaign depository. Respondent subsequently filed two additional DS-DE 9 forms listing AmTrust and Bank Atlantic as his campaign depositories. (Ex. H, Tbs. 4-6.)⁶

8. Respondent was required to file periodic reports of contributions received and expenditures made during his gubernatorial campaign. Between July 10, 2009, and October 29, 2010, Respondent filed 13 campaign reports. (Tr. 25.)⁷

9. The following table reflects the information Respondent listed on each of his gubernatorial campaign reports. (Ex. Tb. 1 and Ex. H, Tbs.13-25). However, Respondent's bank records (or lack thereof) do not support the information Respondent listed on his campaign reports. (Ex. H, Tbs. 38 to 41; and Depo. of Josue Larose Ex. 21.)⁸

INFORMATION REPORTED BY RESPONDENT ON GUBERNATORIAL CAMPAIGN REPORTS					
Date Filed	Reporting Period	Monetary Contributions	Loans	In-Kind Contribution	Expenditures

⁶ Respondent filed an Appointment of Campaign Treasurer and Designation of Campaign Depository form for his gubernatorial campaign on January 6, 2010. Respondent filed a third Appointment of Campaign Treasurer and Designation of Campaign Depository form for his gubernatorial campaign on June 16, 2010

⁷ All candidates and political committees are required to file periodic reports of contributions received and expenditures made during his gubernatorial campaign.

⁸ Respondent stated that everything on his affidavit (Depo. of Josue Larose Exhibit 21) was true and correct when he signed it and all his answers on the affidavit were still true when staff took his deposition on March 28, 2012. (Depo. of Josue Larose, pp. 160-161.)

7/10/09	4/1/09 to 6/30/09 Original Q2	\$100,000.00	\$0	\$0	\$0
7/22/10	4/1/10 to 7/16/10 Original F1	\$168,646.00	\$0	\$0	\$0
7/29/10	7/17/10 to 7/23/10 Original F1B	\$95,240.00	\$0	\$3,000,000.00	\$0
8/6/10	7/24/10 to 7/30/10 Original F2	\$1,201,500.00	\$0	\$2,430,000.00	\$500,000
8/13/10	7/31/10 to 8/6/10 Original F2B	\$1,802,500.00	\$2,000,000.00	\$0	\$0
8/20/10	8/7/10 to 8/19/10 Original F3	\$2,400,000.00	\$1,000,000.00	\$0	\$0
9/10/10	8/20/10 to 9/3/10 Original G0	\$0	\$1,000,000.00	\$0	\$0
9/17/10	9/4/10 to 9/10/10 Original G1	\$1,000,000.00	\$0	\$0	\$2,000,000.00
9/24/10	9/11/10 to 9/17/10 Original G1B	\$0	\$2,500,000.00	\$0	\$0
10/1/10	9/18/10 to 9/24/10 Original G2	\$500,000.00	\$0	\$0	\$0
10/8/10	9/25/10 to 10/1/10 Original G2B	\$0	\$300,000.00	\$0	\$0
10/22/10	10/9/10 to 10/15/10 Original G3B	\$0	\$400,000.00	\$0	\$3,000,000.00
10/29/10	10/16/10 to 10/28/10 Original G4	\$1,000,000.00	\$0	\$0	\$10,000,000.00

(Ex. H.; Tbs 1 and 14-24)

10. Respondent admitted in his April 4, 2011 affidavit that he did not open a campaign depository for his gubernatorial campaign, and that when he signed the campaign treasurer's reports for his gubernatorial campaign, he was aware that the information contained in

the reports was inaccurate. (Depo. of Josue Larose, Ex. 21.)

11. When Respondent entered his PIN into the EFS system to file his report, he certified that the reports were true, correct, and complete. However, they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Tr. 25)

12. Therefore, Respondent certified that his 13 campaign reports that he filed in conjunction with his 2010 gubernatorial campaign were true, correct, and complete when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

“Florida” Series of Political Committees

13. Between January 14, 2009 and June 14, 2009, Respondent filed Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees forms (“DS-DE 6”) for his “Florida” series of political committees designating himself as Campaign Treasurer for each of the committees. (Ex. D, Tbs. 232-257; Ex. E, Tbs. 258-302; Ex. F, Tbs. 303-311.)

2009 Q2 Report “Florida” Series

14. On or about July 10, 2009, Respondent filed 2009 Q2 reports for 48 of his “Florida” Series of political committees. Respondent certified that each report was true, correct and complete. (Ex. H, Tb. 33.)

15. Respondent reported that he received approximately \$69,000 in contributions for the committees during the 2009 Q2 reporting cycle. (*Id.*)

16. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo of Josue Larose, Ex. 21.)

17. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

18. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

19. There are no bank records to support the information Respondent listed on his 48 "Florida" series 2009 Q2 Report. (Ex. H, Tbs. 36 and 37.)

20. Therefore, Respondent certified the 48 reports were true, correct, and complete when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2009 Q4 Report "Florida" Series

21. On February 2, 2010, Respondent filed 2009 Q4 reports for 52 of his "Florida" Series of political committees. Respondent certified that each report was true, correct and complete. (Ex. H, Tb. 33.)

22. Respondent reported that he received approximately \$40,400 in in-kind contributions during the 2009 Q4 reporting cycle. (*Id.*)

23. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo. of Josue Larose, Ex. 21.)

24. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

25. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

26. There are no bank records to support the information Respondent listed for his

"Florida" series 2009 Q4 Report. (Ex. H, Tbs. 36 and 37.)

27. Therefore, Respondent certified 52 reports as being true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 F1 Report "Florida" Series

28. On July 23, 2010, Respondent filed 2010 F1 reports for all of his "Florida" series political committees. Respondent certified that the reports were true, correct, and complete. (Ex. H, Tb. 33.)

29. Respondent reported that he received \$500 in-kind campaign contributions for each of his 100 political committees for a total of \$50,000. (*Id.*)

30. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo. of Josue Larose, Ex. 21.)

31. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

32. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

33. There are no bank records to support the information Respondent listed for his "Florida" series 2010 F1 Report. (Ex. H, Tbs. 36 and 37.)

34. Therefore, Respondent certified 100 reports as being true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 G1 Report "Florida" Series

35. On September 17, 2010, Respondent filed 2010 G1 reports for his 100 "Florida" series political committees. Respondent certified that each report was true, correct and complete. (Ex. H, Tb. 33.)

36. Respondent reported that he received \$500 campaign contributions for each of his 100 political committees for a total of \$50,000. (*Id.*)

37. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo. of Josue Larose, Ex. 21.)

38. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

39. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

40. There are no bank records to support the information Respondent listed for his "Florida" series 2010 G1 Report. (Ex. H, Tbs. 36 and 37.)

41. Therefore, Respondent certified 100 reports as being true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 G2 Report "Florida" Series

42. On or about October 1, 2010, Respondent filed 2010 G2 reports for 100 of his "Florida" Series of political committees, and certified that the reports were true, correct, and complete. (Ex. H, Tb. 33.)

43. Respondent reported that he received \$500 campaign contributions for each of

his 100 political committees for a total of \$50,000. (*Id.*)

44. Bank records do not support the information Respondent reported on his "Florida" series 2010 G2 Report. (Ex. H, Tbs. 36 and 37.)

45. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo of Josue Larose, Ex. 21.)

46. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

47. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

48. Therefore, Respondent certified 100 reports as being true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

"American" Series of Political Committees

49. Between January 11, 2010, or and February 2, 2010, Respondent filed an Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees form ("DS-DE 6") for his "American" series of political committees and designated himself as Campaign Treasurer (Ex. A, Tbs. 65; Ex. B, Tbs. 66-131.)

2010 F1 Report "American" Series

50. On or about July 23, 2010, Respondent filed 2010 F1 reports for 131 of his "American" Series of political committees, and certified that the 131 reports were true, correct, and complete. (Ex. H, Tb. 34.)

51. Respondent listed on all his American Series 2010 F1 Reports that he received

over \$10,000,000 in in-kind campaign contributions. (*Id.*)

52. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo. of Josue Larose, Ex. 21.)

53. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

54. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

55. There are no bank records to support the information Respondent reported on his "American" series 2010 F1 Report. (Ex. H, Tbs. 40 and 41.)

56. Therefore, Respondent certified 131 reports as being true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 G1 Report "American" Series

57. On September 17, 2010, Respondent filed 2010 G1 Reports for 131 of his "American" Series of political committees. Respondent certified that each report was true, correct, and complete. (Ex. H, Tb. 34.)

58. On these reports, Respondent listed more than \$9,000,000 in campaign contributions. (*Id.*)

59. Respondent admitted that his committees never received any of the contributions which Respondent listed on the reports listed above. (Depo. of Josue Larose, Ex. 21.)

60. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

61. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

62. There are no bank records to support the information Respondent reported on his "American" series 2010 G1 Report. (Ex. H, Tbs. 40 and 41.)

63. Therefore, Respondent certified the 131 reports were true, correct, and complete when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 G2 Report "American" Series

64. On October 1, 2010, Respondent filed 2010 G2 Reports for 78 of his "American" Series of political committees. Respondent certified that each report was true, correct and complete. (*Id.*)

65. Respondent reported that he received more than \$1.2 billion dollars in campaign contributions in this reporting cycle alone. (*Id.*)

66. Respondent admitted during his deposition that none of his committees ever received any of the contributions that he reported in the above-referenced reports. (Depo. of Josue Larose, Ex. 21.)

67. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

68. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

69. There are no bank records to support the information Respondent reported on his "American" series 2010 G1 Report. (Ex. H, Tbs. 40 and 41.)

70. Therefore, Respondent certified the 78 reports were true, correct, and complete when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

“Billionaire Josue Larose” Series of Committees

71. On or about May 4, 2010, Respondent filed an Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees form (“DS-DE 6”) for his “Billionaire Josue Larose” series of political committees and designated himself as Campaign Treasurer. (Ex. C, Tb. 132; Ex. D., Tbs. 133-199; Ex. D., Tbs. 200-231.)

2010 F1 Report “Billionaire Josue Larose” Series

72. On July 23, 2010, Respondent filed 2010 F1 Reports for 2 of his “Billionaire” Series political committees. Respondent certified that each report was true, correct and complete. (Ex. H, Tb. 35.)

73. Respondent reported that he received approximately \$2,000,000,000 in in-kind campaign contributions during this reporting cycle. (*Id.*)

74. Respondent admitted during his deposition that none of his committees ever received any of the contributions that he reported in the above-referenced reports. (Depo. of Josue Larose, Ex. 21.)

75. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

76. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

77. There are no bank records to support the information Respondent reported on his

“Billionaire” series 2010 F3 Report. (Ex. H, Tbs. 42 and 43.)

78. Therefore, Respondent certified 2 reports were true, correct, and complete when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 F3 Report “Billionaire Josue Larose” Series

79. On August 20, 2010, Respondent filed 2010 F3 Reports for 71 of his “Billionaire Josue Larose” committees. Respondent certified that each report was true, correct and complete. (Ex. H, Tb. 35.)

80. Respondent listed contributions ranging from \$50 to \$1,000,000 to \$50 million dollars on his committee’s reports. *Id.*

81. Respondent admitted during his deposition that none of his committees ever received any of the contributions that he reported in the above-referenced reports. (Depo. of Josue Larose, Ex. 21.)

82. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

83. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

84. There are no bank records to support the information Respondent reported on his “Billionaire” series 2010 F3 Report. (Ex. H, Tbs. 42 and 43.)

85. Therefore, Respondent certified the 71 reports were true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose,

Ex. 21.)

2010 G1 Report “Billionaire Josue Larose” Series

86. On September 17, 2010, Respondent filed the 2010 G1 Reports for his 100 “Billionaire Josue Larose” series of committees. Respondent certified that each report was true, correct and complete. (Ex. H, Tbs. 42 and 43.)

87. Respondent listed monetary contributions between ranging from \$1,000,000 to \$100,000,000 on each of the 100 political committees. *Id.*

88. Respondent admitted during his deposition that none of his committees ever received any of the contributions that he reported in the above-referenced reports. (Depo. of Josue Larose, Ex. 21.)

89. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

90. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

91. There are no bank records to support the information Respondent reported on his “Billionaire” series 2010 G1 Report. (Ex. H, Tbs. 42 and 43.)

92. Therefore, Respondent certified that 100 reports were true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

2010 G2 Report “Billionaire Josue Larose” Series

93. On October 1, 2010, Respondent filed 2010 G2 Reports for 100 of his “Billionaire Josue Larose” series of committees, and certified the 100 reports were true, correct, and

complete. (Ex. H, Tb. 35.)

94. Respondent reported that he received monetary contributions ranging from \$1,000,000 to \$49,000,000 for each of his 100 committees. *Id.*

95. Respondent admitted during his deposition that none of his committees ever received any of the contributions that he reported in the above-referenced reports. (Depo. of Josue Larose, Ex. 21.)

96. Respondent also admitted that he was aware when he signed the reports for the political committees that the information contained in the reports was false. (*Id.*)

97. Respondent further admitted that he never opened a single campaign depository for any of his political committees. (*Id.*)

98. There are no bank records to support the information Respondent reported on his "Billionaire" series 2010 G2 Report. (Ex. H, Tbs. 42 and 43.)

99. Therefore, Respondent certified that 100 reports were true, correct, and complete, when they were not. Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*. (Depo. of Josue Larose, Ex. 21.)

100. Throughout the case, Respondent has alleged that employees from the Division of Elections attempted to extort a bribe from him. Respondent also alleged that because he did not pay the \$10,000 bribe, employees from the Division promised to "get him" by going into the EFS and changing his reports. Respondent specifically named Miguel Hernandez and Leonard Randolph as the individuals who demanded the bribe. (Depo. of Josue Larose, pp.25, 208-209; Depo of Josue Larose, Ex. 3; and Ex. 25.)

101. Janet Modrow is a computer programmer employed by the Division. She works

on the Division's Electronic Filing System. (Tr. p.11.)

102. Ms. Modrow is familiar with the Respondent. She has direct access to the EFS database, and the ability to reset a user's credentials; however, she has never done that and has not changed any credentials belonging to Mr. Larose (Tr. p. 12.)

103. A password/PIN report will contain three lines of information the first time password and PIN credentials are created. (Tr. p. 14.)⁹

104. After the initial creation of a password and PIN, if credentials are subsequently reset, the report would show three more lines of information, or a total of six lines of information. (Tr. pp. 12-14; Ex. A, Tb. 17, p.1.)

105. The first time that a candidate or committee logs in to the Division's EFS, the user is required to change the initial password. The EFS will not allow a user to continue until the password is changed, and users are not able to create a report until the password is changed. (Tr. p. 14.)

106. If a candidate or committee loses or forgets its password, it can be reset by contacting the Division and making a request to reset the password. (Tr. p. 15.)

107. Each time the Division resets EFS credentials, the EFS requires the user to change the password the first time it is used. (Tr. p. 26.)

108. Once a user changes the password, the new password cannot be seen by anyone working at the Division. The new passwords are encrypted so only the individual user knows what it is. This was true for all of Respondent's passwords. (Tr. p.14; and Depo. of Miguel Hernandez, p. 17.)

109. A transaction stating that a report was filed indicates that the Treasurer filed a

campaign report with the Division of Elections and on its website. If it states “filed amended report,” it means a report had previously been filed and that report was later amended. (Tr. p. 17.)

110. Division staff takes notes of contacts with committees and candidates. The banner at the top of each set of staff notes is the name of the committee to which the notes pertain. (See Tr. p.19, Ex. J, p. 1.)

111. Information relating to each of the Respondent’s committees’ EFS activity for each report is located at Ex.J, Tb. 3. The information on each report is for the committee named at the beginning of the report in the grey banner. (Tr. p. 20.)

112. Kristi Bronson is the Bureau Chief for election records at the Florida Department of State. She is in charge of the campaign finance section where political committees and candidates for state-wide office file their registration and campaign documents. (TR. p. 22.)

113. Statewide political committees are required to file their campaign reports electronically through the Division’s EFS. However, when a political committee is first established, the committee must file a hard copy registration. After the Division reviews the registration documentation to make sure it is complete, Ms. Bronson sends an acknowledgement letter to the chairperson with a copy to the treasurer, unless the chairperson and the treasurer are the same person. (Tr. p. 24.)

114. Ms. Bronson’s letter provides candidates and committees with information about obtaining filing dates and the Division’s handbooks. The Division also provides candidates and committee chairpersons, and treasurers credentials for the EFS. (Tr. 24.)

