

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Kells Hetherington

Case No.: FEC 18-133

TO: Kells Hetherington
3100 Wisconsin Avenue NW, Apt. 103
Washington, DC 20016

Michelle Salzman
10296 Vintage Drive
Pensacola, FL 32514

NOTICE OF HEARING (INFORMAL HEARINGS: OTHER MOTIONS)

A hearing will be held in this case before the Florida Elections Commission **on August 26, 2020 at 8:30 am, EST**, or as soon thereafter as the parties can be heard.

Please note that because of COVID-19, this will be a virtual meeting conducted by remote video or teleconference. Enclosed you will find additional details on joining the video conference via GoToWebinar, 9-Digit Meeting ID 602-468-659, or via teleconference by dialing (866) 901-6455 and entering the meeting access code 515-462-864, when prompted. If you wish to speak before the Commission, you will need to appear by webcam and will be sworn in remotely. Please be advised that the Commission will consider multiple cases, so you will need to wait until your case is considered. If you have any questions, please contact Commission staff at (850) 922-4539.

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

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

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

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

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

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

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

See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
August 13, 2020

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

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

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



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-1050

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

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



Commission Meeting August 26, 2020 at 8:30AM via GoToWebinar and OpenVoice

In order to participate in the public portion of the August 26, 2020, Florida Elections Commission meeting, please follow the instructions below:

A. GoToWebinar – Remote Video Conferencing

1. Open your web browser and search GoToWebinar or enter www.gotowebinar.com
2. Select Join A Webinar in the upper right corner of the website
3. Enter the 9-digit Webinar ID: 602-468-659
And your email address
4. Register your name and email address
5. You will automatically join to the meeting as an attendee. Attendees are muted and can choose to their webcam.

B. OpenVoice - Teleconference

1. Call 1-866-901-6455
2. Enter Audio Access Code 515-462-864
3. You will automatically join the meeting as an attendee. Attendees are muted.

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

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

Thank you,

Commission Staff

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Kells Hetherington

Case No.: FEC 18-133

TO: Kells Hetherington
3100 Wisconsin Avenue NW, Apt. 103
Washington, DC 20016

Michelle Salzman
10296 Vintage Drive
Pensacola, FL 32514

NOTICE OF HEARING (INFORMAL HEARINGS: OTHER MOTIONS)

A hearing will be held in this case before the Florida Elections Commission on August 26, 2020 at 8:30 am, EST, or as soon thereafter as the parties can be heard.

Please note that because of COVID-19, this will be a virtual meeting conducted by remote video conference only. Prior to the meeting, the Commission office will send you a set of participant instructions, which will include login information for the meeting. Please be advised that the Commission will consider multiple cases that day, so you will need to wait until your case is considered. If you have questions, please contact Commission staff at (850) 922-4539.

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

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

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

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See further instructions on the reverse side.

Tim Vaccaro
Executive Director
Florida Elections Commission
July 28, 2020

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 **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**

In Re: Kells Hetherington

Case No.: FEC 18-133

TO: Kells Hetherington
3100 Wisconsin Avenue NW, Apt. 103
Washington, DC 20016

Michelle Salzman
10296 Vintage Drive
Pensacola, FL 32514

NOTICE OF CANCELLATION OF HEARING (INFORMAL HEARINGS: OTHER MOTIONS)

You are hereby notified that the previously scheduled **hearing for March 24-25, 2020 is cancelled**. It is anticipated that your case will be heard at the next regularly scheduled meeting, which is currently set for May 2020. A Notice of Hearing will be mailed approximately 14 days prior to the hearing date indicating the exact date, time, and location.

Tim Vaccaro

Executive Director
Florida Elections Commission
March 12, 2020

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Kells Hetherington

Case No.: FEC 18-133

TO: Kells Hetherington
3100 Wisconsin Avenue NW, Apt. 103
Washington, DC 20016

Michelle Salzman
10296 Vintage Drive
Pensacola, FL 32514

NOTICE OF HEARING (INFORMAL HEARINGS: OTHER MOTIONS)

A hearing will be held in this case before the Florida Elections Commission on, **March 24, 2020 at 1:00 p.m., or as soon thereafter as the parties can be heard**, at the following location: **House Office Building, 404 South Monroe Street, Room 28-H, Tallahassee, Florida 32399**. Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

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

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

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

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

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

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

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

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

See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
March 9, 2019

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.

Timothy Vaccaro

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Sunday, December 15, 2019 10:41 PM
To: Timothy Vaccaro

Mr. Vaccaro –

As we discussed on a telephone call that you initiated on Monday, December 2, 2019, with several members of your staff present, including Stephanie Cunningham, the commission will revisit my political free-speech infraction at its next scheduled meeting in March 2020. As such, I have agreed to temporarily refrain from appealing in Circuit Court actions taken by the commission that are best described as revenge.

In September 2018, I paid a \$200 fine demanded by the FEC to settle a nebulous civil infraction. I then sued the commission as the state statute restricted my First Amendment right to political free speech. Angered by the lawsuit, commission employees Stephanie Cunningham and Eric Lipman launched an extensive investigation and recommended to the commission an additional \$500 fine – – – which the commission unanimously approved. In recommending the additional penalty, Stephanie Cunningham never mentioned the fact that the commission staff was still and continues to be in possession of the \$200 money order purchased from the US Post Office that I sent in September 2018.

The FEC staff wants us to believe that a lawsuit filed by me against the commission upended a consent agreement and gave them license to pursue a complete investigation. But at the same time, they refuse to apply other aspects of the Uniform Commercial Code to my situation, namely that a certified payment held beyond 90 days, constitutes accord and satisfaction, whether or not it is ever negotiated.

Clearly, the commission having held my payment now for 451 days and counting means there is accord and satisfaction, but despite that the commission continues to disparage me through the online publication of claims that the commission's own staff have determined to be without merit.

Not only is the FEC ignoring certain elements of the UCC in order to wage relentless revenge because I sued them, but they are forgetting that the Voluntary Payments Doctrine is not applicable here. When the state demands payment of a fine or a tax, the Rebuttal Presumption is always that payment is made under duress. As such, a lawsuit like the one that I filed against the FEC failed to change the *status quo*, and the original agreement that I signed with the commission stands unaffected.

If after the March 20 commission meeting, the commission remains intent on levying a fine against me merely because I exercised my constitutionally protected right to political free speech, and continues to maintain an online public record of false claims made against me, I will be forced to file suit against the commission and its staff.

Please direct all future communications to my personal email kellshetherington@gmail.com

Sincerely yours, Kells Hetherington

Kells Hetherington

Cell: (202) 431-0482

Donna Malphurs

From: Timothy Vaccaro
Sent: Wednesday, December 18, 2019 11:12 AM
To: Stephanie Cunningham; Donna Malphurs
Cc: Mehgean Willoughby
Subject: FW: Case No. FEC 18-133

Tim Vaccaro
Executive Director
Florida Elections Commission
107 West Gaines Street
The Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

From: Timothy Vaccaro
Sent: Wednesday, December 18, 2019 11:12 AM
To: 'Kells Hetherington' <kellshetherington@gmail.com>
Subject: RE: Case No. FEC 18-133

Thank you, Mr. Hetherington.

I also want to clarify a typo in my email. I indicated May 24-25 for the meeting; however, I meant March 24-25, 2020.

Thank you,

Tim Vaccaro
Executive Director
Florida Elections Commission
107 West Gaines Street
The Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Wednesday, December 18, 2019 11:02 AM
To: Timothy Vaccaro <Timothy.Vaccaro@myfloridalegal.com>
Subject: Re: Case No. FEC 18-133

Mr. Vaccaro, Thank you for that clarification. Best, Kells Hetherington

On Wed, Dec 18, 2019 at 9:56 AM Timothy Vaccaro <Timothy.Vaccaro@myfloridalegal.com> wrote:

Dear Mr. Hetherington:

As we discussed by phone this morning, I just wanted to confirm that, based on your decision to file a request for reconsideration of the Commission's November 19, 2019, decision in your case, the Commission office has not filed the final order in this matter.

The Commission will consider your request at its May 24-25, 2020, meeting and will make a final decision regarding the outcome of your case at that time. A final order reflecting the Commission's decision will be filed after the meeting. It will contain instructions regarding your appellate rights, should you decide to file an appeal.

Thank you,

Tim Vaccaro

Executive Director

Florida Elections Commission

107 West Gaines Street

The Collins Building, Suite 224

Tallahassee, FL 32399-1050

(850) 922-4539

--

Kells Hetherington

Cell: (202) 431-0482

Donna Malphurs

From: Timothy Vaccaro
Sent: Wednesday, December 18, 2019 10:57 AM
To: Stephanie Cunningham; Donna Malphurs
Cc: Mehgean Willoughby
Subject: FW: Case No. FEC 18-133

FYI

Tim Vaccaro
Executive Director
Florida Elections Commission
107 West Gaines Street
The Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

From: Timothy Vaccaro
Sent: Wednesday, December 18, 2019 10:56 AM
To: Kells Hetherington <kellshetherington@gmail.com>
Subject: Case No. FEC 18-133

Dear Mr. Hetherington:

As we discussed by phone this morning, I just wanted to confirm that, based on your decision to file a request for reconsideration of the Commission's November 19, 2019, decision in your case, the Commission office has not filed the final order in this matter.

The Commission will consider your request at its May 24-25, 2020, meeting and will make a final decision regarding the outcome of your case at that time. A final order reflecting the Commission's decision will be filed after the meeting. It will contain instructions regarding your appellate rights, should you decide to file an appeal.

Thank you,

Tim Vaccaro
Executive Director
Florida Elections Commission
107 West Gaines Street
The Collins Building, Suite 224
Tallahassee, FL 32399-1050
(850) 922-4539

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Agency Case No.: FEC 18-133
F.O. No.: FOFEC 19-299W**

**Kells Hetherington,
Respondent.**

FINAL ORDER

THIS MATTER was heard at an informal hearing held before the Florida Elections Commission (Commission) on November 19, 2019.

APPEARANCES

For Commission	Stephanie J. Cunningham Assistant General Counsel 107 West Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399
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For Respondent	No Appearance
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STATEMENT OF THE ISSUE

Whether Respondent violated Section 106.143(3), Florida Statutes, as alleged in the Order of Probable Cause.

PRELIMINARY STATEMENT

On May 25, 2018, the Commission received a sworn complaint alleging violations of

Florida's election laws. Staff of the Commission conducted an investigation to determine whether the facts alleged in the complaint constituted probable cause to believe that Respondent violated the Florida Election Code.

On July 11, 2019, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On September 4, 2019, the Commission entered an Order of Probable Cause finding that there was probable cause to charge Respondent with the following violation(s):

Count 1:

On or about May 25, 2018, Kells Hetherington violated Section 106.143(3), Florida Statutes, when he campaigned based on party affiliation, even though the office for which he was running was nonpartisan.

Respondent did not timely elect to have a formal administrative hearing before an administrative law judge from the Division of Administrative Hearings and, therefore, the matter was set for an informal hearing before the Commission. At the informal hearing, the Commission adopted the undisputed facts set forth in the Staff's Recommendation as its findings of fact.

FINDINGS OF FACT

1. Respondent was a 2018 candidate for Escambia County School Board, District 2.
2. On April 27, 2018, Respondent acknowledged that he had been provided access to Chapter 106, Florida Statutes. Additionally, Respondent's filing officer provided Respondent with a copy of the *2018 Candidate and Campaign Treasurer Handbook* as well as the *2018 Escambia County Candidate Handbook*.
3. The race for Escambia County School Board, District 2 was a nonpartisan race. On June 22, 2018, Respondent filed a nonpartisan candidate oath.
4. Respondent published a candidate statement on the Escambia County Supervisor

of Elections' website stating the following: "A lifelong Republican, I was raised in the Congregationalist Church. . . . I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board [M]ember."

5. The Division of Elections issued advisory opinions DE 03-02 and DE 10-02 regarding the interpretation of Section 106.143(3), Florida Statutes.

6. Respondent campaigned based on political party affiliation when he supplied a statement to be published on his filing officer's website that stated that he was a Republican.

CONCLUSIONS OF LAW

7. The Commission has jurisdiction over the parties to and subject matter of this cause, pursuant to Section 106.26, Florida Statutes.

8. Respondent's conduct was willful. Respondent committed the acts while knowing that, or showing reckless disregard for whether, the acts were prohibited, or failed to commit an act while knowing that, or showing reckless disregard for whether, the acts were required.

9. Respondent committed 1 count of violating Section 106.143(3), Florida Statutes, when he campaigned based on political party affiliation even though the office for which he was running was nonpartisan.

10. In determining the amount of the civil penalty, the Commission considered the mitigating and aggravating circumstances set forth in Section 106.265, Florida Statutes.

ORDER

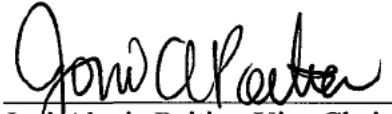
The Commission finds that Respondent has violated Section 106.143(3), on 1 occasion, and imposes a fine of \$500.

Therefore, it is

ORDERED that Respondent shall remit a civil penalty in the amount of \$500, inclusive.

of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, Collins Building, Suite 224, 107 West Gaines Street, Tallahassee, Florida 32399, within 30 days of the date this Final Order is filed with the Commission and must be paid by money order, cashier's check or attorney trust account check.

DONE AND ORDERED by the Florida Elections Commission on November 19, 2019.



Jori Alexis Poitier, Vice Chair
Florida Elections Commission

Copies furnished to:
Stephanie J. Cunningham, Assistant General Counsel
Kells Hetherington, Respondent
Michelle Salzman, Complainant

NOTICE OF RIGHT TO APPEAL

This order is final agency action. Any party who is adversely affected by this order has the right to seek judicial review pursuant to Section 120.68, Florida Statutes, by filing a notice of administrative appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Florida Elections Commission at 107 West Gaines Street, Suite 224, Collins Building, Tallahassee, Florida 32399-1050 and by filing a copy of the notice of appeal with the appropriate district court of appeal. The party must attach to the notice of appeal a copy of this order and include with the notice of appeal filed with the district court of appeal the applicable filing fees. **The notice of administrative appeal must be filed within 30 days of the date this order is filed with the Commission.** The date this order was filed appears in the upper right-hand corner of the first page of the order.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Kells Hetherington

Case No.: FEC 18-133

TO: Kells Hetherington
3100 Wisconsin Avenue NW, Apt. 103
Washington, DC 20016

Michelle Salzman
10296 Vintage Drive
Pensacola, FL 32514

NOTICE OF HEARING (INFORMAL HEARING)

A hearing will be held in this case before the Florida Elections Commission on, **November 19, 2019 at 8:30 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**. Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

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.

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

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

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

See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
November 1, 2019

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.

FILED

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STATE OF FLORIDA
ELECTIONS COMMISSION

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

Case No.: FEC 18-133

v.

**Kells Hetherington,
Respondent.**

ORDER OF PROBABLE CAUSE

THIS MATTER was heard by the Florida Elections Commission (Commission) at its regularly scheduled meeting on August 13, 2019, in Tallahassee, Florida.

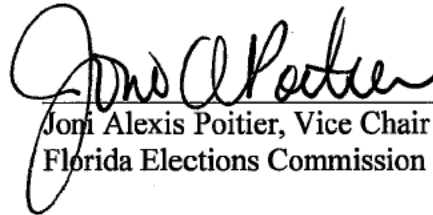
On July 11, 2019, Staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. The facts articulated in Staff's Recommendation are adopted by reference and incorporated herein. Based on the Complaint, Report of Investigation, Staff's Recommendation, and oral statements (if any) made at the probable cause hearing, the Commission finds that there is **probable cause** to charge Respondent with the following violation(s):

THIS SPACE INTENTIONALLY LEFT BLANK

Count 1:

On or about May 25, 2018, Kells Hetherington violated Section 106.143(3), Florida Statutes, when he campaigned based on party affiliation, even though the office for which he was running was nonpartisan.

DONE AND ORDERED by the Florida Elections Commission on August 13, 2019.


