

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Matthew "Matt" Shirk

Case No.: FEC 16-868

TO: Matthew "Matt" Shirk
3562 Oak Street
Jacksonville, FL 32205

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

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on, **February 28, 2017 at 11:00 am, or as soon thereafter as the parties can be heard**, at the following location: **Senate Office Building, 404 South Monroe Street, Room 110-S, Tallahassee, Florida 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 Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

See further instructions on the reverse side.

Amy McKeever Toman
Executive Director
Florida Elections Commission
February 13, 2017

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

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

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

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

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

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

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

**FLORIDA ELECTIONS COMMISSION
CASE REPORT**

Case Number: FEC-16-868

NAME: MATTHEW SHIRK

DATE APPEAL RECEIVED: 10/18/16

DATE REPORT DUE: 08/12/16 (2016 P5)

DATE OF ELECTRONIC RECEIPT: 08/13/16

DATE FILING OFFICER RECEIVED REPORT: 08/13/16

NUMBER OF DAYS LATE: 1

AMOUNT OF FINE: \$50.00

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

TOTAL RECEIPTS FOR REPORTING PERIOD: \$1,300.00

TOTAL EXPENDITURES FOR REPORTING PERIOD: \$7,582.65

DATE OF FIRST NOTIFICATION: 08/17/16

CANDIDATE [X]	STATE [X]
PC []	DISTRICT []
CCE []	COUNTY []
POLITICAL PARTY []	CITY []

SUMMARY: Matthew Shirk was a candidate for the office of Public Defender, Circuit 4 in the 2016 elections. Matthew Shirk was his own treasurer.

Matthew Shirk is appealing the fine claiming that he experienced internet interruptions. According to Mr. Shirk, he went to a location where he could connect to a network and filed the report the next day.

- The 2016 P5 Original Report covers the period from 07/30/16-08/05/16; it was due on 08/12/16.
- The 2016 P5 Queued Transaction Report shows that it was created on 08/13/16 at approximately 4:52pm and filed the same day at approximately 5:18pm.
- Matthew Shirk reported receiving 2 contributions, while making 8 expenditures.
- The Division of Elections does not have any notes that pertain to Matthew Shirk's 2016 P5 report.

PRIOR CASES: Respondent has two prior cases with the Commission. AF-09-038 & AF 09-039

ER

RECEIVED

2016 OCT 18 P 3:18

STATE OF FLORIDA
ELECTIONS COMMISSION

October 6, 2016

Florida Elections Commission
107 West Gaines Street, Ste 224
Tallahassee, Florida 32399-0150

RE: Matt Shirk Campaign
Treasurer's Report July 29, 2016
Treasurer's Report August 12, 2016

To Whom It May Concern:

Please let this letter serve as an appeal to the fine imposed for the late filing of treasurer's report due July 29th and August 12th of the primary elections cycle for 2016.

On both occasions, I experienced an interruption of internet service and was unable to file the report on the date due. However, I did file the report on the very next day on July 30th and August 13th, respectively. For the July 29th report, I was able to connect to the network and file the report sometime after midnight on July 30th. For the August 12th report, I went to a location where I could connect to a network, and filed it the next day, August 13th.

Thank you for your consideration in this matter.

Sincerely, ✓



Matt Shirk
Candidate for Public Defender, Circuit 4
3562 Oak Street
Jacksonville, Florida 32205
(904) 705-1831

cc: Florida Division of Elections



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

Final Notice
Delivery Confirmation:

USPS TRACKING # **9114 9014 9645 0630 6760 89**
& CUSTOMER RECEIPT
For Tracking or inquiries go to USPS.com
or call 1-800-222-1811

September 29, 2016

Matthew (Matt) Shirk
Candidate for Public Defender, Circuit 4

CAN 65156

Dear Mr. Shirk:

The campaign treasurer's report that was due on August 12, 2016, was filed on August 13, 2016. By law, you are automatically assessed a late fine of \$50.00.

You have 20 days from the receipt of this notice to either:

1. Pay the fine to the Florida Division of Elections (For a candidate only, a fine is not an allowable campaign expenditure and must be paid from personal funds) at:

*Florida Division of Elections
R.A. Gray Building, Room. 316
500 South Bronough Street
Tallahassee, Florida 32399-025011*

2. Appeal the fine to the Florida Elections Commission (See Rules 2B-1.005 and 2B-1.0055, Florida Administrative Code) at:

*Florida Elections Commission
107 West Gaines Street, Ste. 224
Tallahassee, Florida 32399-0150*

If you appeal, please send a copy also to the Florida Division of Elections so that you will not receive further notices from the Division about this matter.

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

Sincerely,

Kristi Reid Bronson, Chief
Bureau of Election Records



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

September 14, 2016

Matthew (Matt) Shirk
Candidate for Public Defender, Circuit 4

CAN 65156

Dear Mr. Shirk:

The campaign treasurer's report that was due on August 12, 2016, was filed on August 13, 2016. By law, you are automatically assessed a late fine of \$50.00.

You have 20 days from the receipt of this notice to either:

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Sincerely,

Kristi Reid Bronson, Chief
Bureau of Election Records



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

August 17, 2016

Matthew (Matt) Shirk
Candidate for Public Defender, Circuit 4

CAN 65156

Dear Mr. Shirk:

The campaign treasurer's report that was due on August 12, 2016, was filed on August 13, 2016. By law, you are automatically assessed a late fine of \$50.00.