115. Respondent, as a candidate for Governor in 2010, and his 331 political

⁹ There are three lines of information on the report for each time a password and PIN are reset.

committees at issue in this case, were all required to file with the Division of Elections. (Tr. 22-23.)

116. The chairperson or candidate and the treasurer will each have a unique PIN is provided in the Division's initial acknowledgement letter. The candidate or the committee chair person and a treasurer must enter their PIN numbers in order to file a report. (Tr. 26.)

117. The Chairperson's, candidate's, or treasurer's PIN, when entered to file a report, constitutes that person's representation that the filed report is true, correct, and complete. (Tr. 25.)

118. The maximum contribution that a person can make to a committee or candidate is \$500 per election. There are two types of contributions. If a contributor writes a check to a candidate or committee, it is a monetary contribution. However, if the contributor gives a candidate or committee something of value other than money, it is an "in-kind," contribution. (Tr. p. 29; *See* Section 106.011(3), *Florida Statutes*.)

119. Janet Modrow, Kristi Bronson, Lenisha Belvin, and Erin NeSmith (are current or former employees at the Division) had the ability to reset passwords. However, other employees were not able to change or reset credentials, and could only access what is referred to as the "administrative side" of the EFS system while at work.¹⁰ Only Ms. Bronson and Ms. NeSmith had the ability to go into Mr. Larose's reports to make a change; however, neither did so. No one from the Division ever accessed Mr. Larose's reports or amended his reports. (Tr. p. 32.)

120. While it is possible for a Division employee to log on to a non-administrative part of the EFS system at home, that person would need to reset the candidate or committee's password and PIN. Resetting credentials would show on a password/PIN report. (Tr. pp. 2-33.)

However, Password/PIN reports for Respondent's committees and gubernatorial campaign do not show that Respondent's passwords and PINS were reset. (Ex. H, Tb.2; Ex. J. Tb. 2.)¹¹

121. Respondent never asked Mr. Holland to change the password or PIN for his accounts. Furthermore, Mr. Holland does not have the authority or technical ability to view or alter the passwords and/or PIN numbers attached to accounts at the Division. (Tr. p. 51.)

122. Mr. Holland did not give Respondent any legal advice though he suggested that Respondent seek individual counsel. (Tr. pp. 49-51.)

123. Mr. Holland never attempted to elicit a bribe from Respondent. (Tr. p. 51.)

124. Miguel Hernandez is currently retired. Prior to Retiring in 2012, Mr. Hernandez worked at the Division for 26 years. (Depo. of Miguel Hernandez, pp. 5-6.)

125. Miguel Hernandez testified in his Deposition in Lieu of Live Testimony about the Division's procedures and his interaction with Respondent when he worked at the Division.

126. Mr. Hernandez spoke with Respondent on multiple occasions to assist him primarily with registration and reporting for Respondent's political committees and minor political parties. (Depo. of Miguel Hernandez, p. 9.)

127. Mr. Hernandez could not unilaterally alter or amend filed campaign finance reports. (Depo. of Miguel Hernandez, pp. 12-18.)

128. Mr. Hernandez never used Respondent's password to change any of Respondent's reports. (Depo. of Miguel Hernandez pp. 12-18.)

¹⁰ The other "side" of the EFS is what candidates and registered candidates are able to see and use.

¹¹ On one occasion, Respondent wrote the Division that he did not receive his initial credentials in the mail for his Josue Larose's Investment Advisor's Committee. After Respondent sent a facsimile letter, the Division provided Respondent with the password and PIN that was initially created for that committee. (Ex. C, Tbs.. 198, p.3.; and Ex. J. Tbs..1. p.1.)

129. It would not have been possible for Mr. Hernandez to alter Respondent's campaign finance reports as retaliation for Respondent's failure to pay Mr. Hernandez a monetary sum. (*Id.*)

130. Mr. Hernandez never attempted to elicit a bribe from Respondent in any form. (Depo. of Miguel Hernandez, pp. 12-16.)

131. Leonard Randolph has worked for the Division of Elections for over 9 years. (Tr. p. 53.)

132. Mr. Randolph is responsible for answering telephone calls, assisting candidates and committees, processing paperwork, and helping people file campaign contribution reports with the Division. (Tr. p. 54.)

133. Mr. Randolph assisted Respondent with filing campaign reports, and answered questions Respondent had regarding completing and filing campaign financing reports. (Tr. p. 54-56.)

134. Mr. Randolph did not discuss monetary values that Respondent should list on his campaign finance reports for contributions made to Respondent's gubernatorial campaign or political committees. (Tr. p. 55.)

135. Respondent never asked Mr. Randolph to change or reset the password for his accounts. Also, Mr. Randolph does not have the authority or technical ability to reset passwords and/or PIN numbers for EFS accounts. (Tr. pp. 55-56.)

136. Mr. Randolph also does not have the authority or technical ability to unilaterally alter or amend filed campaign finance reports. It would not have been possible for Mr. Randolph to alter Respondent's campaign finance reports as retaliation for Respondent's failure to pay Mr. Randolph a monetary sum. (Tr. pp. 55-58.)

137. Mr. Randolph never attempted to elicit a bribe from Respondent in any form. (Tr. pp. 56-58.)

138. The Division's notes and Respondent's facsimile letter received by the Division on July 6, 2010, indicate Respondent asked for his credentials once. Respondent requested his credentials for Billionaire Josue Larose's Investment Advisor's Committee. A person named "Tom" provided Mr. Larose with his credentials by telephone. (Ex. C, Tbs. 198, p.3.; and Ex. J. Tbs. 1, p.1.)

SUMMARY OF FACTS

139. Respondent admitted that he never received any contributions for any of his political committees, Respondent never opened a campaign account for his campaign for governor, Respondent never opened campaign accounts for any of his 331 political committees, Respondent signed reports during his campaign for Governor and for his political committees knowing that the information on the reports was false even though he certified that the reports were true, correct, and complete, and Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*.

140. Respondent admitted that none of his committees ever received any of the contributions that he reported in the above-referenced reports.

141. Respondent also admitted that he was aware when he signed the reports for the political committees that information contained in the reports was false.

142. Respondent admitted that he did not open a campaign depository for any of his political committees.

143. Respondent certified 1,026 campaign treasurer's reports as being true, correct and

complete when they were not.¹² Additionally, Respondent falsely reported, or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*, on 1026 campaign reports.

144. Respondent alleged several times that Miguel Hernandez, Leonard Randolph and other employees at the Division of Elections attempted to elicit a \$10,000 bribe from him.

145. Respondent failed to corroborate his claims that the Division of Election attempted to elicit a \$10,000 bribe from Respondent and that the Division retaliated against him when he failed to pay the bribe. There is no credible evidence supporting Respondent's allegation that any employee from the Division of Elections attempted to elicit a \$10,000 bribe from Respondent. Any claims made by Respondent are hearsay not supported by record evidence.

146. No one at the Division of Elections reset the passwords and PIN numbers for Respondent's political committees in this case. Even when Respondent sent the Division a letter via facsimile asking for his credentials, he was provided with the same password and PINs initially generated for the committee.

147. Willfulness is an issue of fact. *McGann v. Florida Elections Commission*, 803 So.2d 763.

148. Respondent's actions in this case were willful. Respondent knew and intentionally certified 1,026 campaign reports as true, correct, and complete when they were not. Additionally, Respondent intentionally and knowingly falsely reported or deliberately failed to

¹² If Respondent's reports were actually true, then it appears he also violated Section 106.19(1)(a), *Florida Statutes*, on several occasions. However, violations of this statute were not alleged in the complaint in this matter.

include information required to be reported by Chapter 106, *Florida Statutes*, on 1026 campaign reports.

149. The gravity of Respondent's actions in this case are severe. Among other actions, Respondent certified 1,026 campaign reports as being true, correct and complete when they were not and Respondent falsely reported or deliberately failed to include information required to be reported pursuant to Chapter 106, *Florida Statutes*, on 1,026 occasions, Respondent reported millions of dollars in monetary contributions from non-existent donors, Respondent reported campaign depositories for non-existent bank accounts, Respondent falsely accused Division of Elections employees of attempting to extort \$10,000 dollars from him, and Respondent falsely accused employees of the Division of Elections of changing information on his campaign reports.

150. In previous Commission cases, Respondent certified campaign reports as true, correct, and complete when they were not. In previous cases, Respondent falsely reported information or deliberately failed to include information required to be reported on campaign reports. Respondent's previous occurrences of similar acts and omissions occurred when Respondent appealed the Division's revocation of some of Respondent's political committees' registrations because the committees did not have campaign activity for at least one calendar year.¹³

151. In this case, Respondent certified campaign reports were true, correct, and complete, when they were not, and Respondent falsely reported or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*.

152. Respondent did not assert that his financial position be taken into account as a matter in mitigation.

153. Respondent did not refute any evidence that he willfully, intentionally and deliberately filed false campaign reports.

154. In this case, and in previous cases before the Commission, Respondent has failed to make a good faith effort to comply with the provisions of Chapter 106, *Florida Statutes*.

CONCLUSIONS OF LAW

1. The statutory sections applicable to this case are as follows:

Section 106.07(5), Florida Statutes, prohibiting a candidate from certifying to the correctness of a campaign treasurer's report that is incorrect, false, or incomplete;

Section 106.07(5), Florida Statutes, prohibiting a political committee chairman from certifying to the correctness of a campaign treasurer's report that is incorrect, false, or incomplete; and;

Section 106.19(1)(c), Florida Statutes, prohibiting a person or organization from falsely reporting or deliberately failing to report information required by Chapter 106, *Florida Statutes*.

2. The Commission has jurisdiction over the parties to and the subject matter of this case. Sections 106.25(5), 120.57(1), and 120.569, *Florida Statutes*. (2010).

3. In its Order of Probable Cause dated November 15, 2011, the Commission charged Respondent with the following violations of Chapter 106, *Florida Statutes*:

Counts 1-400

On or about July 10, 2009, through on or about October 10, 2010, Respondent violated Section 106.07(5) by certifying that the political committees' reports listed in Exhibit "A" were true, correct, and complete when they were not.¹⁴

¹³ Case Numbers FEC 10-048 through 10-074 (Ex. H-57.)

¹⁴ The specific Count numbers related to each report for Respondent's political committees is listed separately on Exhibit "A."

Counts 401-800

On or about July 10, 2009, through on or about October 10, 2010, Respondent violated Section 106.19(1)(c) by falsely reporting information in his political committees' reports listed in Exhibit "B."¹⁵

Counts 801-1140

On or about July 23, 2010, through on or about October 10, 2010, Respondent violated Section 106.07(5) by certifying that the political committees' reports listed in Exhibit "C" were true, correct, and complete when they were not.

Counts 1141-1480

On or about July 23, 2010, through on or about October 10, 2010, Respondent violated Section 106.19(1)(c) by falsely reporting information in his political committees' reports listed in Exhibit "D."¹⁶

Counts 1481-1753

On or about July 23, 2010, through on or about October 1, 2010, Respondent violated Section 106.07(5) by certifying that the political committees' reports listed in Exhibit "A" were true, correct, and complete when they were not.¹⁷

Counts 1754-2026

On or about July 23, 2010, through on or about October 1, 2010, Respondent violated Section 106.19(1)(c) by falsely reporting information in his political committees' reports listed in Exhibit "F."¹⁸

¹⁵ The specific count numbers related to each report for Respondent's political committees is listed separately on Exhibit "B."

¹⁶ The specific count numbers related to each report for Respondent's political committees is listed separately on Exhibit "D."

¹⁷ The specific count numbers related to each report for Respondent's political committees is listed separately on Exhibit "E."

¹⁸ The specific count related to each report for Respondent's political committees is listed separately on Exhibit "F."

Count 2027

On or about July 10, 2009, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2009 Q2 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2028

On or about July 22, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 F1 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2029

On or about July 29, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 F1B report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2030

On or about August 6, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 F2 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2031

On or about August 13, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 F2B report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2032

On or about August 20, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 F3 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2033

On or about September 10, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 G0 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2034

On or about September 17, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 G1 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2035

On or about September 24, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 G1B report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2036

On or about October 1, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 G2 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2037

On or about October 8, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 G2B report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2038

On or about October 22, 2010, Respondent violated Section 106.07(5), *Florida Statutes*, when he certified that his 2010 G3B report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2039

On or about October 29, 2010, Respondent violated Section

106.07(5), *Florida Statutes*, when he certified that his 2010 G4 report relating to his 2010 gubernatorial campaign was true, correct, and complete when it was not.

Count 2040

On or about July 10, 2009, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2009 Q2 campaign report relating to his 2010 campaign for governor.

Count 2041

On or about July 22, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 F1 campaign report relating to his 2010 campaign for governor.

Count 2042

On or about July 29, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 F1B campaign report relating to his 2010 campaign for governor.

Count 2043

On or about August 6, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 F2 campaign report relating to his 2010 campaign for governor.

Count 2044

On or about August 13, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 F2B campaign report relating to his 2010 campaign for governor.

Count 2045

On or about August 20, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 F3 campaign report relating to his 2010 campaign for governor.

Count 2046

On or about September 10, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 G0 campaign report relating to his 2010 campaign for governor.

Count 2047

On or about September 17, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 G1 campaign report relating to his 2010 campaign for governor.

Count 2048

On or about September 24, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 G1B campaign report relating to his 2010 campaign for governor.

Count 2049

On or about October 1, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 G2 campaign report relating to his 2010 campaign for governor.

Count 2050

On or about October 8, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 G2B campaign report relating to his 2010 campaign for governor.

Count 2051

On or about October 22, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2010 G3B campaign report relating to his 2010 campaign for governor.

Count 2052

On or about October 29, 2010, Respondent violated Section 106.19(1)(c), *Florida Statutes*, by falsely reporting information required to be reported by Chapter 106 on his 2009 G4 campaign report relating to his 2010 campaign for governor.

4. The burden of proof, absent a statutory directive to the contrary, is on the party asserting the affirmative of the issue in the proceeding. Petitioner has the burden of proof. *Department of Banking and Finance v. Osborne Stern and Company*, 670 So. 2d 932, 934 (Fla.1996); *Department of Transportation v. J.W.C. Company, Inc.*, 396 So. 2d 778 (Fla. 1st DCA 1981); and *Balino v. Department of Health and Rehabilitative Services*, 348 So. 2d 349 (Fla. 1st DCA 1977).

5. The standard of proof imposed on the staff is to establish the essential elements of a violation by clear and convincing evidence. *Diaz de la Portilla v. Florida Elections Commission*, 857 So. 2d 913, (Fla. 3rd DCA 2003) Petitioner must establish by clear and convincing evidence that Respondent willfully violated the particular statute alleged.

6. As noted by the Florida Supreme Court:

[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

7. Respondent violated Section 106.07(5), *Florida Statutes*, when he filed a 2009 Q2 Report; 2009 Q4 Report; 2010 F1 Report; 2010 G1 Report; 2010 G2 Report for his "Florida" Series of political committees, and certified that the reports were true, correct, and complete, when they were not.

8. Respondent violated Section 106.19(1), Florida Statutes when he falsely reported or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*, on his 2009 Q2 Report; 2009 Q4 Report; 2010 F1 Report; 2010 G1 Report; 2010 G2 Report "Florida" Series of political committees, and certified that the reports were true, correct, and complete, when they were not

9. Respondent violated Section 106.07(5), *Florida Statutes*, when he filed a 2010 F1 Report; 2010 G1 Report; 2010 G2 Report for his "American" Series of political committees, and certified the reports were true, correct, and complete, when they were not.

10. Respondent violated Section 106.19(1), Florida Statutes when he falsely reported or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*, on the 2010 F1 Report; 2010 G1 Report; 2010 G2 Report of his "American" Series of political committees.

11. Respondent violated Section 106.07(5), *Florida Statutes*, when he filed a 2010 F1 Report; 2010 F3 Report; 2010 G1 Report; 2010 G2 Report for his "Billionaire Josue Larose" Series of political committees, and certified the reports were true, correct, and complete, when they were not.

12. Respondent violated Section 106.19(1), Florida Statutes when he falsely reported or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*, on the 2010 F1 Report; 2010 F3 Report; 2010 G1 Report; 2010 G2 Report of his "Billionaire Josue Larose" Series of political committees.