Joni Alexis Poitier, Vice Chair
Florida Elections Commission

Copies furnished to:
Stephanie J. Cunningham, Assistant General Counsel
Kells Hetherington, Respondent
Michelle Salzman, Complainant

NOTICE OF RIGHT TO A HEARING

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

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

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

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

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

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Kells Hetherington

Case No.: FEC 18-133

TO: Kells Hetherington
3100 Wisconsin Avenue NW, Apt. 103
Washington, DC 20016

Michelle Salzman
10296 Vintage Drive
Pensacola, FL 32514

NOTICE OF HEARING (PROBABLE CAUSE DETERMINATION)

A hearing will be held in this case before the Florida Elections Commission on, **August 13, 2019 at 9:30 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**. Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

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.

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See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
July 29, 2019

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2018 SC 004464 - HETHERINGTON, KELLS vs. FLORIDA ELECTIONS COMMISSION

SUMMARY		
Judge: KINSEY, PAT	Case Type: CLAIMS FROM \$501 TO \$2,500	Status: CLOSED
Case Number: 2018 SC 004464	Uniform Case Number: 172018SC004464000000	
Clerk File Date: 10/17/2018	Status Date: 12/6/2018	
SAO Case Number:	Total Fees Due: 0.00	
Agency:	Agency Report #:	Custody Location:

PARTIES		
TYPE	PARTY NAME	ATTORNEY
PLAINTIFF	HETHERINGTON, KELLS	
DEFENDANT	FLORIDA ELECTIONS COMMISSION	TEEKEN, ELIZABETH (Main Attorney)

EVENTS				
DATE	EVENT	JUDGE	LOCATION	RESULT
12/12/2018 1:00 PM	PRETRIAL CONFERENCE BY JUDGE	KINSEY, PAT	COURTROOM 401	CANCELLED

CASE HISTORY						
CASE NUMBER	CHARGE DESCRIPTION	CASE STATUS	DISPOSITION	OUTSTANDING AMOUNT	NEXT EVENT	ALERTS
No Additional Cases						

CASE DOCKETS		
IMAGE	DATE	ENTRY
Request	12/11/2018	PRETRIAL WORKSHEET
	12/6/2018	CASE CLOSED
Request	12/6/2018	ORDER GRANTING DEFENDANTS MOTION TO TRANSFER VENUE AND CANCELLING SMALL CLAIMS PRETRIAL
Request	12/5/2018	FLORIDA ELECTIONS COMMISSIONS MOTION TO TRANSFER VENUE
Request	12/5/2018	FLORIDA ELECTIONS COMMISSIONS MOTION TO DISMISS
Request	10/29/2018	SUMMONS RETURNED SERVED
Request	10/17/2018	PAYMENT \$189.55 RECEIPT #2018095636
Request	10/17/2018	SUMMONS ISSUED MAILED TO LEON COUNTY SHERIFF OFFICE & H/D TO PLA IN OFFICE
	10/17/2018	PRETRIAL CONFERENCE BY JUDGE SET FOR 12/12/2018 AT 1:00 PM IN DIV V/ , JDG: KINSEY, PAT
<input checked="" type="checkbox"/> 7	10/17/2018	COMPLAINT
	10/17/2018	KINSEY, PAT: ASSIGNED
	10/17/2018	CASE FILED 10/17/2018 CASE NUMBER 2018 SC 004464

COVER SHEET

CASE NAME: Heatherington v. FEC (Small Claims)

CASE NUMBER(S): Escambia County 2018 SC 4464

JUDGE: Hon. Pat Kinsey

ATTORNEY FOR FEC: Elizabeth Teegen (OAG)/Eric Lipman (FEC)

**OPPOSING ATTORNEY
& PHONE NUMBER:**

ENTRY	DATE	ITEM
1	10-17-18	Complaint Filed in Escambia County Small Claims
2	12-05-18	FEC Motion to Dismiss
3	12-05-18	FEC Motion to Transfer Venue
4	12-06-18	Order Granting Motion to Transfer Venue and Cancelling Small Claims Pretrial Hearing – Case Dismissed in 60 days Without Further Action Unless Plaintiff Properly Files in Leon County
5	02-04-18	Action: Nothing Filed in Leon County. Case is Dismissed
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IN THE COUNTY COURT IN AND FOR
ESCAMBIA COUNTY, FLORIDA

KELLS HETHERINGTON
10335 Gulf Beach Highway, Apt 708
Pensacola, FL 32507

Plaintiff,

vs.

Case No. 2018 SC 004464
Division 5

FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399

Defendant.

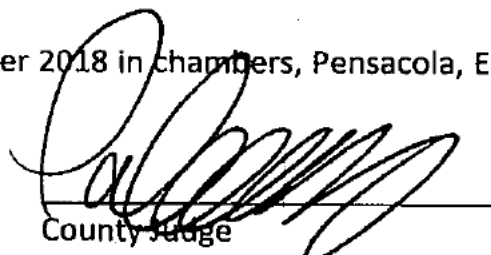
**ORDER GRANTING DEFENDANT'S MOTION TO TRANSFER VENUE
and CANCELLING SMALL CLAIMS PRETRIAL CONFERENCE**

The court received the defendant's motion to remove the case to Leon County and had been expecting the motion since the defendant was served with this Small Claims Case on October 29, 2018. The defendant is correct and this court has no jurisdiction to hear the case. The defendant also filed a Motion to Dismiss but the court has no authority (jurisdiction) to address this motion as only the Leon County Judge can consider the issues in this case. Therefore it is

ORDERED AND ADJUDGED that the defendant's Motion to Transfer Venue is granted. The plaintiff shall have sixty days from the date of this Order to complete the transfer by filing any additional paperwork and paying any additional monies due or this case shall stand dismissed without need for further hearing or Order of the court.

FURTHER ORDERED that the Small Claims Pretrial Conference currently scheduled to begin at 1:00 pm on December 12, 2018, is cancelled.

DONE AND ORDERED this 6th day of December 2018 in chambers, Pensacola, Escambia County, Florida.


County Judge

cc: Plaintiff
Elizabeth Teegen, Attorney for Defendant

**IN THE COUNTY COURT FOR ESCAMBIA COUNTY, FLORIDA
SMALL CLAIMS DIVISION**

KELLS HETHERINGTON,

Plaintiff,

v.

Case No. 2018 SC 4464
Division V

FLORIDA ELECTIONS
COMMISSION,

Defendant.

FLORIDA ELECTIONS COMMISSION'S MOTION TO TRANSFER VENUE

Defendant, Florida Elections Commission (FEC), by and through the undersigned attorney, hereby moves to transfer venue, and as reasons therefor would show:

1. This is an action in small claims court for monetary damages against the Florida Elections Commission.
2. Defendant, Florida Elections Commission, is a statutory entity created in section 106.24(1)(a), Florida Statutes, with jurisdiction to investigate and determine violations of chapter 104, Florida Statutes (Florida's Elections Code), and chapter 106, Florida Statutes (Florida's Campaign Financing law). The FEC maintains its headquarters at 107 West Gaines Street, Tallahassee, Leon County, Florida, 32399-1050. *See*, <http://www.fec.state.fl.us>.
3. Section 47.011, Florida Statutes, identifies where an action may be brought and specifically limits venue to "the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located."
4. The statement of claim fails to allege any cause of action that has accrued in Escambia County, and there is no property in litigation located in Escambia County, Florida.

PL-01 The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300
elizabeth.teegen@myfloridalegal.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S.

Mail to: Kells Hetherington, 10335 Gulf Beach Highway, Apt. 708, Pensacola, FL 32507 this 5th
day of December, 2018.

/s/ Elizabeth Teegen
Attorney

IN THE COUNTY COURT FOR ESCAMBIA COUNTY, FLORIDA
SMALL CLAIMS DIVISION

KELLS HEATHERINGTON,

Plaintiff,

v.

Case No. 2018 SC 4464
Division V

FLORIDA ELECTIONS
COMMISSION,

Defendant.

FLORIDA ELECTIONS COMMISSION'S MOTION TO DISMISS

Defendant, Florida Elections Commission (FEC), pursuant to rules 1.140(b)(1) and (b)(6), Fla.R.Civ.P., moves to dismiss the Statement of Claim for lack of subject matter jurisdiction and alternatively, moves to dismiss for failure to state a claim.

1. Plaintiff, Kells Hetherington, was a candidate in the 2018 non-partisan election for Escambia County School Board. *See*, https://ballotpedia.org/Kells_Hetherington.
2. Defendant, Florida Elections Commission, is a statutory entity with jurisdiction to investigate and determine violations of chapter 104 and 106, Florida Statutes.
3. This court has jurisdiction of matters of a civil nature demanding money or property with a value that does not exceed \$5,000.00. Fla.Sm.Cl.R. 7.010.
4. Plaintiff sues the FEC in this small claims matter, claiming:

[T]he Florida Elections Commission demanded that I give them [REDACTED] for exercising my right to political free speech. This was done arbitrarily, before any 'investigation' and upon threat of a more significant fine if I did not agree to this amount.

5. Other than these bare allegations, the statement of claim alleges no ultimate facts sufficient either to invoke this court's jurisdiction or to state a cause of action, and the complaint should be dismissed with prejudice.

MEMORANDUM OF LAW

When determining the merits of a motion to dismiss, the trial court's consideration is limited to the four corners of the complaint, the allegations of which must be accepted as true and considered in the light most favorable to the nonmoving party. *See Gladstone v. Smith*, 729 So.2d 1002, 1003 (Fla. 4th DCA 1999), cause dismissed, 773 So.2d 55 (Fla.2000); *Burtman v. Technical Chems. & Prods., Inc.*, 724 So.2d 672, 673 (Fla. 4th DCA 1999).

Reading the allegations in a light most favorable to plaintiff, it is evident that the allegations are wholly insufficient either to invoke the court's jurisdiction or to state a claim for violation of Plaintiff's First Amendment rights.

The statement of claim does not allege any action by the FEC other than plaintiff's bare allegation that the FEC "demanded" that he pay ██████ or explain why, or even if, Plaintiff actually paid ██████ to the FEC. Nor has plaintiff alleged any factual (or statutory) basis that would establish a right of action for monetary damages (as opposed to a refund) against the FEC in the amount of ██████, much less in the amount of \$530.00. Accordingly, plaintiff has failed to provide the bare minimum necessary to invoke this court's jurisdiction and the matter should be dismissed for lack of subject matter jurisdiction.

The claim should also be dismissed because it fails to state any cause of action, least of all a cause of action based on an infringement of plaintiff's First Amendment rights. No ultimate facts are alleged establishing that the FEC violated plaintiff's First Amendment rights.

Complaints filed pursuant to chapter 106 are confidential until the FEC makes a probable cause

determination. *See* § 106.25(7), Fa. Stat. As plaintiff has not alleged why he made a payment to the FEC, he has not stated a cause of action for monetary damages against the FEC.

Plaintiff alleges that the statement of claim is supported by attached documents, but the only documents attached are an email, a USPS return receipt card and three payment receipts. There are no allegations whether or how the email, the October 17, 2018 receipt, or the September 20, 2018 receipt for \$1.00 relate to a constitutional violation. Nor has plaintiff attached a receipt showing a payment of [REDACTED] to the FEC. While the September 20, 2018 USPS receipt for \$24.70 appears to prove that postage was paid on a Priority Mail Express package shipped to the Tallahassee address of the FEC, there are no allegations that explained the purpose of the mailing, the contents of the mailing, the relation of the mailing to this action, or how this mailing infringes upon plaintiff's First Amendment rights. Nor does plaintiff allege that the FEC acted outside of its statutory authority, or provide any short, plain statements of ultimate fact to support a claim of a First Amendment violation. *See* Rule 1.110(b)(6), Fla.R.Civ.P. Plaintiff's bare allegation of a constitutional violation is wholly inadequate to state a claim. *See Henzel v. Gerstein*, 608 F.2d 654 (5th Cir. 1979).

The statement of claim fails as a facial challenge to the validity of chapters 104 and 106, Florida Statutes, as well. As noted above, the FEC has authority to investigate and determine violations of chapters 104 and 106, Florida Statutes. This includes the laws regulating campaign advertising and financing. These statutes are constitutional, as they regulate political activity in an even-handed and neutral manner, and are grounded in valid state concerns of protecting the integrity of the election process. *See Doe v. Mortham*, 708 So.2d 929 (Fla. 1998).

WHEREFORE, for the reasons set forth above, the Florida Elections Commission respectfully requests that this court enter an order dismissing plaintiff's statement of claim with prejudice.

PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Elizabeth Teegen
Senior Assistant Attorney General
Fla. Bar No. 833274
Office of the Attorney General
Complex Litigation
PL-01 The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300
elizabeth.teegen@myfloridalegal.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail to: Kells Hetherington, 10335 Gulf Beach Highway, Apt. 708, Pensacola, FL 32507 this 5th day of December, 2018.

/s/ Elizabeth Teegen
Attorney

5. Applying section 47.111, Florida Statutes, venue does not lie in Escambia County, Florida but rather in Leon County, Florida.

6. In addition to the above, as a governmental agency of the State of Florida, the FEC enjoys the common law privilege of being sued only in the county of its headquarters. This privilege dates back to 1948 when the Florida Supreme Court judicially recognized the existence of the "home venue" doctrine. Smith v. Williams, 35 So. 2d 844 (Fla. 1948).

7. The only instance when the home venue privilege is not enforceable is when there is a waiver by the state agency or if there is an exception to the privilege. Florida Division of Pari-Mutual Wagering of Florida Department of Professional Regulation v. Florida Standardbred Breeders & Owners Association, Inc., 983 So. 2d 61 (Fla. 4th DCA 2008).

8. Plaintiff has not alleged any waiver of the privilege by the FEC nor the existence of an exception to the privilege. Further, the FEC has not waived its privilege nor are there any applicable exceptions to the privilege in this case.

9. Accordingly, enforcement of the FEC's home rule venue privilege requires a transfer of venue to the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida.

WHEREFORE, for the foregoing reasons, Defendant Florida Elections Commission respectfully requests that this matter be transferred to the Circuit Court for the Second Judicial Circuit in and for Leon County.

PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Elizabeth Teegen
Senior Assistant Attorney General
Fla. Bar No. 833274
Office of the Attorney General
Complex Litigation

2018 SC 004464 - HETHERINGTON, KELLS vs. FLORIDA ELECTIONS COMMISSION

SUMMARY		
Judge: KINSEY, PAT	Case Type: CLAIMS FROM \$501 TO \$2,500	Status: OPEN
Case Number: 2018 SC 004464	Uniform Case Number: 172018SC004464000000	
Clerk File Date: 10/17/2018	Status Date: 10/17/2018	
SAO Case Number:	Total Fees Due: 0.00	
Agency:	Agency Report #:	Custody Location:

PARTIES		
TYPE	PARTY NAME	ATTORNEY
PLAINTIFF	HETHERINGTON, KELLS	
DEFENDANT	FLORIDA ELECTIONS COMMISSION	

EVENTS				
DATE	EVENT	JUDGE	LOCATION	RESULT
12/12/2018 1:00 PM	PRETRIAL CONFERENCE BY JUDGE	KINSEY, PAT	DIVISION V COURT ROOM	

CASE HISTORY						
CASE NUMBER	CHARGE DESCRIPTION	CASE STATUS	DISPOSITION	OUTSTANDING AMOUNT	NEXT EVENT	ALERTS
No Additional Cases						

CASE DOCKETS		
	DATE	ENTRY
Request	10/17/2018	PAYMENT \$189.55 RECEIPT #2018095636
Request	10/17/2018	SUMMONS ISSUED MAILED TO LEON COUNTY SHERIFF OFFICE & H/D TO PLA IN OFFICE
	10/17/2018	PRETRIAL CONFERENCE BY JUDGE SET FOR 12/12/2018 AT 1:00 PM IN DIV V / , JDG: KINSEY, PAT
Request	10/17/2018	COMPLAINT
	10/17/2018	KINSEY, PAT: ASSIGNED
	10/17/2018	CASE FILED 10/17/2018 CASE NUMBER 2018 SC 004464

IN THE COUNTY COURT IN AND FOR
ESCAMBIA COUNTY, FLORIDA

KELLS HETHERINGTON
10335 GULF BEACH HIGHWAY APT708
PENSACOLA, FL 32507
PLAINTIFF,

Vs.

CASE NO: 2018 SC 004464
DIVISION: V

FLORIDA ELECTIONS COMMISSION
ATTN: STEPHANIE J CUNNINGHAM, ASSISTANT GENERAL COUNSEL
107 W GAINES STREET COLLINS BUILDING, SUITE 224
TALLAHASSEE, FL 32399-1050
DEFENDANT.