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Sincerely,

Kristi Reid Bronson, Chief
Bureau of Election Records

Filed Campaign Treasurer's Report

Matthew (Matt) Shirk
65156 - PUB 004

Elect ID: 20161108-GEN
Report: 2016 P5 (10)

From: 7/30/2016
To: 8/5/2016

Amd: N Wvr: N
Cmplt: COM

Filed: **FIL** 8/13/2016 5:18:21 P
Reviewed: **AUD** 8/13/2016 5:17:33 P

Original Report

Submitted: 8/13/2016 5:18:21 P

CONTRIBUTIONS

<i>Seq Date</i>	<i>Name</i>	<i>Address</i>	<i>Contributor Type</i>	<i>Occupation Inkind Description</i>	<i>Errors Amd</i>	<i>Amount</i>
1	BILL DYE BAIL BONDS	111 NORTH LIBERTY	B	BAIL BONDS	0	\$300.00
8/5/2016		JACKSONVILLE FL 32202	CHE			
2	PASS	9700 PHILLIPS HWY STE 104	I	CONSULTANT	0	\$1,000.00
8/5/2016	PERET	JACKSONVILLE FL 32256	CHE			

EXPENDITURES

<i>Seq Date</i>	<i>Name</i>	<i>Address</i>	<i>Type</i>	<i>Office Purpose</i>	<i>Errors Amd</i>	<i>Amount</i>
1	DAILY'S	620 CHAFFEE ROAD	MON		0	\$3.40
7/31/2016		JACKSONVILLE FL 32221		FOOD/BEVERAGE VOLUNTEER WALKERS		
2	7-ELEVEN	2545 RIVERSIDE AVENUE	MON		0	\$12.19
8/1/2016		JACKSONVILLE FL 32204		FOOD/BEVERAGE VOLUNTEER WALKERS		
3	TWITTER, INC.	1355 MARKET STREET	MON		0	\$50.00
8/1/2016		SAN FRANCISCO CA 94103		ADVERTISING		
4	TWITTER, INC.	1355 MARKET STREET	MON		0	\$25.00
8/4/2016		SAN FRANCISCO CA 94103		ADVERTISING		
5	ANGIE'S SUBS	1436 BEACH BLVD	MON		0	\$18.17
8/1/2016		JACKSONVILLE FL 32250		FOOD/BEVERAGE VOLUNTEER WALKERS		
6	PASS CONSULTING GROUP, LLC	9700 PHILLIPS HWY STE 104	MON		0	\$7,453.44
8/3/2016		JACKSONVILLE FL 32256		MAIL/POSTAGE/CONSULTING		
7	DAILY'S	620 CHAFFEE ROAD	MON		0	\$3.40
8/2/2016		JACKSONVILLE FL 32221		FOOD/BEVERAGE VOLUNTEER WALKERS		
8	ANGIE'S SUBS	1436 BEACH BLVD	MON		0	\$17.05
8/4/2016		JACKSONVILLE FL 32250		FOOD/BEVERAGE VOLUNTEER WALKERS		

1/11/2017

Filed Campaign Treasurer's Report

Page 2

Matthew (Matt) Shirk
65156 - PUB 004

Elect ID: **20161108-GEN**
Report: **2016 P5 (10)**

From: **7/30/2016**
To: **8/5/2016**

Amd: **N** Wvr: **N**
Cmplt: **COM**

Filed: **FIL** 8/13/2016 5:18:21 P
Reviewed: **AUD** 8/13/2016 5:17:33 P

Queued Items for 2016-P5

Account: 65156

PUB 004 Matthew (Matt) Shirk

Rpt Seq: 10

<i>ProcessDescription</i>	<i>Status</i>	<i>Submitter</i>	<i>Created</i>	<i>LastUpdate</i>
Create Pending Report	Processing Complete	65156	8/13/2016 4:52:34 PM	8/13/2016 4:52:34 PM
Review Pending Report	Processing Complete	65156	8/13/2016 5:17:00 PM	8/13/2016 5:17:00 PM
Review Pending Report	Processing Complete	65156	8/13/2016 5:17:33 PM	8/13/2016 5:17:33 PM
File Pending Report	Processing Complete	65156	8/13/2016 5:18:21 PM	8/13/2016 5:18:21 PM



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: Matthew (Matt) Shirk

Name:

Account: 65156

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
11/28/2016	TR	12/4/2016	SNT	6	\$300.00		\$300.00	\$0.00
8/26/2016	P7	8/26/2016						
8/19/2016	P6	8/19/2016						
8/12/2016	P5	8/13/2016	APP	1	\$50.00		\$50.00	\$0.00
8/5/2016	P4	8/5/2016						
7/29/2016	P3	7/30/2016	FEC	1	\$50.00		\$50.00	\$0.00
7/15/2016	P2	7/15/2016						
7/1/2016	P1	7/1/2016						
6/10/2016	M5	6/10/2016						
5/10/2016	M4	5/10/2016						
4/11/2016	M3	4/11/2016						
3/10/2016	M2	3/10/2016						
2/10/2016	M1	2/10/2016						