13. Respondent violated Section 106.07(5), *Florida Statutes*, when he certified 1,026

campaign treasurer's reports as being true, correct and complete when they were not.¹⁹ Additionally, Respondent violated Section 106.19(1)(c), *Florida Statutes*, when he falsely reported, or deliberately failed to report information required to be reported by Chapter 106, *Florida Statutes*, on 1026 occasions.

14. Respondent's actions were willful Respondent knowingly and intentionally certified 1,026 campaign reports as true, correct, and complete when they were not. Additionally, Respondent falsely reported or deliberately failed to include information required to be reported by Chapter 106, *Florida Statutes*, on 1026 occasions.

15. In general, a party asserting the affirmative of a proposition has the burden of producing evidence on that proposition. *Diaz de la Portilla v. Florida Elections Commission*, 857 So. 2d 913 (Fla. 3d DCA 2003) citing *Young v. Dept. of Comty. Affairs*, 625 So.2d 831, 833-34 (Fla.1993); *Rinaldi v. Aaron*, 314 So.2d 762, 764 (Fla.1975).

16. Respondent failed to meet his burden by failing to provide any evidence to support his allegations that Division employees changed Respondent's reports because he did not pay a \$10,000 bribe.

17. Respondent waived his rights to a formal hearing by failing to appear as instructed in the Notice. Waiver, by definition, is the intentional relinquishment of a known legal right. See, *Gilman v. Butzloff*, 155 Fla. 888, 891, 22 So.2d 263, 265 (1945); *Peninsula Fed. Sav. and Loan Ass'n v. DKH Properties, Ltd.*, 616 So.2d 1070, 1076 n. 12 (Fla. 3d DCA 1993); see also *Abamar Hous. and Dev., Inc. v. Lisa Daly Lady Decor, Inc.*, 698 So.2d 276, 277 (Fla. 3d DCA 1997). Respondent was properly noticed of the evidentiary hearing and was subpoenaed to

¹⁹ If Respondent's reports were actually true, then it appears he also violated Section 106.19(1)(a), *Florida Statutes*, on several occasions. However, violations of this statute were not alleged in the complaint in this matter.

attend. As of the date of this submission, Respondent failed to provide any reason or excuse for his failure to appear. Consequently, he waived his right to the hearing and to present evidence of disputed issues of material fact.

18. Section 106.265, *Florida Statutes*, provides:

(1) The commission or, in cases referred to the Division of Administrative Hearings pursuant to s. 106.25(5), the administrative law judge is authorized upon the finding of a violation of this chapter or chapter 104 to impose civil penalties in the form of fines not to exceed \$1,000 per count, or, if applicable, to impose a civil penalty as provided in s. 104.271 or s. 106.19.

(2) In determining the amount of such civil penalties, the commission or administrative law judge shall consider, among other mitigating and aggravating circumstances:

(a) The gravity of the act or omission;

(b) Any previous history of similar acts or omissions;

(c) The appropriateness of such penalty to the financial resources of the person, political committee, committee of continuous existence, affiliated party committee, electioneering communications organization, or political party; and

(d) Whether the person, political committee, committee of continuous existence, affiliated party committee, electioneering communications organization, or political party has shown good faith in attempting to comply with the provisions of this chapter or chapter 104.

19. When considering the provisions of Section 106.265(2)(a-d), *Florida Statutes*, the recommended civil penalty is appropriate in this case.

ORDER

WHEREFORE, the undersigned Hearing Officer recommends that the Florida Elections Commission enter a final order as follows:

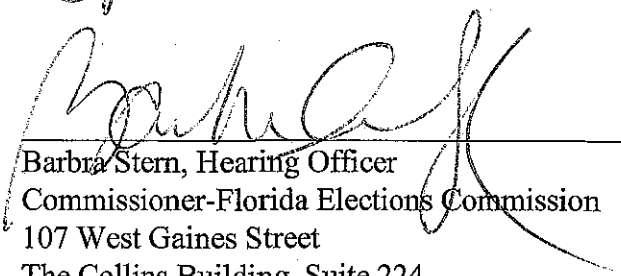
A. Respondent violated Section 106.07(5), *Florida Statutes*, on 1,026 occasions.

Respondent is fined \$400 for each of the 1,026 counts for a total of \$410,400; and

B. Respondent violated Section 106.19(1)(c), *Florida Statutes*, on 1,026 occasions.

Respondent is fined \$100 for each of the 1026 counts, for a total of \$102,600, for a total civil penalty of \$513,000.

Respectfully submitted this 17th day of September, 2013,


Barbra Stern, Hearing Officer
Commissioner-Florida Elections Commission
107 West Gaines Street
The Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Fax Filing (850) 921-0783
www.fec.state.fl.us

Filed with the Clerk of the
Florida Elections Commission
this 17th day of September, 2013.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Thereafter, any party may file responses to the other party's exceptions within 10 days from the date the exceptions were filed with the Commission. Any exceptions and responses to the other party's exceptions to this Recommended Order shall be filed with Donna Malphurs, Commission Clerk, Florida Elections Commission, 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399-1050.²⁰

²⁰ Rule 28-106.217, *Florida Administrative Code*.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED

13 MAY 29 PM 4:24

Florida Elections Commission,
Petitioner,

STATE OF FLORIDA
ELECTIONS COMMISSION

v.

Case No.: FEC 10-368

Josue Larose,
Respondent.

STAFF'S UNILATERAL PRE-HEARING STATEMENT

COMES NOW, staff, by and through its undersigned attorney, and files its Unilateral Pre-Hearing Statement in response to the Pre-Hearing Order in the above-styled matter and states as follows:

STAFF'S WITNESSES

1. Erin NeSmith
Nesmith9900@gmail.com
2. Gary Holland
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399
(850) 245-6207
3. Janet Modrow
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399
(850) 245-6232
4. Kristi Reid Bronson
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399
(850) 245-6295

5. Leonard Randolph
Division of Elections
Tallahassee, FL 32399
(850) 245-6249
6. Miguel Hernandez (Offering deposition in lieu of live testimony)
412 Cardinal Court
Kissimmee, FL 34759
7. Rickey Cole (Offering deposition in lieu of live testimony)
832 N. Congress Street
Jackson, MS 39202
8. Valencia St. Louis
929 SW 15th Street
Deerfield Beach, FL 33441
(561) 859-4484
9. Josue Larose
929 SW 15th Street
Deerfield Beach, FL 33441
(561) 859-4484
10. Any and all witnesses listed or called by Respondent at the final hearing in this matter.
11. Impeachment and rebuttal witnesses.
12. Petitioner made efforts to discuss options for resolution on October 8, 2012; however, the parties could not reach a settlement agreement.

FACTS ADMITTED AND REQUIRING NO PROOF:

1. Petitioner is the state agency charged with enforcing Florida's Election Code pursuant to Sections 104 and 106, Florida Statutes.
2. Respondent ran a campaign for public office (Governor) in the 2010 election cycle.
3. By running for public office in the State of Florida, Respondent is under the jurisdiction of Petitioner and subject to applicable statutes and rules.
4. Respondent opened 100 "Florida" series political action committees.
5. Respondent opened 140 "American" series political action committees.
6. Respondent opened 100 "Billionaire" series political action committees.

ISSUES OF FACT WHICH REMAIN TO BE LITIGATED

1. All facts alleged in the Staff Recommendation, except as stipulated above.

STAFF'S EXHIBITS:

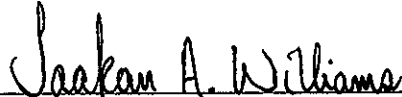
1. Deposition transcript of Valencia St. Louis.
2. Deposition transcript of Josue Larose
3. Deposition transcript of Miguel Hernandez.
4. Deposition transcript of Rickey Cole.
5. Affidavit of Joann Larose dated April 20, 2010.
6. Report of Investigation.
7. Florida Elections Commission's "American Series" notebook for committees 1-131.
8. Florida Elections Commission's "Billionaire Series" notebook for committees 132-199.
9. Florida Elections Commission's "Billionaire Series" notebook for committees 200-231.
10. Florida Elections Commission's "Florida Series" notebook for committees 232-257.
11. Florida Elections Commission's "Florida Series" notebook for committees 258-302.
12. Florida Elections Commission's "Florida Series" notebook for committees 303-331.
13. Florida Elections Commission "Exhibit H" notebook.
14. List of Josue Larose's "American Series" Committee Reports.
15. All campaign reports from Respondent's 2010 gubernatorial campaign.
16. Appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9) for all of Respondent's Political Committees listed in Exhibit "A."
17. Division of Election History Notes for Respondent's Political Committees listed in Exhibit "A."
18. Password Reset History for Respondent's Political Committees listed in "Exhibit A."
19. Respondent's DS-DE 9 for 2010 gubernatorial campaign filed on or about October 8, 2008.
20. Respondent's DS-DE 9 for 2010 gubernatorial campaign filed on or about January 6, 2010.
21. Respondent's DS-DE 9 for 2010 gubernatorial campaign filed on or about June 16, 2010.
22. Letter from Valencia St. Louis to Florida Elections Commission dated January 21, 2011.
23. Affidavit of Additional Information of Valencia St. Louis dated June 29, 2011.
24. Letter from Valencia St. Louis to Florida Elections Commission dated October 9, 2011.
25. December 15, 2010 email from Miguel Hernandez to Respondent.
26. Subpoena Duces Tecum Without Personal Appearance issued by the Department of State, Division of Elections to AmTrust Bank dated October 21, 2010.
27. Bank records from New York Community Bank on behalf of Am Trust Bank received in response to the Florida Division of Elections subpoena.
28. Subpoena Duces Tecum Without Personal Appear
29. Bank records from CITI Bank received in response to the Florida Division of Elections subpoena issued on October 10, 2010.
30. Bank records from TD Bank received in response to the Florida Division of Elections subpoena issued on October 10, 2010.

31. State of Florida Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates form (DS-DE 9) for Josue Larose's 2008 gubernatorial campaign filed with the Florida Division of Elections on or about October 8, 2008.
32. Letter from Josue Larose to the Florida Elections Commission dated October 10, 2011.
33. Josue Larose's Statement of Candidate form dated October 3, 2008, and filed October 2, 2008.
34. Josue Larose's Statement of Candidate form dated October 3, 2008, and filed October 8, 2008.
35. Josue Larose's Statement of Candidate form dated October 3, 2008, and filed January 6, 2010.
36. Josue Larose's 2007 Form 6 – Full and Public Disclosure of Financial Interests.
37. Josue Larose's 2009 Form 6 – Full and Public Disclosure of Financial Interests.
38. Josue Larose's Affidavit of Background Information dated April 4, 2011
39. Letter from "Economist Josue Larose" to the Florida Elections Commission dated January 24, 2011
40. Web page dated (run) April 17, 2012, from www.realliving.com with information about Josue Larose Real Estate.
41. State of Mississippi, Statement of Intent of Candidate for Party Nomination for Josue Larose received on January 19, 2012.
42. United States Postal Service money order number 19351680478, dated January 7, 2011, for \$200 payable to the Mississippi Democratic Party.
43. Letter dated January 6, 2012, from Josue Larose to the Mississippi Democratic Party.
44. Summary Table of receipts reported for political committees at issue in this case.
45. Federal Elections Commission's Form 1 – Statement of Organization for Josue Larose for United States Congress dated January 6, 2012.
46. Federal Elections Commission's Form 2 – Statement of Candidacy for Josue Larose for United States Congress dated January 6, 2012.
47. Letter dated March 12, 2012, from Kristi Reid Bronson to Josue Larose.
48. List of committees attached as "Exhibits A-E" whose passwords were reset.
49. List of password resets for Josue Larose's 2008 gubernatorial campaign.
50. List of EFS activity
51. Queued transaction reports for committees listed in "Exhibits A-E"
52. Certified copy of Division of Elections campaign file for Josue Larose's 2008 campaign for Governor.
53. Certified copy of Josue Larose's Candidacy for United States House of Representatives, Louisiana Congressional District 2, Parish of Orleans, State of Louisiana.
54. Any exhibits necessary for rebuttal and/or impeachment purposes.
55. All exhibits listed by Respondent.

ESTIMATED LENGTH OF HEARING

- A. Three days.
- B. A joint pre-hearing statement was not filed in this matter because Respondent was nonresponsive to Petitioner's numerous attempts to make contact with him.

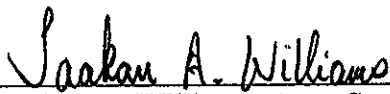
Respectfully submitted on this 29th day of May, 2013.



Jaakan A. Williams, Asst. Gen. Counsel
Florida Bar No : 73964
Eric M Lipman, General Counsel
Florida Bar No : 958247
Collins Building, Suite 224
107 W. Gaines Street
Tallahassee, FL 32399-1050
Phone Number: (850) 922-4539
Fax Number: (850) 921-0783

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Unilateral Pre-Hearing Statement has been furnished via U.S. Mail to Mr. Josue Larose, 929 SW 15th Street, Deerfield Beach, FL 33441, and via email to economistjosuelarose@gmail.com, on this 29th day of May, 2013.



Jaakan A. Williams, Asst. Gen. Counsel

ORIGINAL

FILED

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STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Case No.: FEC 10-368

Josue Larose,
Respondent.

PRE-HEARING ORDER

THIS MATTER having been set for a final hearing on **June 4, 6, & 7, 2013**, by video teleconference in Fort Lauderdale and Tallahassee, Florida, it is hereby

ORDERED that:

At least **five** business days prior to the final hearing (**May 28, 2013**), the parties shall confer and file a joint pre-hearing statement that provides the following information:

1. The name, address, and telephone number of each person intended to be called as a witness by either party.
2. A stipulation by the parties setting forth:
 - a. The facts that are not in dispute;
 - b. The facts that are in dispute;
 - c. A list of all exhibits that the parties agree should be admitted into evidence. The parties' exhibits are not considered as evidence unless and until they are admitted into evidence during the final hearing;
 - d. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and
 - e. An estimate of the time that each party believes shall be necessary to present the formal hearing to the undersigned Commissioner.

3 If the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also includes the reason that the joint pre-hearing statement was not filed.

4. At least **seven** business days prior to the final hearing, the parties shall file four copies of their proposed exhibits to be introduced into evidence with the Commission Clerk.

5. The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the Florida Elections Commission upon request of either party. Requests for the issuance of subpoenas should be made to the Commission Clerk, Donna Malphurs at (850) 922-4539. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by counsel or other qualified representative, in accordance with Rule 28-106.106, *Florida Administrative Code*. Failure to appear at this hearing may be grounds for entry of a recommended order against the party failing to appear.

6. The Commission Clerk shall be responsible for making the necessary arrangements for a court reporter. The court reporter will be at the Fort Lauderdale site.

7. The Commission Clerk shall also make the necessary arrangements for a Notary Public to be available to swear witnesses at the Tallahassee location.

DONE AND ORDERED by the Florida Elections Commission this 16 day of March 2013.



Barbra Stern, Commissioner
Florida Elections Commission

Copies Provided:

Josue Larose, Respondent

Eric M. Lipman, General Counsel

Jaakan A. Williams, Assistant General Counsel

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

ORIGINAL

FILED

Florida Elections Commission,

Petitioner,

v.

Josue Larose,
Respondent.

Case No.: FEC 10-368

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STATE OF FLORIDA
ELECTIONS COMMISSION

**NOTICE OF EVIDENTIARY HEARING INVOLVING
DISPUTED ISSUES OF MATERIAL FACT BY VIDEO TELECONFERENCE**

PLEASE TAKE NOTICE that on **June 4, 6, & 7, 2013**, at **9:00 a.m.**, or as soon thereafter as the parties can be heard, Commissioner Barbara Stern will conduct an evidentiary hearing pursuant to Section 120.57(1), Florida Statutes, presented by Respondent and staff on whether Respondent committed the violations alleged in the Commission's Order of Probable Cause.

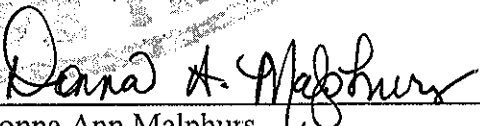
The evidentiary hearing will take place via video teleconference at sites in Fort Lauderdale and Tallahassee, Florida. The Fort Lauderdale site will be at the **Office of the Attorney General, 110 Tower, 110 SE 6th Street, 10th Floor, Fort Lauderdale, Florida 33301**. The Tallahassee site will be at the **Office of the Attorney General, (Office of the Florida Elections Commission) 107 West Gaines Street, Room 224, Tallahassee, Florida, 32399-1050**. Witnesses may appear at either location.