SUMMONS NOTICE TO APPEAR FOR PRETRIAL CONFERENCE

THE STATE OF FLORIDA to the above-named Plaintiff and Defendant:

YOU ARE HEREBY NOTIFIED that you are required to appear in person or by attorney at the M.C. BLANCHARD JUDICIAL BUILDING, 190 W GOVERNMENT ST, PENSACOLA, FLORIDA, 32502 in the courtroom assigned to PAT KINSEY on

WEDNESDAY, DECEMBER 12, 2018 at 1:00 PM,

for a PRETRIAL CONFERENCE BY JUDGE before a Judge of the Court.

**IMPORTANT - READ CAREFULLY - THE CASE WILL NOT BE TRIED AT THAT TIME.
DO NOT BRING WITNESSES - APPEAR IN PERSON OR BY ATTORNEY.**

The Defendant(s) must appear in court on the date specified in order to avoid a Default Judgment. The Plaintiff(s) must appear to avoid having the case dismissed for lack of prosecution. A written MOTION or ANSWER to the court by the Plaintiff(s) or the Defendant(s) shall not excuse the personal appearance of a party or its attorney at the PRETRIAL CONFERENCE BY JUDGE. The date and/or time of the pretrial conference cannot be rescheduled without good cause and prior court approval.

Any business entity recognized under Florida law may be represented at any stage of the trial court proceedings by any principal of the business entity who has legal authority to bind the business entity or any employee authorized in writing by a principal of the business entity. A principal is defined as being an officer, member, managing member, or partner of the business entity. Written authorization must be brought to the pretrial conference.

The purpose of the pretrial conference is to record your appearance, to determine if you admit all or part of the claim, to enable the court to determine the nature of the case, and to set the case for trial if the case cannot be resolved at the pretrial conference. You or your attorney should be prepared to explain briefly the nature of your dispute, state what efforts have been made to settle the dispute, exhibit any documents necessary to prove the case, state the names and addresses of your witnesses, stipulate to the facts that will require no proof and will expedite the trial, and estimate how long it will take to try the case.

Mediation may take place at the pretrial conference. Whoever appears for a business or company must have full authority to settle. Failure to have full authority to settle at this pretrial conference may result in the imposition of costs and attorney fees incurred by the opposing party.

If you admit the claim, but desire additional time to pay, you must come and state the circumstances to the Court. The Court may or may not approve a payment plan and withhold judgment or execution or levy.

RIGHT TO VENUE: The law gives the person or company who has sued you the right to file suit in any one of several places as listed below. However, if you have been sued in any place other than one of these places, you, as the Defendant(s), have the right to request that the case be moved to a proper location or venue. A proper location or venue may be one of the following: 1) Where the contract was entered into; 2) If suit is on unsecured promissory note, where the note is signed or where the maker resides; 3) If the suit is to recover property or to foreclose a lien, where the property is located; 4) Where the event giving rise to the suit occurred; 5) Where any one or more of the defendant(s) sued resides; 6) Any location agreed to in a contract; 7) In an action for money due, if there is no agreement as to where suit may be filed, proper venue lies in the county where payment is to be made. If you, as Defendant(s), believe the Plaintiff(s) has/have not sued in one of these correct places, you must appear on your court date and orally request a transfer, or you may file a WRITTEN request to transfer, in Affidavit form (sworn to under oath), with the court seven (7) days prior to your first court date and send a copy to the Plaintiff(s) or Plaintiff's attorney. A copy of the Statement of Claim shall be served with this Summons.

If you wish to file a counterclaim, you must file the original with court and send a copy to the plaintiff(s) at least five (5) days prior to your appearance date.

Witness, my hand and the seal of this Court on this 17th day of October, 2018

PAM CHILDERS
CLERK OF THE CIRCUIT COURT

By: *Telesia A. Wells*
Deputy Clerk



PLEASE REPORT TO COURTROOM ASSIGNED TO JUDGE PAT KINSEY AND BE INSIDE THE COURTROOM AT THE SCHEDULED TIME. THE COURTROOM WILL BE OPEN AT LEAST 10 MINUTES BEFORE THE HEARING TIME.

PROPER DRESS CODE REQUIRED

No shorts, capri pants, tank tops, halters or shower shoes permitted.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration, ADA Liaison Escambia County, 190 Governmental Center, 5th Floor, Pensacola, FL 32502, (850) 595-4400 Fax (850) 595-0360 ADA.Escambia@flcourts1.gov, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

IN THE COUNTY COURT IN AND FOR
ESCAMBIA COUNTY, FLORIDA

KELLS HETHERINGTON
10335 GULF BEACH HIGHWAY APT708
PENSACOLA, FL 32507
PLAINTIFF,

Vs.

FLORIDA ELECTIONS COMMISSION
ATTN: STEPHANIE J CUNNINGHAM, ASSISTANT GENERAL COUNSEL
107 W GAINES STREET COLLINS BUILDING, SUITE 224
TALLAHASSEE, FL 32399-1050
DEFENDANT.

CASE NO: 2018 SC 004464
DIVISION: A
SHERIFF, LEON COUNTY, FLORIDA
TRUE COPY SEAL

SUMMONS NOTICE TO APPEAR FOR PRETRIAL CONFERENCE

THE STATE OF FLORIDA to the above-named Plaintiff and Defendant:

YOU ARE HEREBY NOTIFIED that you are required to appear in person or by attorney at the M.C. BLANCHARD JUDICIAL BUILDING, 190 W GOVERNMENT ST, PENSACOLA, FLORIDA, 32502 in the courtroom assigned to PAT KINSEY on

WEDNESDAY, DECEMBER 12, 2018 at 1:00 PM,

for a PRETRIAL CONFERENCE BY JUDGE before a Judge of the Court.

IMPORTANT - READ CAREFULLY - THE CASE WILL NOT BE TRIED AT THAT TIME.
DO NOT BRING WITNESSES - APPEAR IN PERSON OR BY ATTORNEY.

The Defendant(s) must appear in court on the date specified in order to avoid a Default Judgment. The Plaintiff(s) must appear to avoid having the case dismissed for lack of prosecution. A written MOTION or ANSWER to the court by the Plaintiff(s) or the Defendant(s) shall not excuse the personal appearance of a party or its attorney at the PRETRIAL CONFERENCE BY JUDGE. The date and/or time of the pretrial conference cannot be rescheduled without good cause and prior court approval.

Any business entity recognized under Florida law may be represented at any stage of the trial court proceedings by any principal of the business entity who has legal authority to bind the business entity or any employee authorized in writing by a principal of the business entity. A principal is defined as being an officer, member, managing member, or partner of the business entity. Written authorization must be brought to the pretrial conference.

The purpose of the pretrial conference is to record your appearance, to determine if you admit all or part of the claim, to enable the court to determine the nature of the case, and to set the case for trial if the case cannot be resolved at the pretrial conference. You or your attorney should be prepared to explain briefly the nature of your dispute, state what efforts have been made to settle the dispute, exhibit any documents necessary to prove the case, state the names and addresses of your witnesses, stipulate to the facts that will require no proof and will expedite the trial, and estimate how long it will take to try the case.

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If you admit the claim, but desire additional time to pay, you must come and state the circumstances to the Court. The Court may or may not approve a payment plan and withhold judgment or execution or levy.

RIGHT TO VENUE: The law gives the person or company who has sued you the right to file suit in any one of several places as listed below. However, if you have been sued in any place other than one of these places, you, as the Defendant(s), have the right to request that the case be moved to a proper location or venue. A proper location or venue may be one of the following: 1) Where the contract was entered into; 2) If suit is on unsecured promissory note, where the note is signed or where the maker resides; 3) If the suit is to recover property or to foreclose a lien, where the property is located; 4) Where the event giving rise to the suit occurred; 5) Where any one or more of the defendant(s) sued resides; 6) Any location agreed to in a contract; 7) In an action for money due, if there is no agreement as to where suit may be filed, proper venue lies in the county where payment is to be made. If you, as Defendant(s), believe the Plaintiff(s) has/have not sued in one of these correct places, you must appear on your court date and orally request a transfer, or you may file a WRITTEN request to transfer, in Affidavit form (sworn to under oath), with the court seven (7) days prior to your first court date and send a copy to the Plaintiff(s) or Plaintiff's attorney. A copy of the Statement of Claim shall be served with this Summons.

If you wish to file a counterclaim, you must file the original with court and send a copy to the plaintiff(s) at least five (5) days prior to your appearance date.

SERVED THIS 23 DAY OF OCT
20 18 AT 11:22 A.M. P.M.
WALT McNEIL, SHERIFF OF LEON COUNTY FL
BY [Signature] 1507 DS

Witness, my hand and the seal of this Court on this 17th day of October, 2018

PAM CHILDERS
CLERK OF THE CIRCUIT COURT

By: Telesia Nello
Deputy Clerk



PLEASE REPORT TO COURTROOM ASSIGNED TO JUDGE PAT KINSEY AND BE INSIDE THE COURTROOM AT THE SCHEDULED TIME. THE COURTROOM WILL BE OPEN AT LEAST 10 MINUTES BEFORE THE HEARING TIME.

PROPER DRESS CODE REQUIRED
No shorts, capri pants, tank tops, halters or shower shoes permitted.

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RECEIVED THIS DAY OF _____ 2018
AT _____ PM
WALT MONTGOMERY SHERIFF OF ESCAMBIA COUNTY
DO _____

IN THE COUNTY COURT, IN AND FOR ESCAMBIA, COUNTY, FLORIDA
SMALL CLAIMS DIVISION

Kells Hetherington
Name
10335 Gulf Beach Highway, Apt 708
Street Address
Pensacola, FL, 32507
City, State, Zip
Phone
202-431-0482

Plaintiff,
vs. Florida Elections Commission
ATTN: Stephanie J. Cunningham
Assistant General Counsel

CASE NO.: 2018 SC004464
Division:

Name
107 W. Gaines Street
Collins Building, Suite 224
Street Address
Tallahassee, FL 32399-1050
City, State, Zip

Defendant.

PAM CHILDERS
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL
2018 OCT 17 A 11:10
COUNTY CIVIL DIVISION
FILED & RECORDED

STATEMENT OF CLAIM

Plaintiff, sues defendant, and alleges:

Very simply, the Florida Elections Commission demanded that I give them [redacted] for exercising my right to political free speech. This was done arbitrarily, before any "investigation" and upon threat of a more significant fine if I did not agree to this amount. The action is in clear violation of my First Amendment right to free speech. I'm including the applicable documents and demanding a refund of the fine, the mailing expense, the cost to get a money order from the US Postal Service, the cost to consult an attorney, as well as the cost to initiate and serve this lawsuit. Additionally, I am demanding interest of 9% per year on the funds expended and jury trial. I want my fellow citizens to hear and decide this case.

WHEREFORE, plaintiff demands judgment for damages in the amount of \$ 530 and \$ 185 Court costs plus Sheriff's fees of \$ 40.00 against defendant.
+3.50
188.50

Kells Hetherington
Plaintiff (or agent)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

Before the undersigned authority this day personally appeared PLAINTIFF being first duly sworn on oath, says the foregoing is just and true statement of the amount owing by Defendant to Plaintiff, exclusive of all set-offs and just grounds of defense. FL Driver's License # 216-912-78-4540
Sworn to and subscribed to before me this 17th day of October, 2018.

PAM CHILDERS, CLERK & COMPTROLLER



Stephanie J. Cunningham
Deputy Clerk

NOTICE: THIS DOCUMENT REQUIRES AN OFFICIAL COURT SUMMONS WITH SIGNATURE AND THE OFFICIAL COURT SEAL AFFIXED THERETO.

First Amendment Activities

Apply landmark Supreme Court cases to contemporary scenarios related to the five pillars of the First Amendment and your rights to freedom of religion, speech, press, assembly, and petition.

'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for redress of grievances.' *First Amendment, U.S. Constitution*

Activities

[Cox v. New Hampshire \(/educational-resources/educational-activities/cox-v-new-hampshire\)](#)

Protests and freedom to assemble

[Elonis v. U.S. \(/educational-resources/educational-activities/elonis-v-us\)](#)

Facebook and free speech

[Engel v. Vitale \(/educational-resources/educational-activities/engel-v-vitale\)](#)

Prayer in schools and freedom of religion

[Hazelwood v. Kuhlmeier \(/educational-resources/educational-activities/hazelwood-v-kuhlmeier\)](#)

Student newspapers and free speech

[Morse v. Frederick \(/educational-resources/educational-activities/morse-v-frederick\)](#)

School-sponsored events and free speech

[Snyder v. Phelps \(/educational-resources/educational-activities/snyder-v-phelps\)](#)

Public concerns, private matters, and free speech

[Texas v. Johnson \(/educational-resources/educational-activities/texas-v-johnson\)](#)

Flag burning and free speech

[U.S. v. Alvarez \(/educational-resources/educational-activities/us-v-alvarez\)](#)

Lies and free speech



Kells Hetherington <kellshetherington@gmail.com>

\$300 payment

1 message

Kells Hetherington <kellshetherington@gmail.com>

Thu, Jun 28, 2018 at 5:11 PM

To: gdsmithlaw@aol.com, Michelle Wells <michellewells100@aol.com>

Hi Greg, Details to charge my Visa debit card \$300 for one hour of your time are below. Best, Kells

card number [REDACTED]

Expiration date 08/19

Security code on the back is [REDACTED]

And my name as it appears on the card is Kells L Hetherington

—
Kells Hetherington

Cell: (202) 431-0482

=====

DOWNTOWN PENSACOLA
101 PALAFOX PL
PENSACOLA
FL

32502-5629
1174150002

10/17/2018 (800)275-8777 10:56 AM

=====

Product Description	Sale Qty	Final Price
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Dom M.O. - Value		\$40.00
------------------	--	---------

(Serial#:24403949594)

Dom M.O. Fee		\$1.20
--------------	--	--------

Total		\$41.20
--------------	--	----------------

Debit Card Remit'd		\$41.20
--------------------	--	---------

(Card Name:VISA)

(Account #:XXXXXXXXXXXX6903)

(Approval #:)

(Transaction #:106)

(Receipt #:012928)

(Debit Card Purchase:\$41.20)

(Cash Back:\$0.00)

(AID:A0000000980840 .Chip)

(AL:US DEBIT)

(PIN:Verified)

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840-5320-0176-003-00019-70664-01

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your mobile device:



or call 1-800-410-7420.

YOUR OPINION COUNTS

Bill #: 840-53200176-3-1970664-1
Clerk: 1

CUSTOMER USE ONLY

FROM: (PLEASE PRINT) PHONE ()
 Kells Hetherington
 735 Gulf Beach Highway
 Apt 708
 Pensacola, FL 32507

PENSACOLA, FL
 DOWNTOWN STA.
 SEP 20 2018



PAYMENT BY ACCOUNT (if applicable)

USPS Corporate Acct. No. Federal Agency Acct. No. or Postal Service™ Account No.

POSTAL SERVICE USE ONLY

<input type="checkbox"/> 1-Day	<input type="checkbox"/> 2-Day	<input type="checkbox"/> Military	<input type="checkbox"/> DPO
PO ZIP Code 32502	Scheduled Delivery Date (MM/DD/YY) 9/21/18	Postage \$ 24.70	
Date Accepted (MM/DD/YY) 9/20/18	Scheduled Delivery Time <input type="checkbox"/> 10:30 AM <input checked="" type="checkbox"/> 3:00 PM <input type="checkbox"/> 12 NOON	Insurance Fee \$	COD Fee \$
Time Accepted 4:32 PM	10:30 AM Delivery Fee \$	Return Receipt Fee \$	Live Animal Transportation Fee \$
Special Handling/Fragile \$	Sunday/Holiday Premium Fee \$	Total Postage & Fees \$ 24.70	
Weight 1.50 lbs	Acceptance Employee Initials Ym		

DELIVERY OPTIONS (Customer Use Only)
 SIGNATURE REQUIRED Note: The mailer must check the "Signature Required" box if the mailer: 1) requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mailbox or other secure location without attempting to obtain the addressee's signature on delivery.
Delivery Options
 No Saturday Delivery (delivered next business day)
 Sunday/Holiday Delivery Required (additional fee, where available)
 10:30 AM Delivery Required (additional fee, where available)
 *Refer to USPS.com® or local Post Office™ for availability.

TO: (PLEASE PRINT) PHONE ()
 Florida Elections Commission
 107 West Gaines Street
 Collins Building, suite 224
 Tallahassee, FL 32399-1050

ZIP: (ADDRESSES ONLY)

DELIVERY (POSTAL SERVICE USE ONLY)

Delivery Attempt (MM/DD/YY)	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Attempt (MM/DD/YY)	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature

For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.
 \$100.00 Insurance included.



CUSTOMER'S RECEIPT

SEE BACK OF THIS RECEIPT
FOR IMPORTANT CLAIM
INFORMATION

Pay to
Address

\$1.00 sel

KEEP THIS
RECEIPT FOR
YOUR RECORDS

**NOT
NEGOTIABLE**

Serial Number

24403948132

Year, Month, Day

2018-09-20

Post Office

325010

Amount

Clerk

1

=====

DOWNTOWN PENSACOLA
101 PALAFOX PL
PENSACOLA
FL

32502-5629
1174150002

09/20/2018 (800)275-8777 4:34 PM

=====

Product Description	Sale Qty	Final Price
---------------------	----------	-------------

PM Exp 1-Day Flat Rate Env	1	\$24.70
----------------------------	---	---------

(Domestic)
(TALLAHASSEE, FL 32399)
(Flat Rate)
(Signature Waiver)
(Scheduled Delivery Date)
(Friday 09/21/2018 03:00 PM)
(Money Back Guarantee)
(USPS Tracking #)
(EE245211985US)

PM Exp Insurance	1	\$0.00
------------------	---	--------

(Up to \$100.00 included)

Total \$24.70

Credit Card Remitd \$24.70

(Card Name:VISA)
(Account #:XXXXXXXXXX6772)
(Approval #:020972)
(Transaction #:339)
(AID:A000000031010 Chip)
(AL:VISA CREDIT)
(PIN:Not Required)

Includes up to \$100 insurance

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your mobile device:



or call 1-800-410-7420.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Kells Hetherington

Case No.: FEC 18-133

STAFF RECOMMENDATION FOLLOWING INVESTIGATION

Pursuant to Section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the sworn complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.143(3), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on May 1, 2019, the following facts and law support this staff recommendation:

1. On May 25, 2018, the Florida Elections Commission (“Commission”) received a sworn complaint from Michelle Salzman (“Complainant”), alleging that Kells Hetherington (“Respondent”) violated Chapter 106, Florida Statutes.

2. Respondent was a 2018 candidate for Escambia County School Board, District 2. Respondent’s Statement of Candidate form was filed on April 27, 2018. (ROI Exhibit 8)¹

3. By letter dated July 25, 2018, the Executive Director notified Respondent that Commission staff would investigate the following statutory provision:

Section 106.143(3), Florida Statutes: Respondent, a 2018 candidate for Escambia County School Board, District 2, campaigned based on his party affiliation, even though the office for which he was running was nonpartisan, as alleged in the complaint.

4. On April 27, 2018, Respondent acknowledged that he had been provided access to Chapter 106, Florida Statutes. (ROI Exhibit 8) Additionally, Respondent’s filing officer provided Respondent with a copy of the *2018 Candidate and Campaign Treasurer Handbook* as well as the *2018 Escambia County Candidate Handbook*. (ROI Exhibit 7, page 1)

5. Complainant alleged that Respondent violated Florida’s election laws by campaigning based on party affiliation even though the office for which he was running was nonpartisan.

6. The race for Escambia County School Board, District 2 was a nonpartisan race. (ROI Exhibit 2, page 3). On June 22, 2018, Respondent filed a nonpartisan candidate oath. (ROI Exhibit 2, page 4)

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

7. Complainant provided a printout of Respondent's candidate statement from the Escambia County Supervisor of Elections' website. The statement contains the following language: "A lifelong Republican, I was raised in the Congregationalist Church. . . . I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board [M]ember." (ROI Exhibit 3) A more recent printout from the website shows a revised statement which changed the word "Republican" to "conservative." (ROI Exhibit 6)

8. Respondent stated that, "my biography can damn well say that I'm a life-long Republican. My First Amendment right to free speech is not abridged simply because I'm running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done." (ROI Exhibit 4, page 1) He stated that a civil penalty has already been paid for the alleged infraction², Commission staff's affidavit seeks to build a case on self-incrimination and lacks professionalism, and that legal remedies for intentional infliction of emotional distress are being considered by Respondent. (Attachment C) Respondent also stated that Complainant is stalking him, accuses Commission staff of leaking information to the Complainant, and threatened litigation. (Attachment D)

9. The Division of Elections' has issued multiple opinions interpreting this section of law. Opinion DE 03-02 provides that: (1) A candidate for nonpartisan municipal office is prohibited from campaigning based upon party affiliation; (2) information stating a nonpartisan candidate's political affiliation may not appear in the candidate's political advertisements; and (3) nonpartisan candidates may not publicly represent or advertise themselves as a member of any political party.

10. Opinion DE 10-02 provides that: (1) The Election Code does not define "campaigning," however, according to *Black's Law Dictionary*, it includes all acts done to bring about a candidate's election; and (2) a message by a candidate posted in a free forum (which would, therefore, not be considered a political advertisement) could, depending on the content of the message, constitute "campaigning" under Section 106.143(3), Florida Statutes.

11. The relevant statute at issue provides: "A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation. . . . A candidate for nonpartisan office is prohibited from campaigning based on party affiliation." Respondent's candidate statement is not a political advertisement as it does not contain express advocacy. However, Respondent campaigned based on political party affiliation when he supplied a statement to be published on his filing officer's website that states that he is a Republican.

12. "Probable Cause" is defined as reasonable grounds of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has

² This case was eligible to be resolved through execution of a minor violation consent order and payment of a fine. Rule 2B-1.003(2)(j), F.A.C. Respondent initially accepted the minor violation consent order but thereafter filed a lawsuit against the Commission stating that the Commission "demanded that I give them [REDACTED]. . . This was done arbitrarily, before any 'investigation' and upon threat of a more significant fine if I did not agree to this amount. . . I'm . . . demanding a refund of the fine . . ." (Attachment A) Based upon Respondent's statements in his lawsuit, Commission staff determined that Respondent rejected the minor violation consent order and mailed the fine payment to Respondent per his request. (Attachment B)

committed the offense charged. *Schmitt v. State*, 590 So. 2d 404, 409 (Fla. 1991). Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Department of Highway Safety and Motor Vehicles v. Favino*, 667 So. 2d 305, 309 (Fla. 1st DCA 1995).

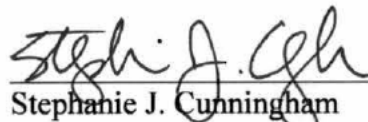
13. The facts set forth above show that Respondent was a 2018 candidate for Escambia County School Board, District 2. Respondent campaigned based on party affiliation even though the office for which he was running was nonpartisan.

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


Count 1:

On or about May 25, 2018, Kells Hetherington violated Section 106.143(3), Florida Statutes, when he campaigned based on party affiliation, even though the office for which he was running was nonpartisan.

Respectfully submitted on July 11, 2019.


Stephanie J. Cunningham
Assistant General Counsel

I reviewed this Staff Recommendation this 11th day of July 2019.


Tim Vaccaro
Executive Director

IN THE COUNTY COURT, IN AND FOR ESCAMBIA, COUNTY, FLORIDA
SMALL CLAIMS DIVISION

Kells Hetherington

Name
10335 Gulf Beach Highway, Apt 708

Street Address
Pensacola, FL, 32507

City, State, Zip
202-431-0482

Phone
Plaintiff,

vs. Florida Elections Commission
ATTN: Stephanie J. Cunningham
Assistant General Counsel

CASE NO.: 2018 SC004464
Division: ✓

Name
107 W. Gaines Street
Collins Building, Suite 224

Street Address
Tallahassee, FL 32399-1050

City, State, Zip
Defendant.

PAM CHILDERS
CLERK OF CIRCUIT COURT
IN ESCAMBIA COUNTY, FL
2018 OCT 17 A 11:10
COUNTY CIVIL DIVISION
FILED & RECORDED

STATEMENT OF CLAIM

Plaintiff, sues defendant, and alleges:

Very simply, the Florida Elections Commission demanded that I give them [redacted] exercising my right to political free speech. This was done arbitrarily, before any "investigation" and upon threat of a more significant fine if I did not agree to this amount. The action is in clear violation of my First Amendment right to free speech. I'm including the applicable documents and demanding a refund of the fine, the mailing expense, the cost to get a money order from the US Postal Service, the cost to consult an attorney, as well as the cost to initiate and serve this lawsuit. Additionally, I am demanding interest of 9% per year on the the funds expended and jury trial. I want my fellow citizens to hear and decide this case.

WHEREFORE, plaintiff demands judgment for damages in the amount of \$ 530 and \$ 185 Court costs plus Sheriff's fees of \$ 40.00 against defendant.

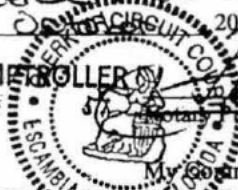
+ 3.50
188.50

Kells Hetherington
Plaintiff (or agent)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

Before the undersigned authority this day personally appeared PLAINTIFF being first duly sworn on oath, says the foregoing is just and true statement of the amount owing by Defendant to Plaintiff, exclusive of all set-offs and just grounds of defense. FL Driver's License # 2018-012-78-4542
Sworn to and subscribed to before me this 17th day of October 2018

PAM CHILDERS, CLERK & COMPTROLLER



Stephanie J. Cunningham
Deputy Clerk

My Commission expires _____
NOTICE: THIS DOCUMENT REQUIRES AN OFFICIAL COURT SUMMONS WITH SIGNATURE AND THE OFFICIAL COURT SEAL AFFIXED THERETO.

Attachment A



FLORIDA ELECTIONS COMMISSION

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

March 19, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1626 7374 38

Kells Hetherington
10335 Gulf Beach Hwy, Apt. 708
Pensacola, FL 32507

RE: FEC 18-133 – Kells Hetherington

Dear Mr. Hetherington:

Please see enclosed your money order in the amount of [REDACTED]. Based on the allegations set forth in your Statement of Claim filed in Escambia County, it is clear that you have rejected the minor violation consent order. Therefore, the money order is being returned to you. The Commission staff will conduct an investigation, and then the Commission will hold one or more hearings to determine whether the violation(s) alleged in the complaint occurred and, if so, the amount of the fine to be imposed upon you, if any. If you have any questions, please contact me by email at Stephanie.Cunningham@myfloridalegal.com.

Sincerely,

Stephanie J. Cunningham

Assistant General Counsel

Enclosure(s): Money Order

		POSTAL MONEY ORDER	
Serial Number		[REDACTED]	
24403948132		Clerk 1	
Pay to	Florida Elections Commission	From	Kells Hetherington
Address	107 West Gaines St Collins Building, Suite 224	Address	10335 Gulf Beach Hwy, Apt 708
Memo	Tallahassee, FL 32399		Pensacola, FL 32507
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⑈00000800 2⑈		24403948132⑈	

Attachment B

Stephanie Cunningham

From: John Hetherington <jwhetherington@gmail.com>
Sent: Thursday, May 23, 2019 4:53 PM
To: Stephanie Cunningham
Subject: Notice of Withdrawal
Attachments: FEC Letter 2019.docx

Please note the attached Notice of Withdrawal. I will be out of the US for a period of time.

Thank you and good wishes.

John Hetherington

Attachment 1 C

Ms. Donna Ann Malphurs
Agency Clerk
Florida Elections Commission
107 W. Gaines Street, Suite 224
Collins Building
Tallahahassee, Florida 32399-1050

CC. Stephanie Cunningham, Esq.

Ref.; Case No.: FEC 18-133

Reference is made to the to the Report of Investigation in this matter dated May 1, 2019 which I have received. The following is noted:

First, the penalty for this alleged infraction has already been paid and accepted, thus the matter should be deemed concluded.

Proceeding to the text of the subject Report; however, the following is submitted:

Exhibit 5 is actually listed as an "Affidavit." It is incomplete, lacks an attestation and is therefore not an affidavit. The substance moreover seeks to build a case based on self-incrimination, demonstrating a clumsy indifference to professionalism as well as justice.

Further, your department needs to be aware that the Respondent and his wife continue to be a target of harassment by the Complainant, Michelle Salzman. This relentless harassment has a confirmed impact on Mrs. Hetherington and it may be assumed that legal remedies including damages for the intentional infliction of emotional injury are being considered.

An illustration of the continuing senseless and vindictive moves by Michelle Salzman is provided in Exhibits A-. Mrs Salzman notes that that the school board election was a year earlier, while persisting in maligning the Respondent with no provocation whatever.

The Complainant

Yours, etc.

John W. Hetherington
Attorney for Respondent

Stephanie Cunningham

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Thursday, June 27, 2019 4:09 PM
To: Donna Malphurs
Cc: Stephanie Cunningham; Florida Elections Commission; Eric Lipman; Timothy Vaccaro
Subject: Re: REVISED Further comments to be added to the record

Stephanie:

In the hope that we can avoid time-consuming and expensive federal litigation, please direct your attention to the precedent-setting cases *Pearson v. Shalala 164 F.3d 650 (D.C. Cir. 1999)* and *Central Hudson Gas & Electric Corp. v. Public Service Commission (U.S. Sup Ct. 1980)*.

In conclusion, I repeat and emphasize my previous remarks: if actions by the commission cause my name to be smeared in any way, I will bring action in state court to recover monetary damages for defamation and retaliation. You've treated this case very differently from others because you're angry that I brought suit against the state.

Sincerely yours, Kells Hetherington

On Thu, Jun 27, 2019 at 8:25 AM Donna Malphurs <Donna.Malphurs@myfloridalegal.com> wrote:

Mr. Hetherington,

Thank you for your email for inclusion in the case materials provided to the members of the Commission when hearing your case. Please note that there were no attachments received as indicated in your email.

Sincerely,

Donna Ann Malphurs
Agency Clerk

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Thursday, June 27, 2019 12:03 AM
To: Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>; Florida Elections Commission <fec@myfloridalegal.com>; Eric Lipman <Eric.Lipman@myfloridalegal.com>; Timothy Vaccaro <Timothy.Vaccaro@myfloridalegal.com>; Donna Malphurs <Donna.Malphurs@myfloridalegal.com>
Subject: Re: REVISED Further comments to be added to the record

On Wed, Jun 26, 2019 at 11:00 PM Kells Hetherington <kellshetherington@gmail.com> wrote:

Stephanie:

It has come to my attention that you are personally leaking information about me in near real-time to the original complainant, Michelle Salzman, who as you know has been stalking me for more than a year now.

On May 23, my attorney said the following to you in an email:

Further, your department needs to be aware that the Respondent and his wife continue to be a target of harassment by the Complainant, Michelle Salzman. This relentless harassment has a confirmed impact on Mrs. Hetherington and it may be assumed that legal remedies including damages for the intentional infliction of emotional injury are being considered.

An illustration of the continuing senseless and vindictive moves by Michelle Salzman is provided in Exhibits A-. Mrs. Salzman notes that the school board election was a year earlier, while persisting in maligning the Respondent with no provocation whatever.

Moments after that message was sent to you, the offending post was deleted from Michelle Salzman's Facebook page because your office contacted her.

Stephanie, to be charitable, your 'investigation' has gone rogue. You are investigating me because you believe that I exercised my constitutionally protected right to political free speech, and in the process, you have thoroughly abused your agency's investigatory authority by soliciting information about me through your investigator that is beyond the scope or purpose of your investigation. For example, asking me to provide the name of my employer or when such employment began is beyond the pale.

My earlier remarks concerning accord and satisfaction are included here as exhibits for the record. Also included for the public record is a complete transcript of the online stalking and harassment of

me by Michelle Salzman over the past year. I'm demanding that it be included in the public record for everyone's entertainment.

Should you feel the need to communicate further with me, please direct your correspondence by US certified mail to the address below:

Mr. Kells Hetherington

3100 Wisconsin Ave NW

Apt 103

Washington, DC 20016

If necessary, I will bring a federal civil rights lawsuit or sue you personally alongside the state for harassment. The "stripping doctrine" allows for citizens to sue government employees in their individual capacity where they have exceeded the bounds of their authority.