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

If you require an accommodation due to a disability, contact Donna Malphurs, Commission Clerk, at (850) 922-4539 or at the address listed below, at least 5 days before the hearing.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Dated: April 3rd, 2013


Donna Ann Malphurs
Commission Clerk

Enclosures: Rule 2B-1 004, Florida Administrative Code
cc: Josue Larose, Respondent
Eric M Lipman, General Counsel
Jaakan A. Williams, Assistant General Counsel

INSTRUCTIONS FOR FORMAL HEARING

At the evidentiary hearing, Commissioner Barbara Stern of the Florida Elections Commission will hear evidence on whether Respondent violated those sections of The Florida Election Code charged in the Order of Probable Cause, and on the mitigating circumstances listed in Section 106 265, *Florida Statutes*.

The hearing will be conducted pursuant Sections 120 569 and 120 57(1), *Florida Statutes*; Chapter 28, *Florida Administrative Code*, the Uniform Rules of Procedures; and Commission Rule 2B-1.004, Florida, *Florida Administrative Code*.

A Pre-hearing Order, issued by the Commissioner hearing the case, will be sent to you shortly after the entry of this notice. The Pre-hearing order will require the Respondent and the staff attorney to confer and file the Joint Pre-Hearing Statement at least five working days before the scheduled hearing date.

The Commission will record the meeting. Although the Commission's record 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.

At the evidentiary hearing, the staff attorney will present the case that Respondent violated the sections of law charged in the Order of Probable Cause. The staff attorney may call one or all of the witnesses and introduce one or all of the documents listed on the Pre-Hearing Statement. The Respondent may cross-examine those witnesses after staff's questioning is finished.

After the staff attorney's completes his presentation of his case, the Respondent will then present her case. The Respondent may call one or all of the witnesses, and introduce one or all of the documents listed in the Joint Pre-Hearing Statement. If Respondent calls witnesses, the staff attorney will have the opportunity to cross-examine those witnesses after Respondent's questioning is finished. If Respondent claims that her limited resources would make her unable to pay the statutory fine, she must provide the Commission with written proof of his financial resources and situation.

After the evidentiary hearing, Respondent and the staff attorney may file proposed recommended orders with the Commission Clerk on a date set by the Commissioner hearing the case. As required by Rule 2B-1.004, *Florida Administrative Code*, the Commissioner hearing the case shall file a report with Commission Clerk within 30 days of submitting any post hearing submissions by the parties. A copy of the report will be provided to the staff attorney and the Respondent.

At its next regularly scheduled meeting following the evidentiary hearing, the Commissioners not hearing the case shall review the report, deliberate and reach a final decision on the disposition of the case.

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

Rule 2B-1.004 Hearings Before the Commission.

(1) If a respondent who is entitled to a hearing involving disputed issues of material fact does not elect to proceed before the Division of Administrative Hearings, and the Commission does not refer the case to Division of Administrative Hearings, the executive director shall schedule the formal hearing before the Commission.

(2) At the time the hearing is scheduled, the Chairman shall issue a pre-hearing order form, Pre-hearing Order, FEC 002, effective 4-24-05, which is hereby adopted and incorporated by reference. The order shall require the parties to file a joint pre-hearing statement at least five working days before the scheduled hearing date. The pre-hearing order shall provide the date of the hearing and the date the pre-hearing statement must be filed. The pre-hearing order shall require the parties to confer and file a joint pre-hearing statement that provides the following information:

(a) The name, address and telephone number of each person intended to be called as a witness by either party.

(b) A stipulation by the parties setting forth:

1. The facts that are not in dispute;
2. The facts that are in dispute;
3. A list of all exhibits that the parties agree should be admitted into evidence;
4. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and

5. An estimate of the time that each party believes shall be necessary to present the formal hearing to the Commission.

(c) Should the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also included the reasons that a joint pre-hearing statement was not filed.

(3) When necessary to expedite the processing of agency matters on behalf of the public, the Chairman shall designate one or more Commissioners to hear any motion filed by a party that is not dispositive of the case pending before the Commission.

(4) Upon the request of any party, the Commission clerk shall schedule a motion hearing on any pending motion, so long as the motion is not dispositive of the matter pending before the Commission, a designated Commissioner may hear the motion, and adequate notice and opportunity to appear in person or by telephone can be provided to the parties.

(5) When necessary to secure the just, speedy, and inexpensive determination of a case, the Chairman shall direct that one or more Commissioners hear any hearing involving disputed issues of material fact, any hearing not involving disputed issues of material fact, or any dispositive motion hearing.

(a) Designation of the specific Commissioner or Commissioners to hold a hearing involving disputed issues of material fact, hearing not involving disputed issues of material fact, or dispositive motion shall be made only by a majority of the Commissioners voting.

(b) The Commission clerk shall notify the parties of the designation of a Commissioner or Commissioners and shall notice the hearing.

(c) The designated Commissioner or Commissioners shall hear the evidence and argument presented by the parties during a hearing involving disputed issues of material fact, a hearing not involving a disputed issues of material fact, or a dispositive motion hearing.

(d) The designated Commissioner or Commissioners hearing the case shall file a report with the Commission clerk within 30 days of receiving any post hearing submissions from the parties. The report shall contain a recommended order that includes findings of fact, conclusions of law, a recommended disposition or penalty, if applicable, and any exceptions and responses filed by the parties. The report shall be served upon the parties.

(e) The Commission shall review the report, deliberate and reach a decision in the case. The designated Commissioner or Commissioners hearing the case shall not participate in the deliberation or vote of the Commission.

(6) Upon the Commission's determination of the outcome of a case after a hearing involving disputed issues of material fact, or after reviewing the report of the designated Commissioner or Commissioners, the Commission's counsel shall prepare a proposed final order.

(7) A clerical mistake in a final order arising from oversight or omission may be corrected by the Commission at any time on its own initiative or on the motion of any party.

Specific Authority: 106.24(5), 106.26 FS. Law Implemented: 106.24(5), 106.26 FS. History—
New 1-11-99. Amended 1-2-02, 4-24-05.

TRUE COPY

DM

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

STATE OF FLORIDA
ELECTIONS COMMISSION

2013 APR - 2 A 10: 03

RECEIVED

Florida Elections Commission,
Petitioner,

v.

Case No.: FEC 10-368

Josue Larose,
Respondent.

PRE-HEARING ORDER

THIS MATTER having been set for a final hearing on **June 4, 6, & 7, 2013**, by video teleconference in Fort Lauderdale and Tallahassee, Florida, it is hereby

ORDERED that:

At least five business days prior to the final hearing (**May 28, 2013**), the parties shall confer and file a joint pre-hearing statement that provides the following information:

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2. A stipulation by the parties setting forth:
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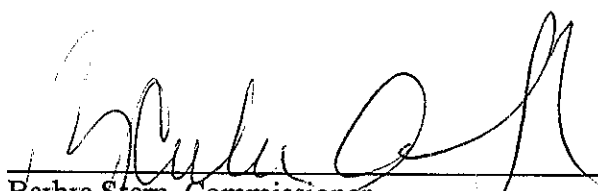
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6. The Commission Clerk shall be responsible for making the necessary arrangements for a court reporter. The court reporter will be at the Fort Lauderdale site.

7. The Commission Clerk shall also make the necessary arrangements for a Notary Public to be available to swear witnesses at the Tallahassee location.

DONE AND ORDERED by the Florida Elections Commission this 26 day of March 2013.


Barbra Stern, Commissioner
Florida Elections Commission

Copies Provided:

Josue Larose, Respondent
Eric M. Lipman, General Counsel
Jaakan A. Williams, Assistant General Counsel

TRUE COPY

RECEIVED

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

2013 APR -2 A 10: 03

STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Case No.: FEC 10-368

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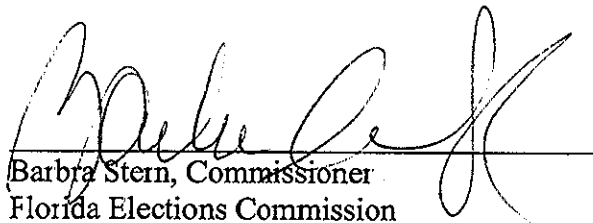
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DONE AND ORDERED by the Florida Elections Commission this 14 day of March 2013.


Barbra Stern, Commissioner
Florida Elections Commission

Copies Provided:

Josue Larose, Respondent
Eric M. Lipman, General Counsel
Jaakan A. Williams, Assistant General Counsel



Executed Order - Larose

Barbra A. Stern to: Donna Malphurs
(Donna.Malphurs@myfloridalegal.com)

03/26/2013 02:39 PM

From: "Barbra A. Stern" <bstern@bnlaw.com>
To: "Donna Malphurs (Donna.Malphurs@myfloridalegal.com)"
<Donna.Malphurs@myfloridalegal.com>

1 attachment



20130326132826028.pdf

Here you go, sorry about the delay. You may need to talk to the Chair as to how to proceed in the event that the Senate does not get around to confirming my appointment by the end of this session.

Barbra A. Stern, Esquire
Law Office of Bohdan Neswiacheny
540 N.E. 4th Street
Fort Lauderdale, FL 33301
(954) 522-5400
(954) 765-1274 - fax

IRS Circular 230 Disclosure: Please note that the views expressed herein or in any attachments hereto are not intended to constitute a "reliance opinion" under applicable Treasury Regulations, and accordingly are not intended or written to be used, and may not be used or relied upon, for the purpose of (i) avoiding tax-related penalties that may be imposed by the Internal Revenue Service, or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

This message, together with each attachment, is intended only for the named addressee(s). It contains information that is LEGALLY PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE. If you are not the intended recipient, you hereby are notified that any disclosure, copying, distribution, use or any action or reliance on this communication is strictly prohibited. If you have received this email in error, please notify the sender immediately by telephone (954-522-5400) or by return email, and delete this email, along with any attachments.
Thank you.

-----Original Message-----

From: Barbra A. Stern [mailto:bstern@bnlaw.com]
Sent: Tuesday, March 26, 2013 2:28 PM
To: Barbra A. Stern
Subject:

This E-mail was sent from "RNP933BA1" (Aficio 3035).

Scan Date: 03.26.2013 13:28:25 (-0500)
Queries to: administrator@bnlaw.com

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Case No.: FEC 10-368

Josue Larose,
Respondent.

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DONE AND ORDERED by the Florida Elections Commission this 26 day of March 2013



Barbra Stern, Commissioner
Florida Elections Commission

Copies Provided:

Josue Larose, Respondent
Eric M. Lipman, General Counsel
Jaakan A. Williams, Assistant General Counsel

FILED

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

OCT 18 PM 12: 29
STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368

v.

Josue Larose,
Respondent.

STAFF'S NOTICE OF UNAVAILABILITY FOR FINAL HEARING

COMES NOW, staff ("Staff"), by and through undersigned counsel, and gives notice of its counsel's unavailability and witness unavailability for a rescheduled final hearing in the above referenced matter.

1 Staff counsel Jacqueline Davison is unavailable from December 24, 2012 through December 31, 2013

2 Staff Counsel Jaakan Williams is unavailable on November 21, 2012.

3 Staff counsel Eric Lipman is unavailable from December 28, 2013 through January 4, 2013.

4 Witnesses from the Florida Division of Elections are unavailable on November 2, 2012, November 6, 2012, November 10, 2012, November 15, 2012, November 18, 2012, November 20, 2012, and November 28 through December 10, 2012

WHEREFORE, Staff requests that the final hearing in this matter not be rescheduled on the foregoing dates.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing have been provided Josue Larose, via U.S. Mail to 929 SW 14th Street, Deerfield Beach, Florida 33441 and by email to

economistjosuelarose@gmail.com; and Gary J. Holland, Florida Division of Elections, 500
South Bronough Street, Tallahassee, Florida 32301 via U.S. Mail this 18th day of October 2012

Respectfully submitted,



Jacqueline Marie Davison, Asst. Gen. Counsel
Florida Bar Number 92335
Jaakan A. Williams, Asst. Gen. Counsel
Florida Bar Number 73964
Eric M. Lipman, Gen. Counsel
Florida Bar Number 958247
Florida Elections Commission
107 W. Gaines Street, Suite 224
Tallahassee, FL 32399-1050
Phone Number: (850) 922-4539
Fax Number: (850) 921-0783

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED

12 OCT 18 AM 8:04

FLORIDA ELECTIONS COMMISSION,

STATE OF FLORIDA
ELECTIONS COMMISSION

Petitioner,

Case No.: FEC 10-368

vs.

JOSUE LAROSE,

Respondent

ORDER ON RESPONDENT'S MOTION FOR CONTINUANCE

THIS CAUSE having come on to be heard upon the Motion of the Respondent, JOSUE LAROSE, for a Continuance of Hearing, and the Commission having heard argument from the respective parties and being otherwise fully advised in the premises, it is,

ORDERED AND ADJUDGED that:

1. The Respondent's Motion for Continuance is GRANTED and a new Notice of Hearing shall be issued by the Commission. Absent good cause shown no further continuances will be granted.

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida this 17th day of October, 2012.



COMMISSIONER BARBRA STERN

True Copies Furnished To:
Josue Larose, Respondent
Eric Lipman, Interim Executive Director

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED

12 OCT 17 PM 4:08

Florida Elections Commission,
Petitioner,

STATE OF FLORIDA
ELECTIONS COMMISSION

Case No.: FEC 10-368

v.

Josue Larose,
Respondent.

STAFF'S RESPONSE TO RESPONDENT'S LETTER TO RESCHEDULE

COMES NOW, STAFF, by and through its undersigned attorney, and files its Response to Respondent's Letter Requesting to Reschedule ("Letter") in the above-styled matter and states as follows:

1. This matter is currently scheduled for a three-day formal administrative hearing, pursuant to Section 120.57(1), Florida Statutes, on October 23-25, 2012, by video-teleconference in Tallahassee and Fort Lauderdale, Florida.
2. On October 12, 2012, Respondent filed a letter with the Commission's Agency Clerk, asking that the upcoming formal hearing "be rescheduled due to my congressional campaign for the United States House of Representatives race in Louisiana, District 2." Furthermore, Respondent stated, "I send you this letter to inform you that I will not be able to attend the hearing during the month of October 23, 24, 25, 2012 because I am campaigning for the congressional race in Louisiana." Commission records indicate this matter has already been continued twice. Notably, Respondent did not file his request for a third continuance until after staff contacted him about the Pre-Hearing Statement on October 8, 2012.
3. Previously, this matter was pending before the Division of Administrative Hearings ("DOAH"), and was set for a formal hearing on April 23-24, 2012. After the

filing of an Agreed Motion to Continue, the Administrative Law Judge granted a three-month continuance, and reset the final hearing for July 31, August 2, and August 3, 2012.

4 On April 12, 2012, DOAH issued an amended notice of hearing setting the final hearing for July 31, August 1, and August 3, 2012. The amended notice provided both parties more than three months advanced notice of the hearing date. Subsequently, Respondent requested a second continuance on or about July 25, 2012, which was one week prior to the July 31, 2012, final hearing date. (Letter to Judge Bauer from Josue Larose and Pre-Hearing Notice attached hereto as Exhibit "A")¹

5 However, on July 30, 2012, DOAH relinquished jurisdiction of this matter back to the Commission. When DOAH relinquished jurisdiction to the Commission, Respondent essentially received a three month continuance. All together, Respondent has asked for and received a total of six months in continuances. He now is asking for 3 additional months.

6 This matter has been pending since December 2010, and Respondent does not appear to have a legitimate basis for asking Commissioner Stern to reschedule the upcoming hearing one week prior to trial.

7. In pertinent part, Rule 28-106 204(3), Uniform Rules of Procedure, states:

"Motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion."

In pertinent part, Rule 28-106 210, Uniform Rules of Procedure, states:

"The presiding officer may grant a continuance of a hearing for good cause shown."

¹ Respondent did not request a continuance until after the Administrative Law Judge called an Emergency Status Conference approximately one week before the July 31, 2012 final hearing

8. Respondent has neither conferred with staff prior to filing his third request for a continuance to determine Staff's position nor shown good cause to reschedule

9. Notably, Respondent did not allege in his request for a third continuance that he would be "unavailable" on October 23-25, 2012, and therefore, unable to attend the three-day hearing. The November 6, 2012 General Election is after the scheduled formal hearing in this matter.