Sincerely yours, Kells Hetherington

--
Kells Hetherington

Cell: (202) 431-0482

--
Kells Hetherington

Cell: (202) 431-0482

Donna Malphurs

From: Kells Hetherington <kellshetherington@gmail.com>
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To: Stephanie Cunningham; Florida Elections Commission; Eric Lipman; Timothy Vaccaro; Donna Malphurs
Subject: Re: REVISED Further comments to be added to the record

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Washington, DC 20016

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Sincerely yours, Kells Hetherington

--
Kells Hetherington

Cell: (202) 431-0482

ADDRESS ONLY

Mr. Robert
1234 Main St
Anytown, IL 60000

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CHICAGO, IL

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2-DIMENSIONAL POSTAGE



Kells Hetherington <kellshetherington@gmail.com>

Fwd: FEC 18-133 - Settlement Offer

1 message

Kells Hetherington <kellshetherington@gmail.com>

Mon, Apr 1, 2019 at 3:01 AM

To: Hope Hetherington <hlhetherington@gmail.com>, John Hetherington <jwhetherington@gmail.com>

----- Forwarded message -----

From: **Stephanie Cunningham** <Stephanie.Cunningham@myfloridalegal.com>

Date: Tue, Sep 4, 2018 at 9:21 AM

Subject: FEC 18-133 - Settlement Offer

To: kellshetherington@gmail.com <kellshetherington@gmail.com>

Mr. Hetherington:

Please see attached Consent Order, for your review. If you agree with the content, please sign and return the original order to my office (address in signature block below) along with a cashier's check or money order (good for at least 120 days) in the amount of [REDACTED]. The signed original order and payment must be received by September 21, 2018. The funds must be made payable to the Florida Elections Commission.

Please let me know if you have any questions.

Stephanie J. Cunningham

Assistant General Counsel

Florida Elections Commission

107 W. Gaines Street

Collins Building, Suite 224

Tallahassee, FL 32399-1050

stephanie.cunningham@myfloridalegal.com

(850) 922-4539

(850) 921-0783 fax

www.fec.state.fl.us**From:** Rebecca Marsey <Rebecca.Marsey@myfloridalegal.com> **On Behalf Of** Florida Elections Commission**Sent:** Tuesday, September 04, 2018 9:26 AM**To:** Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>**Subject:** Fw: settlement agreement

5/17/2019

Gmail - Fwd: FEC 18-133 - Settlement

----- Forwarded by Rebecca Marsey/OAG on 09/04/2018 09:25 AM -----

From: "Kells Hetherington" <kellshetherington@gmail.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>
Date: 08/31/2018 07:08 PM
Subject: settlement agreement


Ms. Cunningham, I accept the state's offer to settle the matter involving my campaign for [REDACTED]. Please tell me where to send the check. Best, Kells Hetherington

--
Kells Hetherington

Cell: (202) 431-0482

--
Kells Hetherington

Cell: (202) 431-0482

 **MVCO_Heatherington.pdf**
19K



Kells Hetherington <kellshetherington@gmail.com>

Re: FEC 18-133 - Settlement Offer

1 message

Kells Hetherington <kellshetherington@gmail.com>
To: Stephanie.Cunningham@myfloridalegal.com

Thu, Sep 20, 2018 at 2:04 PM

We are mailing this. Best, Kells

On Tue, Sep 4, 2018 at 9:21 AM Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com> wrote:

Mr. Hetherington:

Please see attached Consent Order, for your review. If you agree with the content, please sign and return the original order to my office (address in signature block below) along with a cashier's check or money order (good for at least 120 days) in the amount of [REDACTED]. The signed original order and payment must be received by September 21, 2018. The funds must be made payable to the Florida Elections Commission.

Please let me know if you have any questions.

Stephanie J. Cunningham
Assistant General Counsel
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
stephanie.cunningham@myfloridalegal.com
(850) 922-4539
(850) 921-0783 fax
www.fec.state.fl.us

From: Rebecca Marsey <Rebecca.Marsey@myfloridalegal.com> **On Behalf Of** Florida Elections Commission
Sent: Tuesday, September 04, 2018 9:26 AM
To: Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>
Subject: Fw: settlement agreement

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From: "Kells Hetherington" <kellshetherington@gmail.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>
Date: 08/31/2018 07:08 PM
Subject: settlement agreement

Ms. Cunningham, I accept the state's offer to settle the matter involving my campaign for [REDACTED] Please tell me where to send the check. Best, Kells Hetherington

--

Kells Hetherington

Cell: (202) 431-0482

--

Kells Hetherington

Cell: (202) 431-0482



Kells Hetherington <kellshetherington@gmail.com>

Re: Certified Mail

1 message

Kells Hetherington <kellshetherington@gmail.com>

Mon, Apr 8, 2019 at 3:23 PM

To: Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>

Stephanie:

As far as we're concerned, the matter with the election commission is concluded. I accepted, signed and had notarized the "Settlement Offer" that you sent to me by email on September 4, 2018. As prescribed, I then returned by mail the signed copy of the agreement along with a payment for [REDACTED]. I sent those things to the commission Priority Mail on September 20, 2018, and they were delivered the following day as required. When my certified check was not returned within 90 days, there was accord and satisfaction per state statute.

Despite what your March 22, 2019 email seems to suggest, the Voluntary Payments Doctrine does not apply to situations involving the state where the Rebuttal Presumption is always that an agreement to pay a fine or tax is entered into under duress. As such, my acceptance of the settlement offer was never affected by my lawsuit.

The argument that there is no contract because the money order was never negotiated is neither here nor there. Per state statute, possession of a certified payment such as a money order beyond 90 days is acceptance, and accord and satisfaction. The actual negotiating of the financial instrument is not necessary.

Your negotiations with me have been in bad faith. Almost six months after accepting my payment, you want to welch on the agreement that you offered me and that I accepted. Also, the idea that you are somehow rejecting the agreement now because I sued you is completely inaccurate. My lawsuit was not filed until October 17, 2018 and the commission met on October 8, 2018. You had my agreement in hand for 18 days when the commission met in October. Obviously, you never intended to participate in this agreement.

Again, as far as we're concerned, this matter is concluded, but if it continues, we have a top-notch law firm ready to litigate.

Sincerely yours, Kells Hetherington

On Fri, Mar 22, 2019 at 9:13 AM Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com> wrote:

Mr. Hetherington:

Attached is a copy of the letter/money order that was mailed to your attention.

Stephanie J. Cunningham

Assistant General Counsel

Florida Elections Commission

107 W. Gaines Street

Collins Building, Suite 224.

Tallahassee, FL 32399-1050

stephanie.cunningham@myfloridalegal.com

(850) 922-4539

(850) 921-0783 fax

5/17/2019

Gmail - Re: Certified Mail

www.fec.state.fl.us

--

Kells Hetherington

Cell: (202) 431-0482



FLORIDA ELECTIONS COMMISSION

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

March 19, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1626 7374 38

Kells Hetherington
10335 Gulf Beach Hwy, Apt. 708
Pensacola, FL 32507

RE: FEC 18-133 – Kells Hetherington

Dear Mr. Hetherington:

Please see enclosed your money order in the amount of [REDACTED]. Based on the allegations set forth in your Statement of Claim filed in Escambia County, it is clear that you have rejected the minor violation consent order. Therefore, the money order is being returned to you. The Commission staff will conduct an investigation, and then the Commission will hold one or more hearings to determine whether the violation(s) alleged in the complaint occurred and, if so, the amount of the fine to be imposed upon you, if any. If you have any questions, please contact me by email at Stephanie.Cunningham@myfloridalegal.com.

Sincerely,

Stephanie J. Cunningham
Assistant General Counsel

Enclosure(s): Money Order

UNITED STATES POSTAL SERVICE		POSTAL MONEY ORDER	
Serial Number	7618-019-020	32507 Office	U.S. Dollars and Cents
24403948132	[REDACTED]	[REDACTED]	[REDACTED]
Pay to Florida Elections Commission	Amount	1	Class
Address 107 West Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399	From Kells Hetherington	Address 10335 Gulf Beach Hwy, Apt 708 Pensacola, FL 32507	
© 2008 United States Postal Service. All Rights Reserved.		SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS	

Michelle Salzman's year-long criminal stalking campaign as aided and abetted by the Florida Elections Commission in pictures (Courtesy Facebook)

Here's a post from Michelle just days before she files her Florida elections commission complaint...



Michelle Salzman

May 15 at 8:16 AM · 🌐

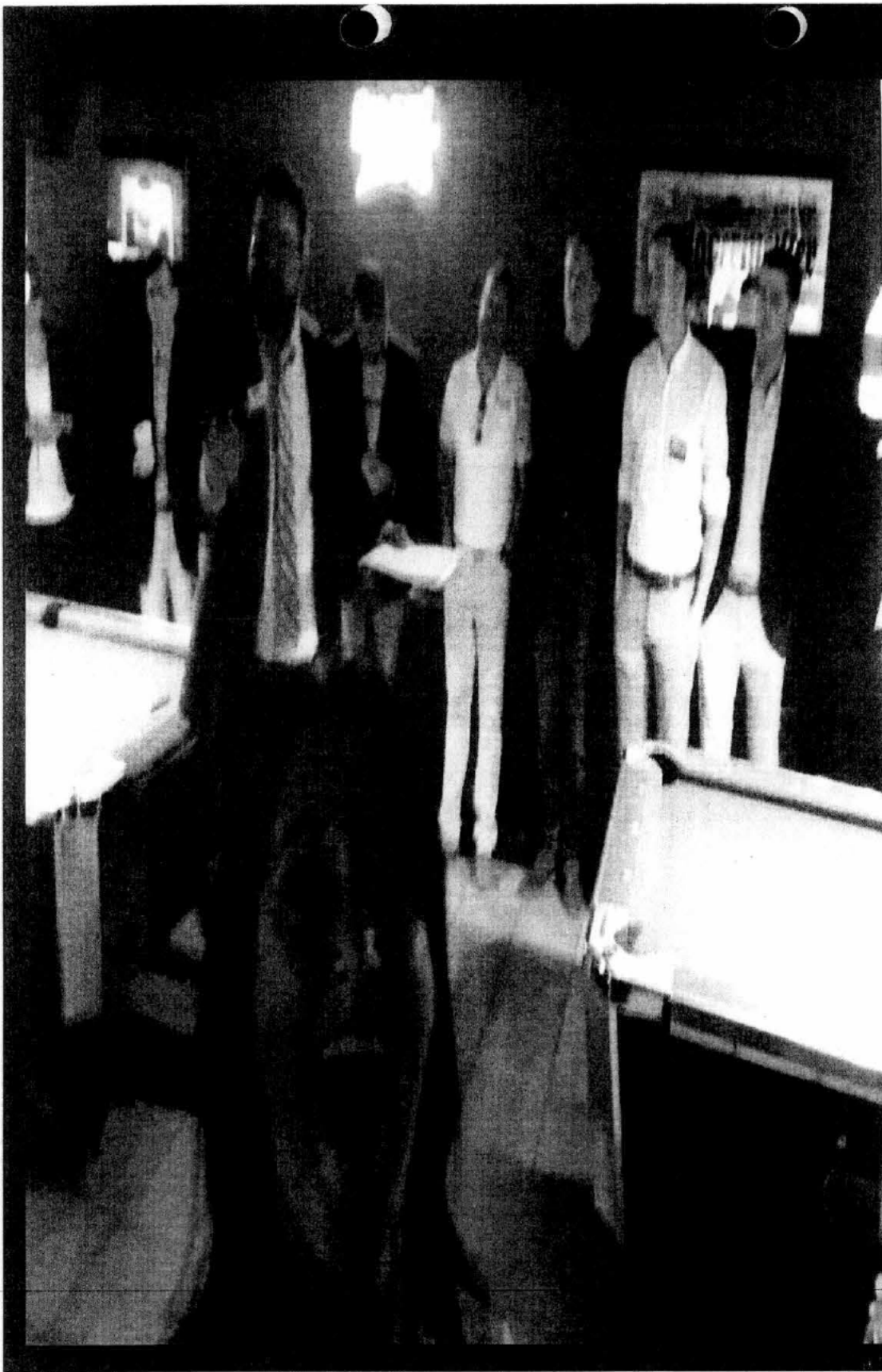
Oh my! This is the first day I ever met or heard of that guy who shall not be named... Where is he nowadays, anyway? Thank God he's not seated on the school board

Crazy this was only a year ago- yet it seems like forever..



Michelle Salzman is ¹⁴ attending Cocktails & Candidates at O'Riley's Irish Pub Downtown with Jessica Love Duncan and Phillip Salzman.
May 15, 2018 · Pensacola, FL

And she's still at it — — — May 15, 2019, Michelle Salzman re-shares her year ago post attacking Mr. Hetherington in celebration of her successfully stopping him from winning a seat on the Escambia County school board. (Mr. Hetherington is second from left in red pants, holding cup.)



 **Michelle Salzman** ...
Follow · May 15, 2018 · 

At O'Riley's Irish Pub Downtown.

 3

 Like  Share

Just six weeks ago on March 28, 2019, Michelle posted a number of personal accomplishments to her Facebook page. She takes credit for Kells Hetherington losing the election: "I saved Pensacola from the evil realms of he who shall not be named on the school board (that alone is my personal favorite)"

mayors transition team

*I saved pensacola from the evil realms of he who shall not be named on the school board (that alone is my most favorite)

*Helped open Bruce Beach



Michelle Salzman

March 28 · 🌐

...

I'm so blessed to be a part of so many amazing organizations. It's an honor to make the list two years in a row, even though Rick bumped me down like 20 spots! 🍷🍷🍷

Seriously, last year was my most accomplished year outside of military deployments and giving birth to my incredible children... I was a part of:

*Mayors transition team

*I saved pensacola from the evil realms of he who shall not be named on the school board (that alone is my most favorite)

*Helped open Bruce Beach

*Was a catalyst in the Appointed Superintendent referendum

*Mentored and developed many great parent leaders

*Received the Blaise Adams Award & the Woman of Distinction award from Girl Scouts

*Received national recognition for the early learning projects- and state awards for child advocacy

*Created a patent and innovative product that actually sold and worked- even made a couple dollars before Kodak pulled out

*Bought a franchise- then relinquished it 🍷🍷

*Made Volunteer of the Year for the 3rd of the past 4 years for Pensacola from InWeekly

*Made runner up Community Leader (also one of my favs)

*My business doubled its profits last year!(Salz Studio)

*My business placed in EVERY SINGLE recognition opportunity for the gulf Coast- (InWeekly, PNJ, & VIP Pensacola)

Despite all of the tribulations of life and having three kids- with the help of amazing friends and mentors & family- I accomplished a lot...

🍷 here's to this year being even more impactful & empowering!

Thank you to all of you for believing in me to make a difference in Pensacola

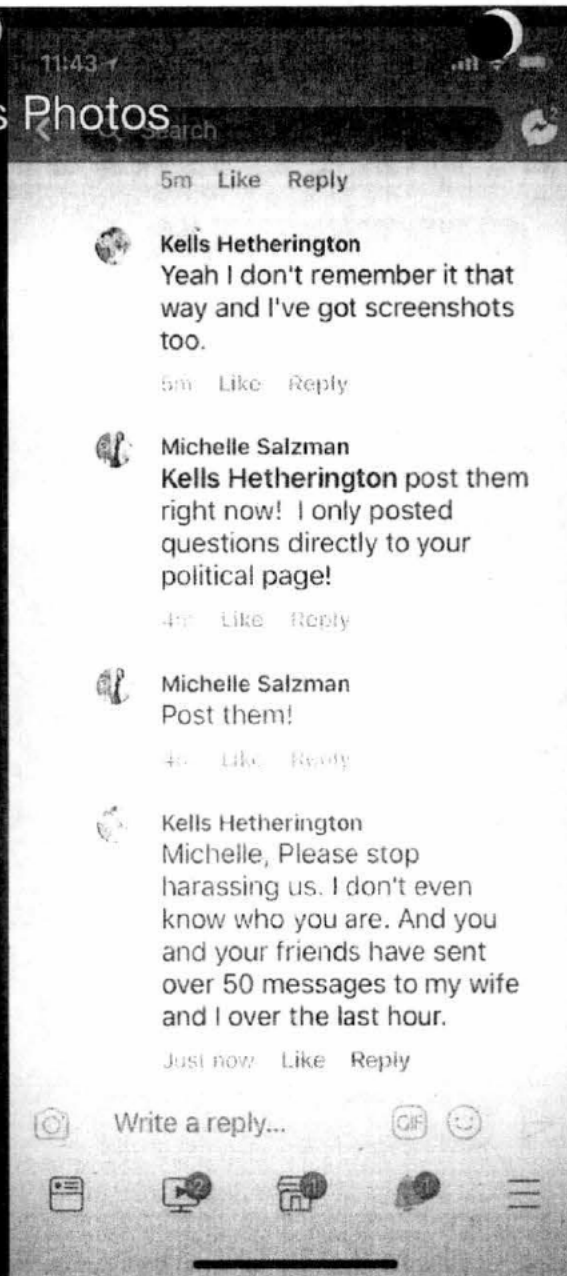


I'm honored to
with amazing
people and
businesses.