10. Based upon staff's information and belief, Respondent is not living and campaigning in Louisiana, but is currently residing at 929 SW 15th Street, Deerfield Beach, Florida 33441. In fact, Respondent listed the above address on the Letter he recently filed with the Commission asking for his third continuance. In fact, staff served Respondent with a subpoena for the hearing at his home in Deerfield Beach on September 26, 2012, two weeks before Respondent filed his Letter with the Commission. (See Verified Return of Service attached hereto as "Exhibit B")

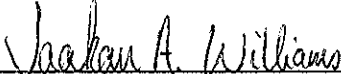
11. Moreover, Respondent delayed filing his third request for a continuance. Notably, Respondent filed his Candidate Qualification form for United States House of Representatives, Louisiana Congressional District 2 on August 15, 2012, and has had more than enough time to make a third request for a continuance in this matter. Respondent's actions appear to be an effort to delay the formal hearing and disposition of this case. (See Respondent's Notice of Candidacy Qualifying Form attached hereto as "Exhibits C, D")

12. A last-minute continuance in this matter would further stymie the administration of justice, and will unnecessarily result in additional costs to the taxpayers of the state of Florida and needless additional staff hours to prepare this case again for trial.

WHEREFORE, Staff of the Commission respectfully requests Commissioner Stern to enter an order denying Respondent's third request to continue the formal hearing

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Petitioner's Response to Respondent's Letter has been provided via email to economistjosuelarose@gmail com, and via U.S. Mail to: Josue Larose, 929 SW 15th Street, Deerfield Beach, Florida 33441, this 17th day of October, 2012.



Jaakan A. Williams, Asst. Gen. Counsel
Florida Bar No : 73964
Jacqueline M. Davison, Asst. Gen. Counsel
Florida Bar No : 92335
Eric M Lipman, General Counsel
Florida Bar No.: 958247
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539 PHONE

Date : July 23, 2012

From : Josue Larose

Case Number : 12-417

To : Judge Edward T. Bauer

Reference : Extension of time to find a lawyer

Dear Honorable Judge Bauer,

I send you this letter to request an extension of 2 months to set up the formal hearing date in West Palm Beach, FL.

Because I need to find a good lawyer who is specialized in Florida Election Laws to represent me at the formal hearing.


I am talking to different lawyers regarding this matter, but the fee that they charge me to represent me is too high, because they say that they will need to put a lot of times to win a corruption case against the Florida Election Commission.

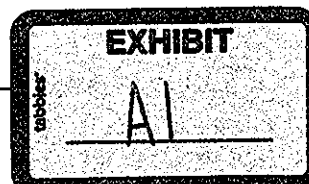
Some of them say that Tallahassee is the most corrupt city in the United States, because the corruption is a ring of different State Government Employees connected together to enrich themselves. Fighting a corruption case against the Florida Division of Elections will take a lot of hours, this is the reason that some of them want to charge me \$20,000 to represent me at the formal hearing. Please allow me 2 more months to find a cheap lawyer to represent me at the formal hearing in West Palm Beach, Florida.

Certificate of Service : I hereby certify that a true and correct copy of the foregoing has been provided via fax to Mr. Eric M. Lipman

For more information, please contact me at (202) 270-4433

Email : EconomistJosueLarose@gmail.com

SIGNATURE: 



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA ELECTIONS COMMISSION,)
)
 Petitioner,)
)
 vs.) Case No. 12-0417
)
 JOSUE LAROSE,) *AMENDED AS TO DATES
) OF HEARING ONLY
 Respondent.)
)
 _____)

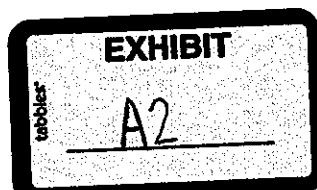
*AMENDED NOTICE OF HEARING BY VIDEO TELECONFERENCE

A hearing will be held in this case on July 31, August 1 and 3, 2012, at 9:00 a.m., or as soon thereafter as can be heard by video teleconference at sites in West Palm Beach and Tallahassee, Florida. The West Palm Beach site will be at the Office of the Judges of Compensation Claims, Video Room, 5405 Okeechobee Boulevard, Suite 200. The Tallahassee site will be at the Division of Administrative Hearings, (check the reception area for hearing room assignment), the DeSoto Building, 1230 Apalachee Parkway. Witnesses, parties, representatives, and/or attorneys may report to either site. The Administrative Law Judge will be at the Tallahassee site. Continuances will be granted only by order of the Administrative Law Judge for good cause shown.

ISSUE: Whether Respondent committed the violations alleged in the Order of Probable Cause and the penalties, if any, that should be imposed.

AUTHORITY: Chapter 120, Florida Statutes; and Florida Administrative Code Chapter 28-106, Parts I and II.

The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the Administrative Law Judge upon request of the parties. All subpoenas previously issued and served shall remain in full force and effect as to any witness who is provided with a copy of this Notice. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by



counsel or other qualified representative, in accordance with Florida Administrative Code Rule 28-106.106. Failure to appear at this hearing may be grounds for closure of the file without further proceedings.

No later than five days before the scheduled hearing, the parties shall provide the Administrative Law Judge with copies of all of the proposed exhibits. A notice of filing the proposed exhibits shall be filed electronically through the eALJ system and shall be served on all parties. The proposed exhibits, along with a copy of the electronically filed notice of filing, shall be submitted by mail or hand-delivery to the Division of Administrative Hearings and shall be served on all parties. The exhibits will not be considered until they are admitted into evidence during the final hearing.

The agency shall be responsible for preserving the testimony at the final hearing. The court reporter, if one is used, will be at the West Palm Beach site. If a court reporter is not used, the agency shall arrange for a notary public to be at the West Palm Beach site, and all witnesses who testify at the West Palm Beach site shall be sworn in by a notary public with a written confirmation of the oath filed after the hearing. Fla. Admin. Code R. 28-106.213(5)(b).

April 12, 2012



EDWARD T. BAUER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

COPIES FURNISHED:

Josue Larose
929 Southwest 15th Street
Deerfield Beach, Florida 33441

Jacqueline Marie Davison, Esquire
Florida Elections Commission
Collins Building, Suite 224
107 West Gaines Street
Tallahassee, Florida 32399
jacqueline.davison@myfloridalegal.com

ROOM CONFIRMATION COPY:

Theresa Hadden, Administrative Secretary
Office of the Judges of Compensation Claims
5405 Okeechobee Boulevard, Suite 200
West Palm Beach , Florida 33417
(561) 640-2827 Ext. 112
theresa_hadden@doah.state.fl.us

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's secretary no later than seven days prior to the hearing. The Judge's secretary may be contacted at the address or telephone numbers above, via 1-800-955-8771 (TDD), or 1-800-955-8770 (Voice) Florida Relay Service.

VERIFIED RETURN OF SERVICE

FLORIDA ELECTIONS COMMISSION
THE STATE OF FLORIDA

CASE: FEC 10-368

FLORIDA ELECTIONS COMMISSION
vs.

SUBPOENA FOR HEARING

JOSUE LAROSE

DUE DATE 10/25/2012 @ 09:00 A.M.

ATTORNEY: ERIC LIPMAN
107 W GAINES STREET THE COLLINS BLDG STE 2
TALLAHASSEE, FL 32399

I received this writ on Date 09/20/2012 Time 10:00 A.M. to JOSUE LAROSE at, 929 SW 15TH STREET, Deerfield Beach, FL 33441.

Served same on Date 9/24/12 Time 10:20 AM

- Served at original address.
 Served at new address, see comments below.

INDIVIDUAL: FS 48.031

SUBSTITUTE: FS 48.031 _____ as _____ Co-Resident
who is 15 years of age or older and informing the person of the contents.

Race Blk Sex M Age 40 Hgt 5'9" Wt 240 Hair Blk Glasses N Other (approx descr)

POSTED RESIDENTIAL: FS 48.183 Attempts
(1) _____ (2) _____

Marital Status Married-Spouse's Name: _____ Not Married

MILITARY STATUS: To my best knowledge, information and belief the said defendant at the time of service was not engaged in the military service of the United States.

NO SERVICE: For the reason that diligent search and inquiry failed to locate above named witness.

COMMENTS: _____

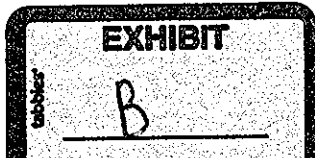
I Acknowledge I am authorized and in good standing in the jurisdiction wherein this process was served and have no interest in the above action. No notary required pursuant to F.S. 92.525(2)

Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.

WF GREENBERG & COMPANY, LLC.
7040 SEMINOLE PRATT RD SUITE 25-169
LOXAHATCHEE, FL 33470
OFFICE (561) 422-3190

[Signature]
Ryan Dalton ID #740

INDEX 56452
FILE NO 10-368-97

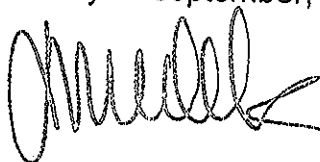


UNITED STATES OF AMERICA
State of Louisiana
Tom Schedler
SECRETARY OF STATE

As Secretary of State, of the State of Louisiana, I do hereby Certify that
the annexed hereto is true and correct information from the Notice of Candidacy form
filed by the following candidate, Josue Larose, who qualified for the office
of United States House of Representatives, Louisiana Congressional District 2, Parish
of Orleans, State of Louisiana, for the election held on November 6, 2012.

*In testimony whereof, I have hereunto set
my hand and caused the Seal of my Office
to be affixed at the City of Baton Rouge on,*

this, the 5th day of September, 2012



Secretary of State



EXHIBIT

C

If the candidate is serving outside the state... in the armed forces of the United States. This Notice of Candidacy must be filed with the appropriate qualifying official. If this Notice of Candidacy is being filed by an agent on behalf of the candidate, the Agent Affidavit required by R.S. 18:463(A)(1)(c) shall also be filed with the qualifying official.

(name) JOSUE LAROSE
(domicile address) 3100 TULANE AVENUE APT. J NEW ORLEANS LA 70119
(mailing address, if different) P. O. BOX 791410 NEW ORLEANS LA 70179
(telephone - include area code) (504) 215-4928

I am the incumbent: N Y=Yes N=No

Statistical Information(OPTIONAL)
Race: B W=White B=Black O=Other
Sex: M M=Male F=Female

RECEIVED
ELECTIONS
AUG 15 2012

I HEREBY CERTIFY THAT:

1. I will be a candidate in the Primary Election to be held on NOVEMBER 6, 2012
for election to the office of UNITED STATES HOUSE OF REPRESENTATIVES, LOUISIANA CONGRESSIONAL DISTRICT 08

INSTRUCTIONS FOR LINE 2: (Failure to follow these instructions may result in your being disqualified as a candidate)
R.S. 18:463 provides that you may designate your given, first and middle name, the initial of your given, first and middle name, a nickname, or any combination thereof, but you cannot designate a deceptive name. You cannot designate a title or an occupation or professional description or abbreviation. If your nickname is included, it must be set off with quotation marks and must be placed immediately preceding your last name (surname). You must include your last name (surname) in your designation

2. I designate that my name be printed on the ballot as follows: (titles will not be printed on the ballot)
First: JOSUE Last: LAROSE Suffix: _____

3. I attach: _____ cash
(choose one) _____ certified or cashier's check on a state or national bank or credit union
X _____ U.S. Postal money order
_____ money order issued by a state or national bank or credit union
_____ nominating petition
Total Amount Received:
in the sum of: \$ 900.00

4 I am a duly qualified elector of the following: Parish: ORLEANS Ward/Dist: 03 Precinct: 08

5 My registered political party affiliation is: REPUBLICAN PARTY
(Specify party name if affiliated with a political party or "no party" if not affiliated with any political party) (Only recognized political parties and no party will be printed on the ballot.)

- 6 I have read this Notice of Candidacy and I meet the qualifications of the office for which I am qualifying.
- 7 I am not currently under an order of imprisonment for conviction of a felony and I am not prohibited from qualifying as a candidate for conviction of a felony pursuant to Article I, Section 10 of the Constitution of Louisiana.
- 8 If I am a candidate for any office other than United States senator or representative in congress, that for each of the previous five tax years, I have filed my federal and state income tax returns, have filed for an extension of time for filing either my federal or state income tax return or both, or was not required to file either a federal or state income tax return or both.
- 9 I acknowledge that I am subject to the provisions of the Campaign Finance Disclosure Act (R.S. 18:1481 et seq) if I am a candidate for any office other than United States senator, representative in congress, or member of a committee of a political party and that I do not owe any outstanding fines, fees, or penalties pursuant to the Campaign Finance Disclosure Act
- 10 I do not owe any outstanding fines, fees, or penalties pursuant to the Code of Governmental Ethics.
- 11 I certify that I am knowledgeable of the laws governing election offenses as provided in Chapter 10 of Title 18 and the prohibitions relative to erecting, displaying, or posting political campaign signs on any highway right-of-way, publicly owned property or right-of-way, or to or on any public utility pole or stanchion, as provided in R.S. 48:347(D), 30:2544(A), and 18:1470
- 12 All the statements contained herein are true and correct

WITNESSES: Signature of Candidate: x Economist Josue Larose
Sworn to and subscribed before me, Notary Public, this

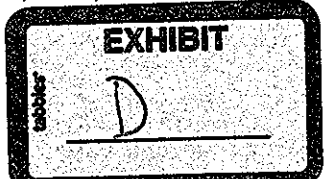
Notary Public Seal: Marco Aurelio Reis, Jr. 06 day of August, 2012
COMMISSION #DD911460
EXPIRES: JULY 27, 2013
WWW.AARONNOTARY.com
Notary Public
Marco Reis Junior
Printed name and number

NOTICE: Copies of the Agent Affidavit required by R.S. 18:463(A)(1)(c) are available from the Clerk of Court or the Secretary of State. Copies of the forms and pamphlets of explanation and instruction which are distributed by the Supervisory Committee on Campaign Finance Disclosure are available from the Clerk of Court or the Committee; and the information contained in this notice of candidacy may be posted on the website of the Secretary of State, at his discretion.

RECEIVED \$ 600 qualifying fee and \$ 300 additional fee, OR _____ nominating petition on this 15 day of August 2012 at 12:17 o'clock P M

Angie Boney
Signature of Officer

Director of Elections
Title of Officer



SECRETARY OF STATE



FLORIDA ELECTIONS COMMISSION
 107 West Gaines Street
 Collins Building, Suite 224
 Tallahassee, Florida 32399-1050

RECEIVED

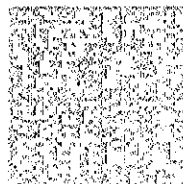
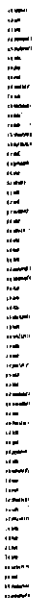
2012 OCT 12 A 10:11

Stipulation
 Remailled to correct
 address 10/12/12

Josue Larose
 929 SW 14th Street
 Deerfield Beach, Florida 33441

NIXIE
 334 DE J
 RETURN TO SENDER
 INSUFFICIENT ADDRESS
 UNABLE TO FORWARD
 *0838 02518 Z8 36

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00100312
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 04/28/2012
 02518 Z8 36
 NO POSTAGE

W

Date : October 8, 2012

RECEIVED

From : Economist Josue Larose
Republican Candidate For U.S. House of Representatives
Louisiana Congressional District 2.
November 06, 2012 General Election
Case Number : FEC 10-368

2012 OCT 12 A 10:11

STATE OF FLORIDA
ELECTIONS

To : Florida Election Commission
Attention to : Barbra Stern, Commissioner of the Commission

Subject : I want to ask you to reschedule the hearing on January 2013 due to my congressional campaign for the United States House of Representatives race in Louisiana, District 2.


Dear Ms. Stern,

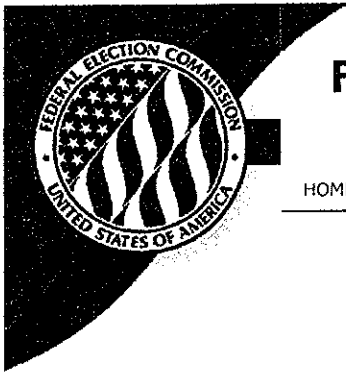
As the Republican Candidate For United States House of Representatives for the November 06, 2012 general election, I send you this letter to inform you that I will be not able to attend the hearing during month of October 23, 25, 25, 2012 Because I am campaigning for the congressional race in Louisiana I want to ask you to reschedule the hearing on January 2013

Then Mr. Eric Lipman is abusing his government power to make the political persecutions against me due to refusing to bribe the employees at the Florida Division of Elections in 2009 and 2010

I am innocent, because I refused to bribe some employees at the Florida Division of Elections, they use my Chairman PIN and Treasurer PIN to change my reports filed with the Division of Elections just to have the opportunity to file a complaint against me at the Florida Election Commission.