Michelle began cyber stalking Mr. Hetherington and his wife on or about 11:30 PM Central Standard Time on May 16, 2018 when with her husband Philip, she bombarded him on Facebook.

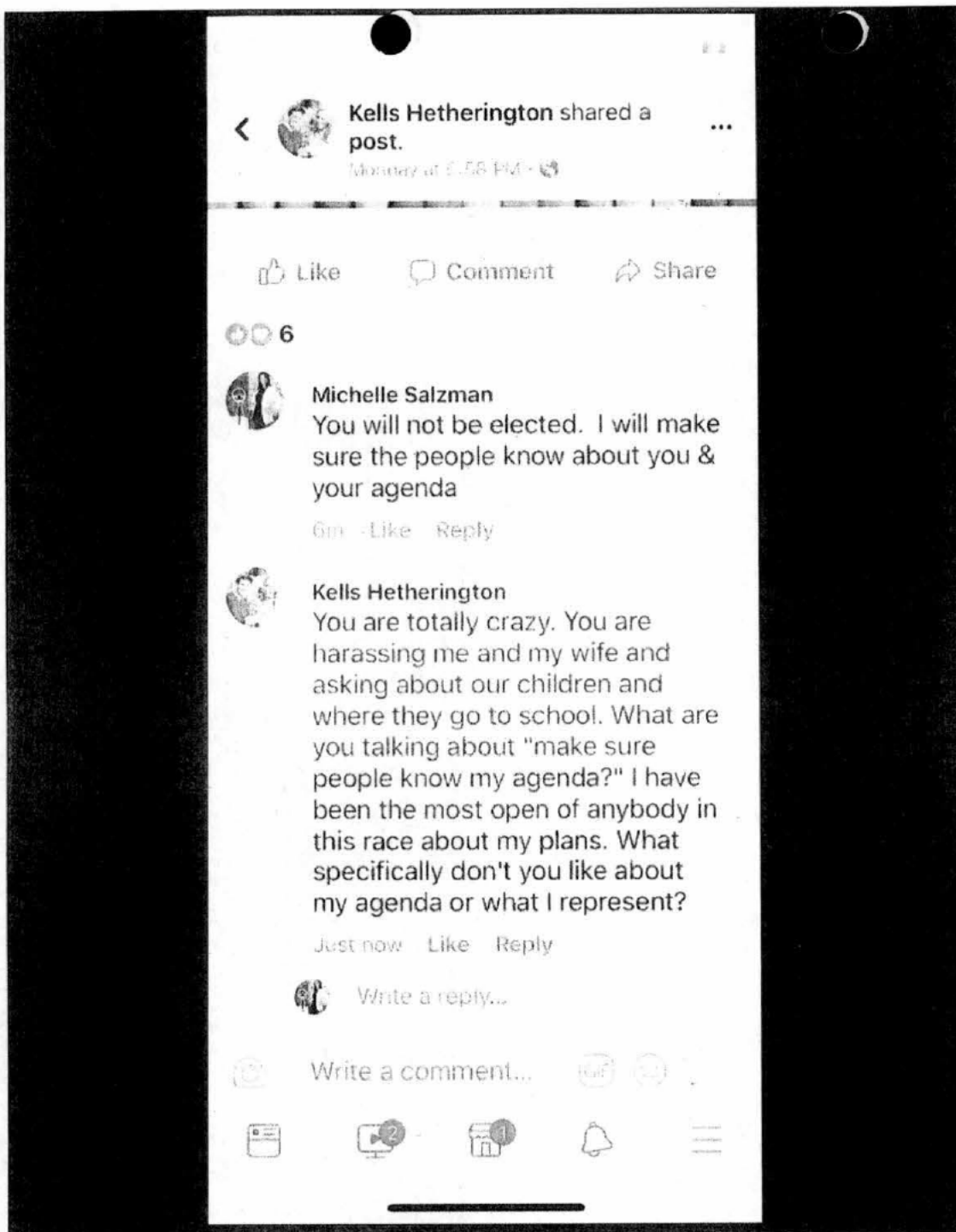
Michelle Salzman's Photos



Like

Options

After Mr. Hetherington blocked Michelle Salzman on Facebook, Michelle then began harassing him on other Facebook pages where she wrote, ***"You will not be elected. I will make sure the people know about you & your agenda."***



Then in complete anger Michelle broadcasts a call to her Facebook friends asking them to join her in her online cyber stalking/assault of Mr. Hetherington. Curiously, she later acknowledges that she was asked by Mr. Hetherington to stop communicating with him and furthermore that she was blocked from his page, but explains that **"I was mad- and became aggressive back."**

Like · 1w



Michelle Salzman I know I missed some things... but I wanted to be completely transparent about all that I could. Essentially, I just wanted answers- basic answers... not in any way aggressive.. then he started deleting questions and then blocked my ability to comment in the political page- so I made a status.. after the status - he got aggressive- but instead of offering answers he started saying o was harassing his wife (I never tried to contact her).. at that point I was mad- and became aggressive back.

Like · 1w



1



Michelle Salzman Some things I did not get screen shots of...

Like · 1w

Michelle then generates what is known online as a "meme" to have what is best described as an online pamphlet to electioneer against Mr. Hetherington. But the pamphlet goes beyond a simple campaign attack when she writes, **"Anyone wanna give me some good info on him?"**



Michelle Salzman

1 hr · 🌐

UPDATE: THIS GUY KILLS DELETED MY COMMENTS & QUESTIONS ON HIS PAGE AND BLOCKED ME FROM COMMENTS/LIKES ETC! Maybe I haven't had enough carbs or sugar today- but this guy here is running to replace Mr. Boone, is a fine man, with a great heart for the public education system and a stellar record on the school board... Sadly, he isn't running, but Paul Fetsko, Candidate for Escambia County School Board District 2 is, and is a much better choice.

This opponent:

NO EXPERIENCE IN EDUCATION- HIS KID IS NOT IN A PUBLIC SCHOOL- HE IS NOT FROM HERE- AND ON AND ON.

I've sent him some questions about his platform because at this point I feel like someone should do him a huge favor and tell him to save his time and money...

Anyone wanna give me some good info on him?



— On May 19, 2019, Michelle posts the following photo of Mr. Hetherington and a harassing message on a popular Facebook discussion page with over 6,000 members. **What's most noteworthy here is that Michelle notes that her comments were deleted from Mr. Hetherington's page, evidencing that Mr. Hetherington had suggested that she go elsewhere with her complaints.**



Michelle Salzman shared a Page.



May 19 at 6:11am

As a full-time advocate and volunteer for the public school system, I make it a point to make sure that I know about all candidates and all district so I can help keep the parents in Escambia county informed.

Tonight I ran across some of the most awful politics I have seen, yes! Worse than what we have seen...

This guy running for school board district 2 deleted all of my comments and started threatening me and telling me that I am totally crazy and having his wife private message me pictures of her name badges. I am completely stunned.. beware- he will delete your comments & twist your words in a heartbeat.. He JUST moved to the area..

yeah, I got catty after he started attacking me: but I am livid. And yes, Mr. Hetherington, a little crazy when it comes to what I volunteer for day in and out in Pensacola for over a decade...

I only wanted answers- he created mountains from molehills

<https://www.facebook.com/imforkellis/>



members/

Michelle engages hundreds of others through public online discussions, including county commissioner Douglas Underhill, messaging him about bringing down Kells Hetherington. (Prior to this communication, Mr. Underhill had asked to endorse Mr. Hetherington. When Mr. Hetherington refused to accept Mr. Underhill's endorsement, Mr. Underhill became an entrenched political enemy.)



Douglas Underhill He asked me to sign a petition with him at the Innerarity Park Groundbreaking, which of course I did. Then I asked the one question I always ask: Why are you running? He answered, "I always wanted to be in politics." I told him that was the worst possible answer. No politicians in our schools, please.

Like · 1w



^ Hide 12 Replies



Michelle Salzman We should chat soon.. I hear it's bigger than school board..

Like · 1w



Douglas Underhill Michelle Salzman it certainly is. The plan is to allow my opponent to look clean while these people do the dirty work. Thats how swamp gators work. DC has come to Escambia.

Like · 1w



Debi Kuhn We had an entire discussion in our improv troupe-he tried to add everyone in the group.

Like · 1w



Michelle Salzman Douglas: they sure have

Like · 1w

Michelle quickly lodges an elections complaint with the state, grasping for any possible means to bring down Mr. Hetherington. She makes roughly a dozen false claims in her statement.

And yet that's not enough for her...

On May 23, 2018, Michelle contacts Mr. Hetherington through Facebook using an alias. Her messages appear below.

MAY 20 10, 9:04 PM

Hey There - I heard you had a "run" with Phil and Michelle Salzman. It is all over there facebook. Anyway, I am writing you to tell you that your wife is correct, Michelle is a bully. Please check out Phil's page and his rant about your conversation.

So I am going to give you something golden. Michelle was a stripper for many years at Babe's.

She had the daytime job, so she had men on the side that would put thousands of dollars in her account.

Anyway. Don't let her bully you. She needs to be stopped.

Her kids have both been admitted to psych wards btw

So an ex stripper and a lady that us unstable/crazy and a bully runs the PTA?

This is the problem. Please fix.

Mr. Hetherington's attorney sends Michelle and her husband a message instructing them to cease masquerading as other people through Facebook.

Dear Mr. and Mrs. Saltzman:

This office has the pleasure of representing Kells and Alison Hetherington, Mr. Hetherington has shared with me several of your posts on social media, as well as your communication with the Florida Elections Commission, coupled with your apparent efforts at masquerading as someone that you are not on Facebook. Many of these efforts go well beyond First Amendment freedoms, and into the area of stalking, or cyberstalking.

Accordingly, you are directed to cease and desist immediately. Failure to do so may result in potential civil and/or criminal liability.

If you have any questions regarding the demand made in this correspondence in general or my clients' intentions in particular, please do not hesitate to contact me.

Michelle later goes to great lengths to attempt to be around Mr. Hetherington in person by organizing two debates under the guise of the Parent Teacher Association where she was at the time the outgoing president. These events were for no other reason than to intimidate and harass Mr. Hetherington (only her and a few of her friends showed up). Interestingly, the PTA had never before hosted such candidate debates prior to 2018, but decided to do so last year at a location that is less than a mile down the street from Mr. Hetherington's home.

Michelle succeeded in getting close to Mr. Hetherington when she arranged through the League of Women voters to be the check in person for their debate and got herself assigned to the School Board debate. When Mr. Hetherington arrived for the debate, Michelle was the one to greet him and she and her husband then proceeded to sit next to him for several hours as he waited to go on camera.

In the screenshot below Michelle's post reveals that she intended to stalk him at this event:



Michelle Salzman He might change his mind when he finds out I'm a member of the LWV and plan to be there... 🤖

Like 44m



Larry Downs Jr. W...lls be there?

Like · 8h



William Gandy I doubt it. He doesn't seem to be able to answer any questions or act like an adult.

Like · 8h



1



Kathy Fetsko I sent you a message, Larry.

Like · 8h · Edited



1



Michelle Salzman He might change his mind when he finds out I'm a member of the LWV and plan to be there... 🙄

Like · 44m



William Gandy It always make me wonder when people delete comments...

Like · 8h



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

Telephone: (850) 922-4539

Fax: (850) 921-0783

www.fec.state.fl.us; fec@myfloridalegal.com

May 6, 2019

John W. Hetherington
155 East Avenue
New Canaan, CT 06840

RE: Case No.: FEC 18-133; Respondent: Kells Hetherington

Dear Mr. Hetherington:

The Commission staff has completed its investigation of this matter. As required by Section 106.25, Florida Statutes, we are forwarding a copy of the Report of Investigation (ROI) to you. Should you choose to file a response to the ROI, you must do so **within 14 days** of the date of this letter.

A staff attorney will now review the ROI and make a written recommendation (Staff Recommendation or SR) to the Commission as to whether there is probable cause to charge your client with violating Chapters 104 or 106, Florida Statutes. You will receive a copy of the SR and will have an opportunity to file a response.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address. Also, please remember that complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are **confidential** until the Commission finds probable cause or no probable cause.

For additional information, please refer to the "Frequently Asked Questions" section of the Commission's website (www.fec.state.fl.us). If you have any additional questions, **please contact Stephanie Cunningham**, the attorney assigned to this case.

Sincerely,

Donna Ann Malphurs

Agency Clerk

/dam

Enclosure: Report of Investigation w/Exhibits

**FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION**

Case No.: FEC 18-133

Respondent: Kells Hetherington

Counsel for Respondent: John W. Hetherington

Complainant: Michelle Salzman

On May 25, 2018, the Florida Elections Commission (Commission) received a sworn complaint alleging that Respondent violated Chapter 106, Florida Statutes. Commission staff investigated whether Respondent violated the following statute:

Section 106.143(3), Florida Statutes, prohibiting a candidate from campaigning based on his party affiliation while running for nonpartisan office.

I. Preliminary Information:

1. Respondent, Kells Hetherington, was a 2018 candidate for the Escambia County School Board, District 2; he was defeated during the primary election held on August 28, 2018. Respondent was a first-time candidate.

2. On April 27, 2018, Respondent's "APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY FOR CANDIDATES" form (DS-DE 9) was filed with the Escambia County Supervisor of Elections office. Respondent appointed himself as campaign treasurer. To review the DS-DE 9 form, refer to Exhibit 1.

3. Respondent is represented by John W. Hetherington.

4. Complainant, Michelle Salzman, is a former president of the Escambia County PTA council.

II. Alleged Violation of Section 106.143(3), Florida Statutes:

5. I investigated whether Respondent violated this section of the election laws by campaigning based on his party affiliation while running for a nonpartisan office.

6. The 2018 Escambia County Candidate Handbook identifies candidates for school board member as a nonpartisan office. In addition, Respondent signed a "Candidate Oath – School Board Nonpartisan Office" form as a candidate for the nonpartisan office of School Board, District 2. To review the relevant page from the county handbook as well as Respondent's signed "Candidate Oath," refer to Exhibit 2.

7. Complainant offered with her complaint a copy of Respondent's "Candidate's

Statement” that was posted on the Escambia County Supervisor of Elections website. Complainant noted two references within the statement: “conservative ideas” and “A lifelong Republican.”

8. The last sentence of the first paragraph reads, “We were attracted by the low taxes and conservative ideas that this community offers.” The last sentence of the third paragraph reads, “A lifelong Republican, I was raised in the Congregationalist Church.” To review the “Candidate’s Statement,” refer to Exhibit 3.

9. In a response to the complaint, Respondent stated his biography “can damn well say that I’m a lifelong Republican. My First Amendment right to free speech is not abridged simply because I’m running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done.” To review Respondent’s response, refer to Exhibit 4.

10. In a questionnaire-affidavit, Respondent was asked whether he had anyone review his candidate’s statement prior to having it posted on the supervisor of elections website and whether he sought legal advice or reviewed any Division of Elections opinions; Respondent did not return the questionnaire-affidavit¹. To review the questionnaire-affidavit, refer to Exhibit 5.

11. Commission staff reviewed Respondent’s “Candidate’s Statement” on June 19, 2018, and noticed the wording, “A lifelong Republican” had been changed to read, “A lifelong conservative ...” To review the “Candidate’s Statement” from June 19, 2018, refer to Exhibit 6.

12. In a questionnaire-affidavit, Respondent was asked to explain why the verbiage, “A lifelong Republican” was changed to “A lifelong conservative.” As noted in paragraph 10, Respondent did not return the questionnaire-affidavit.

13. No record was found to indicate that Respondent has previously violated this section of the election laws.

III. FEC History:

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

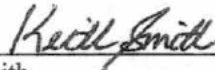
Conclusion:

15. In an affidavit, Escambia County Supervisor of Elections David H. Stafford attested that Respondent was provided with Chapter 106, Florida Statutes as well as the *Candidate and Campaign Treasurer Handbook*. The supervisor of elections also attested that their office had no record of Respondent having sought elective office prior to his 2018 campaign. In addition, Mr. Stafford attested that their office had no recollection of having any conversation with Respondent relative to campaigning based on party affiliation or any record of anything in writing discussing the issue with Respondent. To review the affidavit of the Escambia County Supervisor of Elections, refer to Exhibit 7.

¹ The questionnaire-affidavit was e-mailed to Respondent’s attorney on April 2, 2019 and was due April 19, 2019.

16. Respondent executed a Statement of Candidate indicating that he had been provided access to read and understand the requirements of Chapter 106, Florida Statutes; the form is dated April 27, 2018. To review the Statement of Candidate, refer to Exhibit 8.

Respectfully submitted on May 1, 2019.



Keith Smith
Investigation Specialist

Current address of Respondent

Kells Hetherington
10335 Gulf Beach Highway – Apt. #208
Pensacola, Florida 32509

Current address of Complainant

Michelle Salzman
10296 Vintage Drive
Pensacola, Florida 32514

Current Address of Respondent's Atty.:

John W. Hetherington
155 East Avenue
New Canaan, Connecticut 06840

Name and Address of Filing Officer:

The Honorable David H. Stafford
Supervisor of Elections
213 Palafox Place – Second Floor
Pensacola, Florida 32502

Copy furnished to: David Flagg, Investigations Manager

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Kells Hetherington -- FEC 18-133

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	DS-DE 9 form
Exhibit 2	Relevant pages from county handbook/Candidate Oath
Exhibit 3	"Candidate's Statement" submitted w/complaint
Exhibit 4	Response to the complaint
Exhibit 5	Questionnaire-affidavit
Exhibit 6	"Candidate's Statement" from June 19, 2018
Exhibit 7	SOE affidavit
Exhibit 8	Statement of Candidate

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

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

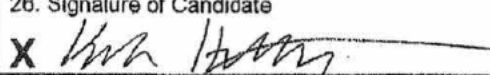

(PLEASE PRINT OR TYPE)

18 APR 27 11:51

COPY

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

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES): <input checked="" type="checkbox"/> Initial Filing of Form Re-filing to Change: <input type="checkbox"/> Treasurer/Deputy <input type="checkbox"/> Depository <input type="checkbox"/> Office <input type="checkbox"/> Party					
2. Name of Candidate (in this order: First, Middle, Last) Kells Luke Hetherington			3. Address (include post office box or street, city, state, zip code) 10335 Gulf Beach Highway Apt 708 Pensacola, FL 32507		
4. Telephone (202) 431-0482		5. E-mail address Kellsbetherington@gmail.com			
6. Office sought (include district, circuit, group number) Escambia County School Board (2nd District)			7. If a candidate for a <u>nonpartisan</u> office, check if applicable: <input type="checkbox"/> My intent is to run as a Write-In candidate.		
8. If a candidate for a <u>partisan</u> office, check block and fill in name of party as applicable: My intent is to run as a <input type="checkbox"/> Write-In <input type="checkbox"/> No Party Affiliation <input type="checkbox"/> _____ Party candidate.					
9. I have appointed the following person to act as my <input checked="" type="checkbox"/> Campaign Treasurer <input type="checkbox"/> Deputy Treasurer					
10. Name of Treasurer or Deputy Treasurer Kells Hetherington					
11. Mailing Address 10335 Gulf Beach Highway Apt 708				12. Telephone (202) 431 0482	
13. City Pensacola		14. County Escambia	15. State FL	16. Zip Code 32507	17. E-mail address Kellsbetherington@gmail.com
18. I have designated the following bank as my <input checked="" type="checkbox"/> Primary Depository <input type="checkbox"/> Secondary Depository					
19. Name of Bank Wells Fargo			20. Address 21 E Garden Street		
21. City Pensacola		22. County Escambia		23. State FL	24. Zip Code 32501
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.					
25. Date April 27, 2018			26. Signature of Candidate 		
27. Treasurer's Acceptance of Appointment (fill in the blanks and check the appropriate block)					
I, <u>Kells Hetherington</u> , do hereby accept the appointment (Please Print or Type Name)					
designated above as: <input checked="" type="checkbox"/> Campaign Treasurer <input type="checkbox"/> Deputy Treasurer.					
Date <u>April 27, 2018</u>			Signature of Campaign Treasurer or Deputy Treasurer 		

EXHIBIT



2018

**Escambia County
Candidate
Handbook**

David H. Stafford, CERA
Escambia County Supervisor of Elections

EXHIBIT 2 (1 of 4)

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EXHIBIT 2 (2 of 4)

2018 Local Offices Up for Election and Terms

Judicial (Nonpartisan)	
<i>Per State Constitution, Article V, Section 10, 1st Tuesday after 1st Monday in January</i>	Term Begins
County Court Judge, Groups 2, 4 and 5 (6 year term)	Tuesday, January 8, 2019
County and School Board	
<i>Per Florida Statutes 100.041(2)(a) & (3)(a), 2nd Tuesday following General Election</i>	Term Begins
County Commissioner, Districts 2 and 4 (Partisan - 4 year term)	Tuesday, November 20, 2018
School Board Member, Districts 1, 2 and 3 (Nonpartisan - 4 year term)	Tuesday, November 20, 2018
Special Districts	
<i>Per Laws of Florida Chapter 2001-324 Section 4(b), 2nd Tuesday following General Election</i>	Term Begins
Emerald Coast Utilities Authority, Districts 2 & 4 (Partisan - 4 year term)	Tuesday, November 20, 2018
<i>Per Laws of Florida, Chapter 83-407 Section 3(b)(2) - Election Night</i>	Term Begins
Santa Rosa Island Authority (Nonpartisan - 2 year term)	Tuesday, November 6, 2018
<i>Per Florida Statutes 582.18, 1st Tuesday after 1st Monday in January</i>	Term Begins
Escambia Soil and Water Conservation District, Groups 2, 4, and 5 (Nonpartisan - 4 year term) (Group 5 is to fill remaining 2 year term)	Tuesday, January 8, 2019
City of Pensacola (Nonpartisan)	
<i>Per City Charter, Article III, Section 6.07, 4th Tuesday in November</i>	Term Begins
Mayor of Pensacola (4 year term)	Tuesday, November 27, 2018
City Council, Districts 2, 4 and 6 (4 year term)	Tuesday, November 27, 2018
Town of Century (Nonpartisan)	
<i>Per Century Town Charter Section 5.05 (c)</i>	Term Begins
<i>1st Monday in January, following the regular town election</i>	
Century Town Council, Seats 3, 4 and 5 (4 year term)	Monday, January 7, 2019

EXHIBIT 2 (3&4)

**CANDIDATE OATH -
SCHOOL BOARD
NONPARTISAN OFFICE**

18 JUN 22 8:51 AM

Check box *only* if you are seeking to qualify as a write-in candidate:

Write-in candidate

OFFICE USE ONLY

Candidate Oath

(Sections 99.021(1)(a) and 105.031, Florida Statutes)

1. Kells Hetherington

(Print name above as you wish it to appear on the ballot. If your last name consists of two or more names but has no hyphen, check box . (See page 2 - Compound Last Names). No change can be made after the end of qualifying. Although a write-in candidate's name is not printed on the ballot, the name must be printed above for oath purposes.)

am a candidate for the nonpartisan office of School Board 2
(Office) (District #)

; I am a qualified elector of Escambia County, Florida;
(Circuit #) (Group or Seat #)

I am qualified under the Constitution and the Laws of Florida to hold the office to which I desire to be nominated or elected; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office from which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

Section 876.05, Florida Statutes, oath (only applicable if elected and when term of office begins): I, a citizen of the State of Florida and of the United States of America, and being employed by or an officer of the school board and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida.

Candidate's Florida Voter Registration Number (located on your voter information card): [REDACTED]

Phonetic spelling for audio ballot: Print name phonetically on the line below as you wish it to be pronounced on the audio ballot as may be used by persons with disabilities (see instructions on page 2 of this form): *[Not applicable to write-in candidates.]*

X Kells Hetherington (202) 431-0482 Kellsbetherington@gmail.com
Signature of Candidate Telephone Number Email Address

10335 Gulf Beach Highway A, Pensacola FL 32507
Address City State ZIP Code

STATE OF FLORIDA
COUNTY OF Escambia

Kellee A. Baker
Signature of Notary Public
Print, Type, or Stamp the Name of Notary Public below:
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF241949
Expires 8/21/2019

Sworn to (or affirmed) and subscribed before me this 22
day of June, 2018.

Personally Known: _____ or Produced Identification: ✓
Type of Identification Produced: FDL EXHIBIT 2 (A&A)

STATEMENT

Kells Hetherington is in direct violation of Florida Statute 106.143 paragraph (3):

LISTED ON THE ESCAMBIAVOTES.COM/CANDIDATE-LIST:

Contact Information:

10335 Gulf Beach Hwy Apt 708
Pensacola, FL - 32507
kellshetherington@gmail.com
(202)431-0482

Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Alison and I own a home on Gulf Beach Highway in District 2. After getting married in Washington D.C, my wife and I moved to Pensacola where we have family nearby. We were attracted by the low taxes and conservative ideals that this community offers.

In Washington, I worked for Tucker Carlson as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science from Manhattanville College.

Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong Republican, I was raised in the Congregationalist Church.

My greatest supporter is my lovely wife, Alison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 right here in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

He also specifically mentions his intentions to bring the conservative and republican agenda to the school board, a nonpartisan seat and race. Although, I am a republican, this is a direct and an intentional violation of our laws.. and he has been challenged about this several times he deletes the challenging comments on his political site as if no one asked. I challenged his statement about this in a public forum at a local candidate meet and greet and he had no response.

EXHIBIT

3



Response to Michelle Salzman complaint
Kells Hetherington
to:
fec, Kells Hetherington
06/11/2018 06:52 PM
Hide Details
From: "Kells Hetherington" <kellshetherington@gmail.com>
To: fec@myfloridalegal.com, "Kells Hetherington" <kellshetherington@gmail.com>

This is in response to the complaint filed by Ms. Michelle Salzman:

I think the real issue Ms. Salzman has with me is my response to the question below asked by a friend of hers:

18 MAY 21:38

What is Your opinion on lgbtQ training for teachers

Hi Josh, no I do not think it is necessary.
Sent by Alison Hetherington [?]

Well u should do a survey and see , see how your lgbtq youth feel about they way there treated in schools . If well surprise you to see how much it actually is needed . You need to be informed about this if you want a chance at winning . School broad need to be diverse and well informed unfortunately your not .

If you taken a look at my profile u would have seen i am gay and a lgbtq

if you taken a look at my profile u would have seen i am gay and a lgbtq youth advocate among others nonprofit in Pensacola ... i never heard of you . Why did you request me to add you ?



Do u know ms salzman ?

It was shortly after this that we began hearing from her and her husband and many of her friends for the first time.

Her other concerns are completely misplaced:

Collecting signatures outside a store that allows me to be there is totally within my rights, as is running for public office so long as I am a resident of this district on the date of the election. And my biography can damn well say that I'm a life-long Republican. My First Amendment right to free speech is not abridged simply because I'm running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done. Ms Salzman would be well served to

EXHIBIT 4 (1 & 2)

get her facts straight before she continues to be a nuisance.

Ms. Salzman and her husband began stalking and bullying my wife and me online May 18, a week before she filed this frivolous complaint in which she has perjured herself. Not only that, but she rounded up a group of her online friends to join in her bullying attacks against me. Can you imagine this woman is the outgoing president of the PTA in Escambia County?

Ms. Salzman and her husband are bullies and if they are intent on bullying me further, I will not hesitate to take legal action.

I'm asking that the commission dismiss this frivolous complaint with prejudice.

--
Kells Hetherington

Cell: (202) 431-0482

EXHIBIT 4 (2 of 2)

AFFIDAVIT OF BACKGROUND INFORMATION
Case Number: FEC 18-133

STATE OF FLORIDA
County of Escambia

Kells Hetherington, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by _____ as _____.
3. Prior to your 2018 campaign, had you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in.

4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s).

5. Have you ever held the office of chairperson or treasurer position for a political committee and an electioneering communications organization? If so, please list the names and addresses of the committees and dates when you held the position.

6. What action have you taken to determine your responsibilities under Florida's election laws?

7. Do you possess a copy of Chapter 106, Florida Statutes? Yes No

8. If so, when did you first obtain it? _____

EXHIBIT 5 (1 of 3)

9. Have you read Chapter 106, Florida Statutes? Yes No

10. Do you possess a copy of the *Candidate and Campaign Treasurer Handbook*? Yes No

11. If so, when did you first obtain it? _____

12. Have you read the *Candidate and Campaign Treasurer Handbook*? Yes No

13. As part of the complaint, Ms. Salzman offered a copy of your "Candidate's Statement" which appeared to be posted on the supervisor of elections website. Were you solely responsible for creating/drafting the "Candidate's Statement"? () Yes () No. If no, please provide the name(s) of any individual(s) who assisted you.

14. After creating/drafting the "Candidate's Statement," but prior to having it posted on the Escambia County Supervisor of Elections website, did you have anyone review it for you? If so, please provide the name(s) of any individual(s) who reviewed the statement and explain why you had him/her review the statement for you.

15. Prior to having the "Candidate's Statement" posted on the Escambia County Supervisor of Elections website, did you seek any legal advice from an attorney to determine whether the statement could be construed to be in violation of the election laws? () Yes () No. If yes, please provide the name of the attorney and his/her area of practice.

16. Prior to having the "Candidate's Statement" posted on the Escambia County Supervisor of Elections website, did you review any Division of Elections' opinions relative to Section 106.143(3), Florida Statutes? () Yes () No. If yes, please list which opinions you reviewed.

EXHIBIT 5 (2 of 3)

17. What was the purpose of using the verbiage, "A lifelong Republican" as part of the "Candidate's Statement"?

18. When your "Candidate's Statement" was viewed in June 2018, the verbiage, "A lifelong Republican" was changed to read, "A lifelong conservative." Were you responsible for changing the verbiage from "A lifelong Republican" to "A lifelong conservative"? () Yes () No. If yes, please explain why it was changed.

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

Signature of Affiant

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20_____.

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

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

Case Investigator: KS

EXHIBIT 5 (363)

Select Language
 Powered by Google Translate

Candidate: Kells Hetherington
Office: School Board, District 2

List All Contributions and Expenditures

Show only financial reports (Hides bio)



Available reports...
 M4 5/10/2018
 M5 6/11/2018

Contact Information:

10335 Gulf Beach Hwy Apt 708
 Pensacola, FL - 32507
 kellsheterington@gmail.com
 (202)431-0482

Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Allison and I own a home on Gulf Beach Highway in District 2. Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong conservative, I was raised in the Congregational Church.

Prior to working full time in finance, I worked in Washington D.C for Fox News host Tucker Carlson, as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science in Communications from Manhattanville College.

My greatest supporter is my lovely wife, Allison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

The following financial reports are available:

Report	Monetary	In Kind	Expenditures	Print Report
View Transactions	Contributions	Contributions	and Distributions	
M4 (4/1/2018 - 4/30/2018)	\$0.00	\$0.00	\$0.00	
M5 (5/1/2018 - 5/31/2018)	\$3,350.00	\$0.00	\$2,362.12	

Candidate qualifying forms and miscellaneous documents

Appointment Form for Treasurer

Appointment Form for Deputy Treasurer

Statement of Candidate

Pre-File Form

EXHIBIT 6

REC'D: FL ELECTIONS COM
29 MAR 19 AM 8:32

AFFIDAVIT OF FILING OFFICER
Case Number: FEC 18-133

STATE OF FLORIDA
County of Escambia

David H. Stafford, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by ESCAMBIA COUNTY as SUPERVISOR OF ELECTIONS.
3. Please provide copies of the listed items from the following candidate's campaign file: Kells Hetherington.

Check	ITEM
✓	The Statement of Candidate form for the 2018 campaign.
✓	Appointments of Treasurers and Designation of Campaign Depository form for the 2018 campaign.