Certificate of Service : I hereby certify that a copy of this letter is mailed to Mr. Eric Lipman at the Florida Election Commission.





FEDERAL ELECTION COMMISSION

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Reports Image Index for Candidate ID: H2LA02099

[FEC HOME](#) [NEW SEARCH](#) [NEW ADVANCED SEARCH](#)

LAROSE, JOSUE CHALLENGER

Office Sought: House
Election Year: 2012
State: Louisiana
District: 02
Party: REP (Republican Party)

PRINCIPAL CAMPAIGN COMMITTEE:
JOSUE LAROSE FOR UNITED STATES HOUSE OF REPRESENTATIVES ID: C00526400

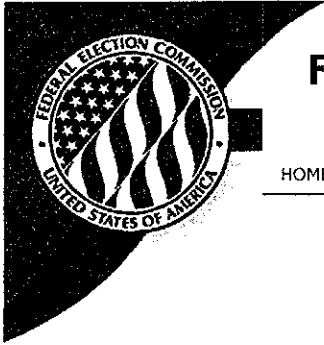
Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

<p>Click here if you have a problem viewing the images. NOTE: Images are best viewed using the latest version of Adobe Reader.</p>					
Year 2012					
Document Filed	Amended	Filed On	Pages	Display Report Page By Page	Display Full Report
STATEMENT OF CANDIDACY		09/14/2012	1	12952917773	PDF

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Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (800) 424-9530 In Washington (202) 694-1000
 For the hearing impaired, TTY (202) 219-3336 Send comments and suggestions about this site to the web manager.



FEDERAL ELECTION COMMISSION

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**Reports Image Index for Committee ID:
C00526400**

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**JOSUE LAROSE FOR UNITED STATES
HOUSE OF REPRESENTATIVES**

P. O. BOX 791410
NEW ORLEANS, LA 70179

Treasurer Name: LAROSE, JOSUE
Committee Designation: P (PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE)
Committee Type: H (HOUSE)
Candidate State: LA (Louisiana)

CANDIDATE:
LAROSE, JOSUE **ID: H2LA02099**

Candidate listings may appear here as a result of draft committees or independent expenditure committees registering with the FEC. If no official documents of an authorized committee appear below, the individual identified here has taken no action to become a candidate.

Click here if you have a problem viewing the images. NOTE: Images are best viewed using the latest version of Adobe Reader.							
Year 2012							
Document Filed	Amended	Filed On	From Date	End Date	Pages	Display Report Page By Page	Display Full Report
STATEMENT OF ORGANIZATION		08/06/2012			5	12030872331	PDF
STATEMENT OF ORGANIZATION	AMEND	09/14/2012			4	12952917769	PDF

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[What's New](#) [Library](#) [FOIA](#) [USA.gov](#) [Privacy](#) [Links](#) [eFiling](#) [Inspector General](#) [Subscribe](#)

Federal Election Commission, 999 E Street, NW, Washington, DC 20463 (800) 424-9530 In Washington (202) 694-1000 For the hearing impaired, TTY (202) 219-3336 Send comments and suggestions about this site to the [web manager](#)

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED

12 SEP 27 PM 4:16

STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368

v.

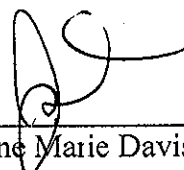
Josue Larose,
Respondent

STAFF'S REQUEST TO TAKE JUDICIAL NOTICE

To: Josue Larose
929 SW 14th Street
Deerfield Beach, Florida 33441
economistjosuelarose@gmail.com

COMES NOW, staff, by and through the undersigned counsel, and requests Commissioner Barbra Stern, pursuant to Section 90.203, Florida Statutes, take judicial notice of the following:

- 1 All documents, motions, and pleadings filed with Division of Administrative Hearings (DOAH) in the above-styled case, DOAH case number 12-000417;
- 2 Deposition in Lieu of Live Testimony of Miguel Hernandez;
- 3 Deposition in Lieu of Live Testimony of Ricky Cole;
- 4 Deposition of Valencia St. Louis; and
- 5 Deposition of Josue Larose.




Jacqueline Marie Davison, Asst Gen Counsel
Florida Bar Number 92335
Jaakan A Williams, Asst Gen. Counsel
Florida Bar Number 73964
Eric M. Lipman, Gen Counsel
Florida Bar Number 958247
Florida Elections Commission
107 W Gaines Street, Suite 224
Tallahassee, FL 32399-1050

Phone Number: (850) 922-4539
Fax Number: (850) 921-0783


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing have been provided the Respondent, via U.S. Mail to 929 SW 14th Street, Deerfield Beach, Florida 33441; and by email to economistjosuelarose@gmail.com, on September 27, 2012



Jacqueline Marie Davison, Asst. Gen. Counsel



Subpoenas to be Served 
Xiomara Gonzalez to: debi
Cc: Donna Malphurs

09/19/2012 02:32 PM

From: Xiomara Gonzalez/OAG
To: <debi@billwfg.com>
Cc: Donna Malphurs/OAG@OAG



DOC091912.pdf DOC091912-001.pdf

Good Afternoon Debi,

Please have the following subpoenas for hearing served at your earliest convenience.

Thank you,

Xiomara Gonzalez
Paralegal Specialist
Florida Elections Commission



FEC 10-368 - Formal Hearing
Donna Malphurs to: Xiomara Gonzalez

09/19/2012 10:20 AM

From: Donna Malphurs/OAG
To: Xiomara Gonzalez/OAG@OAG

Xio,

Please email the subpoenas for Josue Larose and Valencia St Louis to Greenberg for service Thank you.

Donna Ann Malphurs, Agency Clerk
Florida Elections Commission
850-922-4539 x 102

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-97

vs.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA:

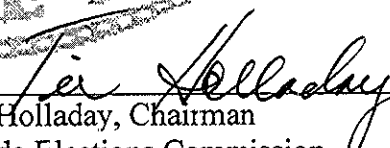
TO: Josue Larose
929 SW 15th Street
Deerfield Beach, FL 33441

YOU ARE COMMANDED to appear at the **Office of the Attorney General, 110 Towers, 110 SE 6th Street, in Fort Lauderdale, Florida** on **October 24, 2012, at 9:00 a.m.** and **October 25, 2012, at 9:00 a.m.** to testify in the above entitled hearing.

You are subpoenaed to appear by the attorney whose name appears on this subpoena and unless excused by that attorney or the Commission, you shall respond to this subpoena as directed. You may be accompanied at the hearing by counsel of your own choosing.

You have the right to object to this subpoena by filing a motion to quash or limit the subpoena with the Commission Clerk and in the motion state the grounds relied upon. Pursuant to Section 120.569(2)(f), Florida Statutes, this subpoena does not relate to the legislative duties of the person or committee named above.

Dated on September 17, 2012


Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-96

vs.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA:

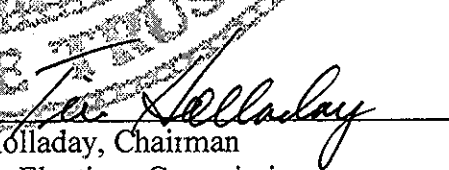
TO: Valencia St. Louis
929 SW 15th Street
Deerfield Beach, FL 33441

YOU ARE COMMANDED by the Florida Elections Commission, pursuant to Section 106.26, Florida Statutes, to appear at the **Office of the Attorney General, 110 Fowers, 110 SE 6th Street, in Fort Lauderdale, Florida, on October 24, 2012, at 9:00 a.m.** to testify in the above entitled hearing.

You are subpoenaed to appear by the attorney whose name appears on this subpoena and unless excused by that attorney or the Commission, you shall respond to this subpoena as directed. You may be accompanied at the hearing by counsel of your own choosing.

You have the right to object to this subpoena by filing a motion to quash or limit the subpoena with the Commission Clerk and in the motion state the grounds relied upon. Pursuant to Section 120.569(2)(f), Florida Statutes, this subpoena does not relate to the legislative duties of the person or committee named above.

Dated on September 17, 2012


Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539



Re: FEC 10-368 -- Subpoena for Formal Hearing
Erin NeSmith to: Donna Malphurs

09/19/2012 10:47 AM

From: Erin NeSmith <nesmith9900@gmail.com>
To: Donna Malphurs <Donna.Malphurs@myfloridalegal.com>

Yes

Sent from my iPhone

On Sep 19, 2012, at 10:45 AM, Donna Malphurs
<Donna.Malphurs@myfloridalegal.com> wrote:

> Thank you Are you accepting service via email?
>
>
> Donna Ann Malphurs, Agency Clerk
> Florida Elections Commission
> 850-922-4539 x 102
>
>
> From: Erin NeSmith <nesmith9900@gmail.com>
> To: Donna Malphurs <Donna.Malphurs@myfloridalegal.com>
> Date: 09/19/2012 10:30 AM
> Subject: Re: FEC 10-368 -- Subpoena for Formal Hearing

> Got it.

> Sent from my iPhone

> On Sep 19, 2012, at 10:15 AM, Donna Malphurs
> <Donna.Malphurs@myfloridalegal.com> wrote:

>> Erin,

>> Attached is your subpoena for your appearance at the Formal Hearing in
> the

>> Larose Case. Please acknowledge receipt of this subpoena and confirm
>> whether you accept service via email Thank you.

>> (See attached file: EANesmith Sub.pdf)

>> Donna Ann Malphurs, Agency Clerk
>> Florida Elections Commission
>> 850-922-4539 x 102

>> Please note that Florida has a broad public records law, and that all
>> correspondence to me via email may be subject to disclosure.

>> <EANesmith Sub.pdf>

<
<
> Please note that Florida has a broad public records law, and that all
> correspondence to me via email may be subject to disclosure.
<



FEC 10-368 -- Subpoena for Formal Hearing
Donna Malphurs to: nesmith9900

09/19/2012 10:15 AM

From: Donna Malphurs/OAG
To: nesmith9900@gmail.com

Erin,

Attached is your subpoena for your appearance at the Formal Hearing in the Larose Case. Please acknowledge receipt of this subpoena and confirm whether you accept service via email. Thank you.



EANesmith Sub pdf

Donna Ann Malphurs, Agency Clerk
Florida Elections Commission
850-922-4539 x 102

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-92

vs.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA


TO: Erin NeSmith
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

YOU ARE COMMANDED to appear at the **Offices of the Florida Elections Commissions, 107 W. Gaines Street, Collins Building, Suite 224 in Tallahassee, Florida, on October 23, 2012, at 9:00 a.m., and October 25, 2012 at 1:00 p.m.** to testify in the above entitled case.

You are subpoenaed to appear by the attorney whose name appears on this subpoena and unless excused by that attorney or the Commission, you shall respond to this subpoena as directed. You may be accompanied at the hearing by counsel of your own choosing.

You have the right to object to this subpoena by filing a motion to quash or limit the subpoena with the Commission Clerk and in the motion state the grounds relied upon. Pursuant to Section 120.569(2)(f), Florida Statutes, this subpoena does not relate to the legislative duties of the person or committee named above.

Dated on September 17, 2012


Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539



Fw: FEC 10-368 - Formal Hearing - Larose Subpoenas
Eric Lipman to: Donna Malphurs

09/19/2012 10:51 AM

From: Eric Lipman/OAG
To: Donna Malphurs/OAG@OAG

----- Forwarded by Eric Lipman/OAG on 09/19/2012 10:51 AM -----

From: Eric Lipman/OAG
To: "Holland, Gary J " <Gary.Holland@DOS.MyFlorida.com>
Date: 09/19/2012 10:44 AM
Subject: RE: FEC 10-368 - Formal Hearing - Larose Subpoenas

Hi Gary,

I will be the one in Tallahassee this time through since Josh has left. As we get closer, I will work with you on the timing issues so you do not have staff here just waiting around.

The Commissioner who was appointed to hear this case is Barbara Stern, has run for office and is somewhat familiar with the EFS--even though we will still need to put some procedure on the record. Therefore, I expect that Kristi's testimony will be less lengthy than originally planned.

Eric M. Lipman
Interim Executive Director
Florida Elections Commission
(850) 922-4539

"Holland, Gary J." Donna and Eric: Receipt of the attached subpoena. 09/19/2012 10:33:31 AM

From: "Holland, Gary J " <Gary.Holland@DOS.MyFlorida.com>
To: <Donna.Malphurs@myfloridalegal.com>, <eric.lipman@myfloridalegal.com>, "Bronson, Kristi R." <Kristi.Bronson@DOS.MyFlorida.com>, "Modrow, Janet" <Janet.Modrow@DOS.MyFlorida.com>, "Randolph, Lenard J " <Lenard.Randolph@DOS.MyFlorida.com>
Cc: "Nordby, Daniel E." <Daniel.Nordby@DOS.MyFlorida.com>
Date: 09/19/2012 10:33 AM
Subject: RE: FEC 10-368 - Formal Hearing - Larose Subpoenas

Donna and Eric:

Receipt of the attached subpoenas is acknowledged and email notification is sufficient.

Eric: Any chance of being more specific in the times for each person being subpoenaed? We would like to avoid witnesses waiting while another person is testifying. If we could be on telephonic standby with about 20 minutes' notice, it would be appreciated.

Regards,
Gary J. Holland
Assistant General Counsel
Florida Department of State
R.A. Gray Building, 500 S. Bronough Street
Tallahassee, FL 32399-0250
Phone: 850-245-6536
Fax: 850-245-6127

Florida has a very broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, this email and any that you sent that generated this response may be subject to public disclosure.

Florida is headed in the right direction! View Florida's Jobs Growth Chart:
<http://www.flgov.com/photoview/jobcreationchart.jpg>
The Department of State is leading the commemoration of Florida's 500th anniversary in 2013. For more information, please go to www.fl500.com.
The Department of State is committed to excellence. Please take our Customer Satisfaction Survey:
<http://survey.dos.state.fl.us/index.aspx?email=Gary.Holland@DOS.MyFlorida.com>

-----Original Message-----

From: Donna Malphurs [mailto:Donna.Malphurs@myfloridalegal.com]
Sent: Wednesday, September 19, 2012 10:18 AM
To: Holland, Gary J.
Subject: FEC 10-368 - Formal Hearing

Mr. Holland,

Attached are the subpoenas for Division staff requiring their attendance at the Formal Hearing in the Larose case. Please acknowledge receipt of these subpoenas and confirm whether you will accept service of these subpoenas via email. Thank you.

(See attached file: KRBronson Sub.pdf) (See attached file: GHolland Sub.pdf)
(See attached file: JModrow Sub.pdf) (See attached file: LRandolph Sub.pdf)

Donna Ann Malphurs, Agency Clerk
Florida Elections Commission
850-922-4539 x 102

Please note that Florida has a broad public records law, and that all correspondence to me via email may be subject to disclosure.
[attachment "KRBronson Sub.pdf" deleted by Eric Lipman/OAG] [attachment "GHolland Sub.pdf" deleted by Eric Lipman/OAG] [attachment "JModrow Sub.pdf" deleted by Eric Lipman/OAG] [attachment "LRandolph Sub.pdf" deleted by Eric Lipman/OAG]



RE: FEC 10-368 - Formal Hearing - Larose Subpoenas

Holland, Gary J. to: Donna Malphurs, eric lipman, Bronson, Kristi R , Modrow, Janet, Randolph, Lenard J
Cc: "Nordby, Daniel E."

09/19/2012 10:33 AM

From: "Holland, Gary J." <Gary.Holland@DOS.MyFlorida.com>
To: <Donna.Malphurs@myfloridalegal.com>, <eric.lipman@myfloridalegal.com>, "Bronson, Kristi R." <Kristi.Bronson@DOS.MyFlorida.com>, "Modrow, Janet" <Janet.Modrow@DOS.MyFlorida.com>, "Randolph, Lenard J."
Cc: "Nordby, Daniel E." <Daniel.Nordby@DOS.MyFlorida.com>

4 attachments



KRBronson Sub.pdf GHolland Sub.pdf JModrow Sub.pdf LRandolph Sub.pdf

Donna and Eric:

Receipt of the attached subpoenas is acknowledged and email notification is sufficient.

Eric: Any chance of being more specific in the times for each person being subpoenaed? We would like to avoid witnesses waiting while another person is testifying. If we could be on telephonic standby with about 20 minutes' notice, it would be appreciated.

Regards,
Gary J. Holland
Assistant General Counsel
Florida Department of State
R A. Gray Building, 500 S. Bronough Street
Tallahassee, FL 32399-0250
Phone: 850-245-6536
Fax: 850-245-6127

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Florida is headed in the right direction! View Florida's Jobs Growth Chart: <http://www.flgov.com/photoview/jobcreationchart.jpg>
The Department of State is leading the commemoration of Florida's 500th anniversary in 2013. For more information, please go to www.fl500.com.
The Department of State is committed to excellence. Please take our Customer Satisfaction Survey: <http://survey.dos.state.fl.us/index.aspx?email=Gary.Holland@DOS.MyFlorida.com>

-----Original Message-----

From: Donna Malphurs [mailto:Donna.Malphurs@myfloridalegal.com]
Sent: Wednesday, September 19, 2012 10:18 AM
To: Holland, Gary J.

Subject: FEC 10-368 - Formal Hearing

Mr. Holland,

Attached are the subpoenas for Division staff requiring their attendance at the Formal Hearing in the Larose case. Please acknowledge receipt of these subpoenas and confirm whether you will accept service of these subpoenas via email. Thank you.

(See attached file: KRBronson Sub.pdf) (See attached file: GHolland Sub.pdf)
(See attached file: JModrow Sub.pdf) (See attached file: LRandolph Sub.pdf)

Donna Ann Malphurs, Agency Clerk
Florida Elections Commission
850-922-4539 x 102

Please note that Florida has a broad public records law, and that all correspondence to me via email may be subject to disclosure.



FEC 10-368 - Formal Hearing
Donna Malphurs to: Gary.Holland

09/19/2012 10:18 AM

From: Donna Malphurs/OAG
To: Gary.Holland@dos.myflorida.com

Mr Holland,

Attached are the subpoenas for Division staff requiring their attendance at the Formal Hearing in the Larose case. Please acknowledge receipt of these subpoenas and confirm whether you will accept service of these subpoenas via email. Thank you.



KRBronson Sub.pdf



GHolland Sub.pdf



JModrow Sub.pdf



LRandolph Sub.pdf

Donna Ann Malphurs, Agency Clerk
Florida Elections Commission
850-922-4539 x 102

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-94

vs.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA


TO: Gary Holland
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

YOU ARE COMMANDED to appear at the Offices of the Florida Elections Commissions, 107 W. Gaines Street, Collins Building, Suite 224 in Tallahassee, Florida, on October 23, 2012, at 9:00 a.m., and October 25, 2012 at 1:00 p.m. to testify in the above entitled case.

You are subpoenaed to appear by the attorney whose name appears on this subpoena and unless excused by that attorney or the Commission, you shall respond to this subpoena as directed. You may be accompanied at the hearing by counsel of your own choosing.

You have the right to object to this subpoena by filing a motion to quash or limit the subpoena with the Commission Clerk and in the motion state the grounds relied upon. Pursuant to Section 120.569(2)(f), Florida Statutes, this subpoena does not relate to the legislative duties of the person or committee named above.

Dated on September 17, 2012



Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-91

VS.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA:

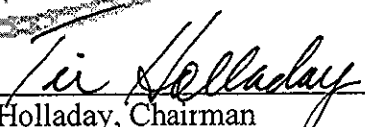
TO: Kristi Reid-Bronson, Chief
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

YOU ARE COMMANDED by the Florida Elections Commission, to appear at the Offices of the Florida Elections Commissions, 107 W. Gaines Street, Collins Building, Suite 224 in Tallahassee, Florida, on October 23, 2012, at 9:00 a.m., and October 25, 2012, at 1:00 p.m. to testify in the above entitled case.

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Dated on September 17, 2012


Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-93

vs.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA:


TO: Leonard Randoff
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

YOU ARE COMMANDED to appear at the Offices of the Florida Elections Commissions, 107 W. Gaines Street, Collins Building, Suite 224 in Tallahassee, Florida, on October 23, 2012, at 9:00 a.m., and October 25, 2012 at 1:00 p.m. to testify in the above entitled case.

You are subpoenaed to appear by the attorney whose name appears on this subpoena and unless excused by that attorney or the Commission, you shall respond to this subpoena as directed. You may be accompanied at the hearing by counsel of your own choosing.

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Dated on September 17, 2012



Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

Case No.: FEC 10-368
Subpoena No: 10-368-95

vs.

Josue Larose,
Respondent.

SUBPOENA FOR HEARING

THE STATE OF FLORIDA:


TO: Janet Modrow
Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

YOU ARE COMMANDED to appear at the **Offices of the Florida Elections Commissions, 107 W. Gaines Street, Collins Building, Suite 224 in Tallahassee, Florida, on October 23, 2012, at 9:00 a.m., and October 25, 2012 at 1:00 p.m.** to testify in the above entitled case.

You are subpoenaed to appear by the attorney whose name appears on this subpoena and unless excused by that attorney or the Commission, you shall respond to this subpoena as directed. You may be accompanied at the hearing by counsel of your own choosing.

You have the right to object to this subpoena by filing a motion to quash or limit the subpoena with the Commission Clerk and in the motion state the grounds relied upon. Pursuant to Section 120.569(2)(f), Florida Statutes, this subpoena does not relate to the legislative duties of the person or committee named above.

Dated on September 17, 2012


Tim Holladay, Chairman
Florida Elections Commission

Contact Attorney:
Eric Lipman, Interim Executive Director
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED
12 SEP -5 PM 2:27
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Case No.: FEC 10-368

Josue Larose,
Respondent.

PRE-HEARING ORDER

THIS MATTER having been set for a final hearing on **October 23, 24, & 25, 2012**, by video teleconference in Fort Lauderdale and Tallahassee, Florida, it is hereby

ORDERED that:

At least five business days prior to the final hearing, the parties shall file a joint pre-hearing statement that provides the following information:

(a) The name, address, and telephone number of each person intended to be called as a witness by either party

(b) A stipulation by the parties setting forth:

1. The parties have discussed settlement of the case;
2. The facts that are not in dispute;
3. The facts that are in dispute;

4. A list of all exhibits that the parties agree should be admitted into evidence; The parties' exhibits are not considered as evidence unless and until they are admitted into evidence during the final hearing.

5. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and

6. An estimate of the time that each party believes shall be necessary to present the formal hearing to the Commission.

(c) At least **seven** business days prior to the final hearing, the parties shall file four copies of their proposed exhibits to be introduced into evidence with the Commission Clerk.

(d) Should the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also included the reasons that a joint pre-hearing statement was not filed.

(e) The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the chairman of the Florida Elections Commission upon request of either party. Requests for the issuance of subpoenas should be made to the Commission Clerk, Donna Malphurs at (850) 922-4539. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by counsel or other qualified representative, in accordance with Rule 28-106.106, *Florida Administrative Code*. Failure to appear at this hearing may be grounds for entry of a recommended order against the party failing to appear.

(f) The Commission Clerk shall be responsible for making the necessary arrangements for a court reporter. The court reporter will be at the Fort Lauderdale site.

(g) The Commission Clerk shall also make the necessary arrangements for a Notary Public to be available to swear witnesses at the Tallahassee location.

DONE AND ORDERED by the Florida Elections Commission this 4 day of September 2012.


Barbra Stern, Commissioner
Florida Elections Commission

Copies Provided:

Eric M. Lipman
Josue Larose - Respondent



Re: Pre-Hearing Order re FEC v. Larose (FEC 10-368) 
Janice Wolfe to: Donna Malphurs

09/04/2012 02:48 PM

Sorry Donna -
Sending via UPS Ground, tracking # 1Z09R5A70391764918, for delivery by close of business tomorrow.
Have a good afternoon

Janice M. Wolfe
Staff Assistant
Office of the Attorney General
Civil Litigation Division
110 SE 6th Street, 10th Floor
Fort Lauderdale, FL 33301
Phone: 954/712-4688
Facsimile: 954/527-3702 or 954/527-3703
Janice.Wolfe@myfloridalegal.com

RECEIVED
2012 SEP -5 P 2:02
STATE OF FLORIDA
ELECTIONS COMMISSION

Janice Wolfe

Donna - Pursuant to Kathleen Savor's request, I

09/04/2012 02:32:05 PM

From: Janice Wolfe/OAG
To: Donna Malphurs/OAG@OAG
Date: 09/04/2012 02:32 PM
Subject: Pre-Hearing Order re FEC v. Larose (FEC 10-368)

Donna -
Pursuant to Kathleen Savor's request, I am forwarding the original Pre-hearing Order to you for filing, with regard to the above-referenced matter.
It will be going out today via interoffice mail to your attention
Please advise if you would prefer I send it via U S. mail.

[attachment "Pre-hearing Order re FEC v. Josue Larose FED10-368.pdf" deleted by Janice Wolfe/OAG]

Janice M. Wolfe
Staff Assistant
Office of the Attorney General
Civil Litigation Division
110 SE 6th Street, 10th Floor
Fort Lauderdale, FL 33301
Phone: 954/712-4688
Facsimile: 954/527-3702 or 954/527-3703
Janice.Wolfe@myfloridalegal.com



FEC 10-368 - Notice of Formal Hearing
Donna Malphurs to: bstern
Cc: Kathleen Savor

09/04/2012 01:42 PM

From: Donna Malphurs/OAG
To: bstern@bnlaw.com
Cc: Kathleen Savor/OAG@OAG

Dear Commissioner Stern,

Attached is the Notice of Hearing issued in the Josue Larose Formal Hearing scheduled for October 22-25, 2012.

If you have any questions, please let me know.



10-368 NOH with copy of Rule pdf

Donna Ann Malphurs, Agency Clerk
Florida Elections Commission
850-922-4539 x 102

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Case No.: FEC 10-368

Josue Larose,
Respondent.

**NOTICE OF EVIDENTIARY HEARING INVOLVING
DISPUTED ISSUES OF MATERIAL FACT BY VIDEO TELECONFERENCE**

PLEASE TAKE NOTICE that on **October 23, 24, & 25, 2012**, at **9:00 a.m.**, or as soon thereafter as the parties can be heard, Commissioner Barbara Stern will conduct an evidentiary hearing pursuant to Section 120.57(1), Florida Statutes, presented by Respondent and staff on whether Respondent committed the violations alleged in the Commission's Order of Probable Cause.

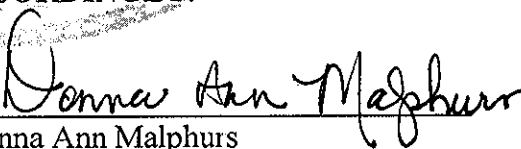
The evidentiary hearing will take place via video teleconference at sites in Fort Lauderdale and Tallahassee, Florida. The Fort Lauderdale site will be at the **Office of the Attorney General, 110 Tower, 110 SE 6th Street, 10th Floor, Fort Lauderdale, Florida 33301**. The Tallahassee site will be at the **Office of the Attorney General, (Office of the Florida Elections Commission) 107 West Gaines Street, Room 224, Tallahassee, Florida, 32399-1050**. Witnesses may appear at either location.

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

If you require an accommodation due to a disability, contact Donna Malphurs, Commission Clerk, at (850) 922-4539 or at the address listed below, at least 5 days before the hearing.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Dated: September 4th, 2012.


Donna Ann Malphurs
Commission Clerk

Enclosures: Rule 2B-1.004, Florida Administrative Code

cc: Josue Larose, Respondent
Eric M. Lipman, Interim Executive Director

INSTRUCTIONS FOR FORMAL HEARING

At the evidentiary hearing, Commissioner Barbara Stern of the Florida Elections Commission will hear evidence on whether Respondent violated those sections of The Florida Election Code charged in the Order of Probable Cause, and on the mitigating circumstances listed in Section 106.265, *Florida Statutes*.

The hearing will be conducted pursuant Sections 120.569 and 120.57(1), *Florida Statutes*; Chapter 28, *Florida Administrative Code*, the Uniform Rules of Procedures; and Commission Rule 2B-1.004, Florida, *Florida Administrative Code*.

A Pre-hearing Order, issued by the Commissioner hearing the case, will be sent to you shortly after the entry of this notice. The Pre-hearing order will require the Respondent and the staff attorney to confer and file the Joint Pre-Hearing Statement at least five working days before the scheduled hearing date.

The Commission will record the meeting. Although the Commission's record 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.

At the evidentiary hearing, the staff attorney will present the case that Respondent violated the sections of law charged in the Order of Probable Cause. The staff attorney may call one or all of the witnesses and introduce one or all of the documents listed on the Pre-Hearing Statement. The Respondent may cross-examine those witnesses after staff's questioning is finished.

After the staff attorney's completes his presentation of his case, the Respondent will then present her case. The Respondent may call one or all of the witnesses, and introduce one or all of the documents listed in the Joint Pre-Hearing Statement. If Respondent calls witnesses, the staff attorney will have the opportunity to cross-examine those witnesses after Respondent's questioning is finished. If Respondent claims that her limited resources would make her unable to pay the statutory fine, she must provide the Commission with written proof of his financial resources and situation.

After the evidentiary hearing, Respondent and the staff attorney may file proposed recommended orders with the Commission Clerk on a date set by the Commissioner hearing the case. As required by Rule 2B-1.004, *Florida Administrative Code*, the Commissioner hearing the case shall file a report with Commission Clerk within 30 days of submitting any post hearing submissions by the parties. A copy of the report will be provided to the staff attorney and the Respondent.

At its next regularly scheduled meeting following the evidentiary hearing, the Commissioners not hearing the case shall review the report, deliberate and reach a final decision on the disposition of the case.

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

2B-1.004 Hearings Before the Commission.

(1) If a respondent who is entitled to a hearing involving disputed issues of material fact does not elect to proceed before the Division of Administrative Hearings, and the Commission does not refer the case to Division of Administrative Hearings, the executive director shall schedule the formal hearing before the Commission.

(2) At the time the hearing is scheduled, the Chairman shall issue a pre-hearing order form, Pre-hearing Order, FEC 002, effective 4-24-05, which is hereby adopted and incorporated by reference. The order shall require the parties to file a joint pre-hearing statement at least five working days before the scheduled hearing date. The pre-hearing order shall provide the date of the hearing and the date the pre-hearing statement must be filed. The pre-hearing order shall require the parties to confer and file a joint pre-hearing statement that provides the following information:

(a) The name, address and telephone number of each person intended to be called as a witness by either party.

(b) A stipulation by the parties setting forth:

1. The facts that are not in dispute;
2. The facts that are in dispute;
3. A list of all exhibits that the parties agree should be admitted into evidence;
4. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and
5. An estimate of the time that each party believes shall be necessary to present the formal hearing to the Commission

(c) Should the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also included the reasons that a joint pre-hearing statement was not filed.

(3) When necessary to expedite the processing of agency matters on behalf of the public, the Chairman shall designate one or more Commissioners to hear any motion filed by a party that is not dispositive of the case pending before the Commission.

(4) Upon the request of any party, the Commission clerk shall schedule a motion hearing on any pending motion, so long as the motion is not dispositive of the matter pending before the Commission, a designated Commissioner may hear the motion, and adequate notice and opportunity to appear in person or by telephone can be provided to the parties.

(5) When necessary to secure the just, speedy, and inexpensive determination of a case, the Chairman shall direct that one or more Commissioners hear any hearing involving disputed issues of material fact, any hearing not involving disputed issues of material fact, or any dispositive motion hearing

(a) Designation of the specific Commissioner or Commissioners to hold a hearing involving disputed issues of material fact, hearing not involving disputed issues of material fact, or dispositive motion shall be made only by a majority of the Commissioners voting.

(b) The Commission clerk shall notify the parties of the designation of a Commissioner or Commissioners and shall notice the hearing.

(c) The designated Commissioner or Commissioners shall hear the evidence and argument presented by the parties during a hearing involving disputed issues of material fact, a hearing not involving a disputed issues of material fact, or a dispositive motion hearing

(d) The designated Commissioner or Commissioners hearing the case shall file a report with the Commission clerk within 30 days of receiving any post hearing submissions from the parties. The report shall contain a recommended order that includes findings of fact, conclusions of law, a recommended disposition or penalty, if applicable, and any exceptions and responses filed by the parties. The report shall be served upon the parties.

(e) The Commission shall review the report, deliberate and reach a decision in the case. The designated Commissioner or Commissioners hearing the case shall not participate in the deliberation or vote of the Commission.

(6) Upon the Commission's determination of the outcome of a case after a hearing involving disputed issues of material fact, or after reviewing the report of the designated Commissioner or Commissioners, the Commission's counsel shall prepare a proposed final order.

(7) A clerical mistake in a final order arising from oversight or omission may be corrected by the Commission at any time on its own initiative or on the motion of any party.

Specific Authority: 106.24(5), 106.26 FS. Law Implemented: 106.24(5), 106.26 FS. History—
New 1-11-99. Amended 1-2-02, 4-24-05.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA ELECTIONS COMMISSION,)
)
 Petitioner,)
)
 vs.) Case No. 12-0417
)
 JOSUE LAROSE,)
)
 Respondent.)
 _____)

FINAL ORDER OF DISMISSAL

In an Order to Show Cause issued July 23, 2012, the undersigned directed the parties to show cause, no later than July 27, 2012, why the Division of Administrative Hearings ("DOAH") should not dismiss this case for lack of jurisdiction. Thereafter, on July 25, 2012, the parties submitted responses to the Order to Show Cause, which the undersigned has considered.

For the reasons detailed below, jurisdiction to hold a formal hearing in this cause resides exclusively with Florida Elections Commission ("FEC") pursuant to section 106.25(5), Florida Statutes (2011). In brief, because Respondent did not submit a timely request for a hearing before DOAH, the FEC is the only quasi-judicial tribunal authorized to adjudicate the pending charges. This case, having been filed improvidently with DOAH, must therefore be dismissed to enable the FEC to fulfill its statutory obligations.

I. Background

On December 6, 2011, the FEC filed an Order of Probable Cause ("OPC")—the equivalent of an administrative complaint—against Respondent, which alleged more than 2,000 violations of various provisions of chapter 106, Florida Statutes. Both the OPC and a Notice of Rights ("Notice") were forwarded promptly to Respondent. Among other things, the Notice indicated clearly that if Respondent desired a formal hearing before an administrative law judge, a request would need to be made within 30 days from the date the OPC was filed—i.e., Thursday, January 5, 2012—not served. The Notice provided further that if Respondent did not request a hearing before DOAH (or settle the matter by a consent order) within 30 days of the filing date,^{1/} the case would be "sent to the Commission and [Respondent] will be entitled to a formal or informal hearing."

Subsequently, on Friday, January 6, 2012, at approximately 9:00 p.m., Respondent faxed a correspondence (dated January 6) to the FEC that requested a formal hearing. Notwithstanding the fact that the request was made two business days late^{2/} and contained no indication that Respondent desired a formal hearing before DOAH—the relevant portion of Respondent's request reads, "I send you this letter to request a Formal Hearing"—the FEC forwarded the matter to DOAH for the assignment of an administrative law judge.

Thereafter, on July 23, 2012, the undersigned issued an Order to Show Cause,^{3/} which provided, in relevant part:

As reflected by the [language of section 106.25(5)], in the absence of a timely request for a hearing to be conducted by an ALJ, it is the sole responsibility of the FEC to hold a hearing—either formal or informal, depending upon the existence of disputed issues of material fact—and issue a final order. In other words, jurisdiction rests exclusively with the FEC unless a respondent makes a timely, affirmative election for an ALJ hearing.

It appears . . . that Respondent submitted an untimely (by at least one day) request for a formal hearing to be conducted by an ALJ. Accordingly, . . . the parties shall show cause in writing why the undersigned should not dismiss this cause for lack of jurisdiction and return the matter to the FEC to conduct a final hearing.

(emphasis in original).

In his response to the Order to Show Cause, Respondent concedes that DOAH lacks jurisdiction to adjudicate this matter and requests that his case be returned to the FEC:

Declaration of Non Jurisdiction: I want to declare that you don't have the jurisdiction to litigate this case and I need to ask you to dismiss this case and close it immediately. You can send this case back to [the FEC] for non jurisdiction . . . I wait for your order to dismiss this case and close it immediately.

In contrast, the FEC argues in its response that this matter is properly before DOAH because: (1) the 2010 version of section 106.25(5) is applicable, despite the fact that the

amended 2011 version took effect more than six months before the OPC was filed; and (2) assuming the 2011 version of section 106.25 controls, DOAH may exercise jurisdiction in this cause even in the absence of a timely request.

Contrary to Petitioner's assertion, the 2011 codification of section 106.25(5) governs Respondent's untimely request for formal hearing. Further, the current version of section 106.25(5) provides that the FEC alone possesses jurisdiction to hold formal hearings in situations where a respondent makes a belated request for a formal hearing. Each of these issues is discussed below.

II. Analysis

As alluded to previously, section 106.25(5) underwent revision during the 2011 legislative session. Prior to 2011, that section read:

Unless a person alleged by the Elections Commission to have committed a violation of this chapter or chapter 104 elects, within 30 days after the date of the filing of the commission's allegations, to have a formal or informal hearing conducted before the commission, or elects to resolve the complaint by consent order, such person shall be entitled to a formal administrative hearing conducted by an administrative law judge in the Division of Administrative Hearings. The administrative law judge in such proceedings shall enter a final order subject to appeal as provided in s. 120.68.

§ 106.25(5), Fla. Stat. (2010).

The foregoing language demonstrates that under the 2010 version of section 106.25(5), a respondent who submitted a late request for a formal hearing to be held by the FEC (or made no request at all) was entitled to a hearing at DOAH before an administrative law judge. In other words, the default procedure was that DOAH would hear elections cases unless a respondent requested, timely and affirmatively, that the FEC itself conduct the hearing. The subsequent revision to section 106.25(5), which took effect on May 19, 2011—well before Petitioner filed its OPC against Respondent—reversed the default procedure completely. Specifically, the amended version of section 106.25(5) provides:

A person alleged by the Elections Commission to have committed a violation of this chapter or chapter 104 may elect, as a matter of right, within 30 days after the date of the filing of the commission's allegations, to have a formal administrative hearing conducted by an administrative law judge in the Division of Administrative Hearings. The administrative law judge in such proceedings shall enter a final order, which may include the imposition of civil penalties, subject to appeal as provided in s. 120.68. If the person does not elect to have a hearing by an administrative law judge and does not elect to resolve the case by a consent order, the person is entitled to a formal or informal hearing conducted before the commission.

§ 106.25(5), Fla. Stat. (2011) (emphasis added).

As the plain and unambiguous statutory language reveals, the current version of section 106.25(5) designates the FEC—and only the FEC—as the quasi-judicial tribunal charged with the duty of conducting a formal hearing unless a respondent makes a timely request for a hearing before DOAH. Stated differently, DOAH's jurisdiction in these matters is conditioned on an affirmative, timely-submitted request for a DOAH proceeding, without which DOAH is not authorized to conduct a final hearing. This interpretation is supported by the Staff Analysis of the 2011 amendment, which reads:

The bill reverses the current default procedure whereby alleged election law violations are transferred to the Division of Administrative Hearings (DOAH) unless the party charged with the offense elects to have a hearing before the Commission. It mandates that the the alleged violator affirmatively request a hearing at DOAH within 30 days after the Commission's probable cause determination, or the Commission will hear the case.

Fla. H. Gov't Op. Subcomm., CS/HB 1355 (2011) Staff Analysis at 9. (Apr. 11, 2011); see also Fla. H. State Affairs Comm., CS/CS/HB 1355 (2011) Final Bill Analysis at 14-15 (June 29, 2011).

Significantly, the circumstances under which DOAH is permitted to hear allegations of election law violations—i.e., where a respondent makes a timely, specific request for a hearing before DOAH—cannot be expanded by the consent of the

parties or by a delegation of the FEC's responsibility. See Procacci v. Dep't of Health & Rehabilitative Servs., 603 So. 2d 1299, 1300-01 (Fla. 1st DCA 1992). In Procacci, a hearing officer determined that the Department of Health and Rehabilitative Services ("HRS") had failed to follow its own procedures concerning the evaluation of competitive bids. Thereafter, by stipulation of the bidding parties and HRS, the hearing officer conducted a de novo review of the bids and made a recommendation regarding which party should receive the award. Id. at 1300. HRS entered a final order adopting the hearing officer's recommendations, which one of the losing bidders appealed. In reversing the final order, the court observed that because the legislature had placed upon HRS "the primary responsibility for evaluating bids and selecting the bidder to whom the contract or lease at issue should be awarded," id. at 1300, HRS was precluded from delegating its responsibility to the hearing officer:

An agency may not delegate to a hearing officer its legislatively prescribed responsibilities.

* * *

Thus, HRS had no authority to enter into the stipulation by which it purported to agree that the hearing officer could determine which of the bidders should be awarded the lease. Moreover, because it was the responsibility of HRS to evaluate the bids, and then to select the bidder to whom the

lease should be awarded, the hearing officer lacked jurisdiction to make such a decision. In such a case, jurisdiction cannot be conferred by agreement or consent of the parties; nor can it be based upon waiver or estoppel.

Id. at 1300-01 (emphasis added).

The First District's decision in Swebilius v. Florida Construction Industry Licensing Board, 365 So. 2d 1069 (Fla. 1st DCA 1979), which the court relied upon in Procacci, illustrates further the principle that an agency may neither enlarge its jurisdiction nor delegate such jurisdiction away. In Swebilius, a contractor was alleged to have performed substandard work in a county in which a local contracting board existed. Id. at 1069. Pursuant to section 468.112, Florida Statutes, the state licensing board was required to forward the allegations to the local board for further proceedings; only in situations where no local board existed was the state board authorized to take jurisdiction. Id. at 1070. Notwithstanding the requirements of section 468.112, the state licensing board filed an administrative complaint against the builder, which was subsequently forwarded to a hearing officer to conduct a formal hearing. On appeal, the court reversed the final order entered against the contractor on the grounds that state licensing board lacked jurisdiction:

The act is clear in its terms that only in the event a local board does not exist is

FCI conferred jurisdiction to investigate, hold hearings, and if need be, suspend or revoke a license [A]n agency may not enlarge its jurisdiction; nor can jurisdiction be conferred upon the agency by agreement or consent of the parties Since there was a local board, the Licensing Board had no jurisdiction, and Swebilius is not estopped from now raising the point.

Id. at 1070-71; see also Booker Creek Pres., Inc., v. Southwest Fla. Water Mgmt. Dist., 534 So. 2d 419, 424 (Fla. 5th DCA 1988) ("The District cannot delegate its statutory duty to other state agencies.").

Analogous to the statute in Swebilius, which authorized the state board to exercise jurisdiction only when no local board existed, the current version of section 106.25(5) provides that DOAH is authorized to hear election law cases only where a respondent makes an affirmative election for a DOAH hearing within 30 days. In all other situations—such as the instant case, where, indisputably, Respondent made an untimely^{4/} (and ambiguous) election—it is the FEC's statutory charge to conduct a formal hearing. To find otherwise would require the undersigned to ignore the obvious legislative intent behind 2011 revision to section 106.25(5): to make the FEC the default tribunal. Accordingly, it is concluded that jurisdiction to hold a formal hearing in this cause is vested exclusively with the FEC.^{5/}

Finally, the undersigned will address FEC's contention that the current version of 106.25(5) does not apply. In particular, the FEC asserts that the 2011 amendment to section 106.25(5) was substantive in nature (as opposed to procedural) and cannot be applied retroactively^{6/} in the absence of clear evidence of legislative intent.

Contrary to FEC's argument, and as demonstrated by Florida Birth-Related Neurological Injury Compensation Association v. DeMarko, 640 So. 2d 181 (Fla. 1st DCA 1994), the 2011 amendment to section 106.25(5) that modified the circumstances under which DOAH and the FEC will hear alleged election law violations was a procedural change. In DeMarko, the parent of an injured child brought a claim under the Florida Birth-Related Neurological Injury Compensation Act ("the Act"). Pursuant to the law in effect at the time of the injury, cases brought under the Act were heard by the Office of the Judges of Compensation Claims ("JCC"). Id. at 182. After the completion of the final hearing, but before the JCC entered a final order in the matter, the Act was modified such that jurisdiction to hear birth-related injury cases was transferred to DOAH. Id. at 182. A petition for writ of prohibition that challenged the JCC's authority to enter a final order was subsequently filed, which the First District granted:

While we agree that judicial resources would be conserved if the judge of compensation claims could enter the final order, he lacks jurisdiction to do so. It is well-settled that remedial or procedural statutes do not fall within the constitutional prohibition against retroactive legislation and they may be held immediately applicable to pending cases. A statute transferring jurisdiction from one quasi-judicial tribunal to another is procedural in nature Because section 766.304 contains no explicit savings clause, the judge of compensation claims has lost jurisdiction over the cause and jurisdiction now lies with the Division of Administrative Hearings.

Id. at 182 (emphasis added) (internal citations and quotations omitted); Russell Corp. v. Jacobs, 782 So. 2d 404, 405-06 (Fla. 1st DCA 2001) (holding that amendment to section 440.09(4), Florida Statutes, which conferred jurisdiction to the JCC to determine whether fraud occurred in workers' compensation cases, was a procedural change); Kerr Constr. v. Peters Contracting, Inc., 767 So. 2d 610, 611-12 (Fla. 5th DCA 2000) (holding that statutory amendment that voided forum selection clauses in contracts for improvements to real property was procedural in nature; "[T]he statute does not affect the substantive rights of the parties. It merely requires that those substantive rights be adjudicated by a Florida Court.").

Applying the foregoing authority to the instant matter, the 2011 amendment to section 106.25(5)—which took effect more than six months before Respondent was charged—was procedural in

nature because it modified the circumstances under which DOAH and the FEC hear election law cases; it did not effect a substantive change by, for example, redefining the elements of an offense. For these reasons, the current version of section 106.25(5) controls.

III. Conclusion

For the reasons detailed above, jurisdiction to hold a formal hearing in this matter resides solely with the FEC due to the absence of a timely request for a hearing to be conducted before DOAH. It is, therefore,

ORDERED that:

1. The file of the Division of Administrative Hearings in the above-captioned matter is closed.
2. This dismissal is without prejudice to Respondent's right to a formal hearing before the FEC.

DONE AND ORDERED this 30th day of July, 2012, in Tallahassee, Leon County, Florida.



Edward T. Bauer
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
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Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of July, 2012.

ENDNOTES

^{1/} Although neither party has raised the issue, it should be noted that the FEC's service of the Order of Probable Cause and Notice of Rights by U.S. Mail did not result in an extension of the 30-day deadline to make a request for hearing. See Fla. Admin. Code R. 28-106.103 ("No additional time shall be added . . . when the period of time begins pursuant to a type of notice described in Rule 28-106.111, F.A.C."); Cann v. Dep't of Child. & Fam. Servs., 813 So. 2d 237, 238-39 (Fla. 2d DCA 2002) ("Although Florida Administrative Code Rule 28-106.103 allows an additional five days for mailing in some circumstances, that rule expressly excepts requests for hearing under rule 28-106.111.").

^{2/} See Fla. Admin. Code R. 28-106.104(3) ("Any document received by the office of agency clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day").

^{3/} A tribunal may raise the issue of jurisdiction *sue sponte*. See DNA Ctr. for Neurology & Rehab. v. Progressive Am. Ins. Co., 13 So. 3d 74, 75 (Fla. 5th DCA 2009).

^{4/} Significantly, Respondent's pleading in response to the Order to Show Cause contains no assertion that the hearing request dated January 6, 2012, was filed timely, nor does it include any allegation that he was misled into inaction or prevented from asserting his rights. Further, the record demonstrates that the substance of the FEC's Notice of Rights was consistent with the terms of 106.25(5), Florida Statutes (2011).

^{5/} During a July 23, 2012, telephone conference with the parties, counsel for the FEC conceded the Respondent is entitled to a formal hearing (as opposed to informal) due to the existence of disputed issues of fact.

^{6/} The undersigned is skeptical that the facts of the instant case implicate any issue of retroactivity, as it is undisputed that the operative event in this context—i.e., the FEC's filing of the OPC against Respondent—occurred more than six months after section 106.25(5) was amended. In any event, the statutory amendment was merely procedural in nature and must therefore be applied retroactively.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of appeal with the Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.