4. Please check each item provided to the candidate and list the date that the item was provided.

Check	ITEM	DATE
✓	Chapter 106, Florida Statutes	4-27-18
✓	Candidate and Campaign Treasurer Handbook <u>Please Indicate Year.</u>	2018
✓	Other: ¹ <u>LOCAL CANDIDATE HANDBOOK</u>	4/27/18

5. Relative to Chapter 106, Florida Statutes and the Candidate and Campaign Treasurer Handbook, how are these publications provided to the candidate?

- Publications are given directly to the candidate.
- Publications are available in the office, candidates are advised to pick-up the publications for themselves.

¹ Any local publications relative to the Election laws that may have been provided in lieu of the Candidate and Campaign Treasurer Handbook published by the Division of Elections. If your office published the Item(s), please send a copy of the item(s) with the affidavit.

EXHIBIT 7 (103)

Candidates are advised to download copies of the publications from our website or the Division of Elections' website.

Other, please explain. CD with documents

6. Does your office have any record of Kells Hetherington having sought elective office within your jurisdiction prior to the 2018 election? Yes or No. If yes, please list the previous office(s) he ran for, the date(s) of the election(s), and the result(s) of the election(s).

7. Did Mr. Hetherington win election to the School Board, District 2 during the 2018 election? Yes No.

8. Does your office have any record of Kells Hetherington having been named as a chairperson or campaign treasurer of a political committee or electioneering communication organization within your jurisdiction? Yes or No. If yes, please list the name(s) of the committees.

9. Did you or any member from your staff have any conversations with Kells Hetherington relative to campaigning based on party affiliation? Yes or No. If yes, please indicate whether the conversation was in person, in writing, or by telephone and the subject matter of the conversation. If applicable, please provide copies documenting the discussion.

NO RECORD OF ANYTHING IN WRITING. NO RECOLLECTION OF ANY CONVERSATIONS.

I SWEAR OR AFFIRM THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

[Signature]

Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 28 day of March, 2019.

[Signature]

Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

EXHIBIT

7 (2 of 3)



Keelle A. Sekerka
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF241949
Expires 8/21/2019

Personally Known or Produced Identification _____
Type of Identification Produced: _____

Case investigator: KS

EXHIBIT 7 (3 of 3)

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please print or type)

OFFICE USE ONLY

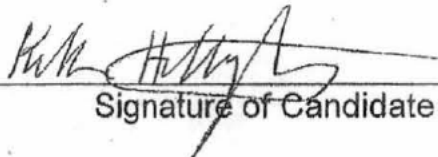
COPY

'18 APR 27 11:51am

I, Kells Hetherington

candidate for the office of Escambia County School Board (District 2) ;

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

X 
Signature of Candidate

April 27, 2018
Date

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

EXHIBIT

8

Stephanie Cunningham

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Thursday, June 27, 2019 4:09 PM
To: Donna Malphurs
Cc: Stephanie Cunningham; Florida Elections Commission; Eric Lipman; Timothy Vaccaro
Subject: Re: REVISED Further comments to be added to the record

Stephanie:

In the hope that we can avoid time-consuming and expensive federal litigation, please direct your attention to the precedent-setting cases *Pearson v. Shalala 164 F.3d 650 (D.C. Cir. 1999)* and *Central Hudson Gas & Electric Corp. v. Public Service Commission (U.S. Sup Ct. 1980)*.

In conclusion, I repeat and emphasize my previous remarks: if actions by the commission cause my name to be smeared in any way, I will bring action in state court to recover monetary damages for defamation and retaliation. You've treated this case very differently from others because you're angry that I brought suit against the state.

Sincerely yours, Kells Hetherington

On Thu, Jun 27, 2019 at 8:25 AM Donna Malphurs <Donna.Malphurs@myfloridalegal.com> wrote:

Mr. Hetherington,

Thank you for your email for inclusion in the case materials provided to the members of the Commission when hearing your case. Please note that there were no attachments received as indicated in your email.

Sincerely,

Donna Ann Malphurs
Agency Clerk

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Thursday, June 27, 2019 12:03 AM
To: Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>; Florida Elections Commission <fec@myfloridalegal.com>; Eric Lipman <Eric.Lipman@myfloridalegal.com>; Timothy Vaccaro <Timothy.Vaccaro@myfloridalegal.com>; Donna Malphurs <Donna.Malphurs@myfloridalegal.com>
Subject: Re: REVISED Further comments to be added to the record

On Wed, Jun 26, 2019 at 11:00 PM Kells Hetherington <kellshetherington@gmail.com> wrote:

Stephanie:

It has come to my attention that you are personally leaking information about me in near real-time to the original complainant, Michelle Salzman, who as you know has been stalking me for more than a year now.

On May 23, my attorney said the following to you in an email:

Further, your department needs to be aware that the Respondent and his wife continue to be a target of harassment by the Complainant, Michelle Salzman. This relentless harassment has a confirmed impact on Mrs. Hetherington and it may be assumed that legal remedies including damages for the intentional infliction of emotional injury are being considered.

An illustration of the continuing senseless and vindictive moves by Michelle Salzman is provided in Exhibits A-. Mrs. Salzman notes that that the school board election was a year earlier, while persisting in maligning the Respondent with no provocation whatever.

Moments after that message was sent to you, the offending post was deleted from Michelle Salzman's Facebook page because your office contacted her.

Stephanie, to be charitable, your 'investigation' has gone rogue. You are investigating me because you believe that I exercised my constitutionally protected right to political free speech, and in the process, you have thoroughly abused your agency's investigatory authority by soliciting information about me through your investigator that is beyond the scope or purpose of your investigation. For example, asking me to provide the name of my employer or when such employment began is beyond the pale.

My earlier remarks concerning accord and satisfaction are included here as exhibits for the record. Also included for the public record is a complete transcript of the online stalking and harassment of

me by Michelle Salzman over the past year. I'm demanding that it be included in the public record for everyone's entertainment.

Should you feel the need to communicate further with me, please direct your correspondence by US certified mail to the address below:

Mr. Kells Hetherington

3100 Wisconsin Ave NW

Apt 103

Washington, DC 20016

If necessary, I will bring a federal civil rights lawsuit or sue you personally alongside the state for harassment. The "stripping doctrine" allows for citizens to sue government employees in their individual capacity where they have exceeded the bounds of their authority.

Sincerely yours, Kells Hetherington

--
Kells Hetherington

Cell: (202) 431-0482

--
Kells Hetherington

Cell: (202) 431-0482

Donna Malphurs

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Sincerely yours, Kells Hetherington

--

Kells Hetherington

Cell: (202) 431-0482

PER USE ONLY
 ADDRESS FROM: PHONE: 1
 Ellis Hetherington
 0375 Gulf Beach Hwy
 Unit 708
 Pensacola, FL 32507

PENSACOLA, FL
 DOWNTOWN STA
 SEP 20 2018



UNITED STATES POSTAL SERVICE
 PRIORITY MAIL EXPRESS

PAYMENT BY ACCOUNT (if applicable)
 USPS Customer Acct. No. 1
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DELIVERY OPTIONS (Customer Use Only)
 SIGNATURE REQUIRED: Auto. The name you chose for Signature Required. You can also select to require the addressee's signature. USPS reserves additional services. For full details of all services, call 1-800-ASK-USPS. For more information, visit usps.com. For information on the addressee's signature, call 1-800-ASK-USPS. For more information on the addressee's signature, call 1-800-ASK-USPS.

DELIVERY OPTIONS (Customer Use Only)
 Signature Required: Auto. The name you chose for Signature Required. You can also select to require the addressee's signature. USPS reserves additional services. For full details of all services, call 1-800-ASK-USPS. For more information, visit usps.com. For information on the addressee's signature, call 1-800-ASK-USPS.

TO: ORGANIZATION: PHONE: 1
 Florida Elections Commission
 107 West Adams Street
 Collins Building, suite 224
 Tallahassee, FL 32399-1050

POSTAL SERVICE USE ONLY	Quantity	Class	Station	Zone
32502	9/20/18	2470		
7/20/18				
4/30				
150	gm	24.70		

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 840 8320-0376 105 00039-07660-02

5/17/2019

Gmail - Fwd: FEC 18-133 - Settlement

----- Forwarded by Rebecca Marsey/OAG on 09/04/2018 09:25 AM -----

From: "Kells Hetherington" <kellshetherington@gmail.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>
Date: 08/31/2018 07:08 PM
Subject: settlement agreement


Ms. Cunningham, I accept the state's offer to settle the matter involving my campaign for [REDACTED]. Please tell me where to send the check. Best, Kells Hetherington

--
Kells Hetherington

Cell: (202) 431-0482

--
Kells Hetherington

Cell: (202) 431-0482

 **MVCO_Heatherington.pdf**
19K



Kells Hetherington <kellshetherington@gmail.com>

Re: FEC 18-133 - Settlement Offer

1 message

Kells Hetherington <kellshetherington@gmail.com>

Thu, Sep 20, 2018 at 2:04 PM

To: Stephanie.Cunningham@myfloridalegal.com

We are mailing this. Best, Kells

On Tue, Sep 4, 2018 at 9:21 AM Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com> wrote:

Mr. Hetherington:

Please see attached Consent Order, for your review. If you agree with the content, please sign and return the original order to my office (address in signature block below) along with a cashier's check or money order (good for at least 120 days) in the amount of [REDACTED]. The signed original order and payment must be received by September 21, 2018. The funds must be made payable to the Florida Elections Commission.

Please let me know if you have any questions.

Stephanie J. Cunningham

Assistant General Counsel

Florida Elections Commission

107 W. Gaines Street

Collins Building, Suite 224

Tallahassee, FL 32399-1050

stephanie.cunningham@myfloridalegal.com

(850) 922-4539

(850) 921-0783 fax

www.fec.state.fl.us

From: Rebecca Marsey <Rebecca.Marsey@myfloridalegal.com> **On Behalf Of** Florida Elections Commission**Sent:** Tuesday, September 04, 2018 9:26 AM**To:** Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>**Subject:** Fw: settlement agreement

----- Forwarded by Rebecca Marsey/OAG on 09/04/2018 09:25 AM -----

From: "Kells Hetherington" <kellshetherington@gmail.com>

To: "Florida Elections Commission" <fec@myfloridalegal.com>

Date: 08/31/2018 07:08 PM

Subject: settlement agreement

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--

Kells Hetherington

Cell: (202) 431-0482

--

Kells Hetherington

Cell: (202) 431-0482



Kells Hetherington <kellshetherington@gmail.com>

Re: Certified Mail

1 message

Kells Hetherington <kellshetherington@gmail.com>

Mon, Apr 8, 2019 at 3:23 PM

To: Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>

Stephanie:

As far as we're concerned, the matter with the election commission is concluded. I accepted, signed and had notarized the "Settlement Offer" that you sent to me by email on September 4, 2018. As prescribed, I then returned by mail the signed copy of the agreement along with a payment for [REDACTED] I sent those things to the commission Priority Mail on September 20, 2018, and they were delivered the following day as required. When my certified check was not returned within 90 days, there was accord and satisfaction per state statute.

Despite what your March 22, 2019 email seems to suggest, the Voluntary Payments Doctrine does not apply to situations involving the state where the Rebuttal Presumption is always that an agreement to pay a fine or tax is entered into under duress. As such, my acceptance of the settlement offer was never affected by my lawsuit.

The argument that there is no contract because the money order was never negotiated is neither here nor there. Per state statute, possession of a certified payment such as a money order beyond 90 days is acceptance, and accordance and satisfaction. The actual negotiating of the financial instrument is not necessary.

Your negotiations with me have been in bad faith. Almost six months after accepting my payment, you want to welch on the agreement that you offered me and that I accepted. Also, the idea that you are somehow rejecting the agreement now because I sued you is completely inaccurate. My lawsuit was not filed until October 17, 2018 and the commission met on October 8, 2018. You had my agreement in hand for 18 days when the commission met in October. Obviously, you never intended to participate in this agreement.

Again, as far as we're concerned, this matter is concluded, but if it continues, we have a top-notch law firm ready to litigate.

Sincerely yours, Kells Hetherington

On Fri, Mar 22, 2019 at 9:13 AM Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com> wrote:

Mr. Hetherington:

Attached is a copy of the letter/money order that was mailed to your attention.

Stephanie J. Cunningham

Assistant General Counsel

Florida Elections Commission

107 W. Gaines Street

Collins Building, Suite 224

Tallahassee, FL 32399-1050

stephanie.cunningham@myfloridalegal.com

(850) 922-4539

(850) 921-0783 fax

5/17/2019

Gmail - Re: Certified Mail

www.fec.state.fl.us

--
Kells Hetherington

Cell: (202) 431-0482



FLORIDA ELECTIONS COMMISSION

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

March 19, 2019

CERTIFIED MAIL 9214 8969 0099 9790 1626 7374 38

Kells Hetherington
10335 Gulf Beach Hwy, Apt. 708
Pensacola, FL 32507

RE: FEC 18-133 – Kells Hetherington

Dear Mr. Hetherington:

Please see enclosed your money order in the amount of [REDACTED]. Based on the allegations set forth in your Statement of Claim filed in Escambia County, it is clear that you have rejected the minor violation consent order. Therefore, the money order is being returned to you. The Commission staff will conduct an investigation, and then the Commission will hold one or more hearings to determine whether the violation(s) alleged in the complaint occurred and, if so, the amount of the fine to be imposed upon you, if any. If you have any questions, please contact me by email at Stephanie.Cunningham@myfloridalegal.com.

Sincerely,

Stephanie J. Cunningham

Assistant General Counsel

Enclosure(s): Money Order

		POSTAL MONEY ORDER	
Serial Number 24403948132	2018-09-20 32308 Office	U.S. Dollars and Cents \$200.00 Two Hundred Dollars and 00/100 *****	
Pay to <i>Florida Elections Commission</i>	AMOUNT	Clerk 1	
Address <i>107 West Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399</i>	FROM <i>Kells Hetherington</i>	Address <i>10335 Gulf Beach Hwy, 708 Pensacola, FL 32507</i>	
© 2008 United States Postal Service. All Rights Reserved.		SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS	
:00000800 2:		24403948132	

Michelle Salzman's year-long criminal stalking campaign as aided and abetted by the Florida Elections Commission in pictures (Courtesy Facebook)

Here's a post from Michelle just days before she files her Florida elections commission complaint...



And she's still at it — — — May 15, 2019, Michelle Salzman re-shares her year ago post attacking Mr. Hetherington in celebration of her successfully stopping him from winning a seat on the Escambia County school board. (Mr. Hetherington is second from left in red pants, holding cup.)



 **Michelle Salzman** ...
Follow · May 15, 2018 · 

At O'Riley's Irish Pub Downtown.

 3

 Like  Share

Just six weeks ago on March 28, 2019, Michelle posted a number of personal accomplishments to her Facebook page. She takes credit for Kells Hetherington losing the election: “I saved Pensacola from the evil realms of he who shall not be named on the school board (that alone is my personal favorite)”

mayors transition team

*I saved pensacola from the evil realms of he who shall not be named on the school board (that alone is my most favorite)

*Helped open Bruce Beach



Michelle Salzman

March 28 · 🌐

I'm so blessed to be a part of so many amazing organizations. It's an honor to make the list two years in a row, even though Rick bumped me down like 20 spots! 🙏🙏🙏

Seriously, last year was my most accomplished year outside of military deployments and giving birth to my incredible children... I was a part of:

*Mayors transition team

*I saved pensacola from the evil realms of he who shall not be named on the school board (that alone is my most favorite)

*Helped open Bruce Beach

*Was a catalyst in the Appointed Superintendent referendum

*Mentored and developed many great parent leaders

*Received the Blaise Adams Award & the Woman of Distinction award from Girl Scouts

*Received national recognition for the early learning projects- and state awards for child advocacy

*Created a patent and innovative product that actually sold and worked- even made a couple dollars before Kodak pulled out

*Bought a franchise- then relinquished it 🙏🙏

*Made Volunteer of the Year for the 3rd of the past 4 years for Pensacola from InWeekly

*Made runner up Community Leader (also one of my favs)

*My business doubled its profits last year!(Salz Studio)

*My business placed in EVERY SINGLE recognition opportunity for the gulf Coast- (InWeekly, PNJ, & VIP Pensacola)

Despite all of the tribulations of life and having three kids- with the help of amazing friends and mentors & family- I accomplished a lot...

🙏 here's to this year being even more impactful & empowering!

Thank you to all of you for believing in me to make a difference in Pensacola



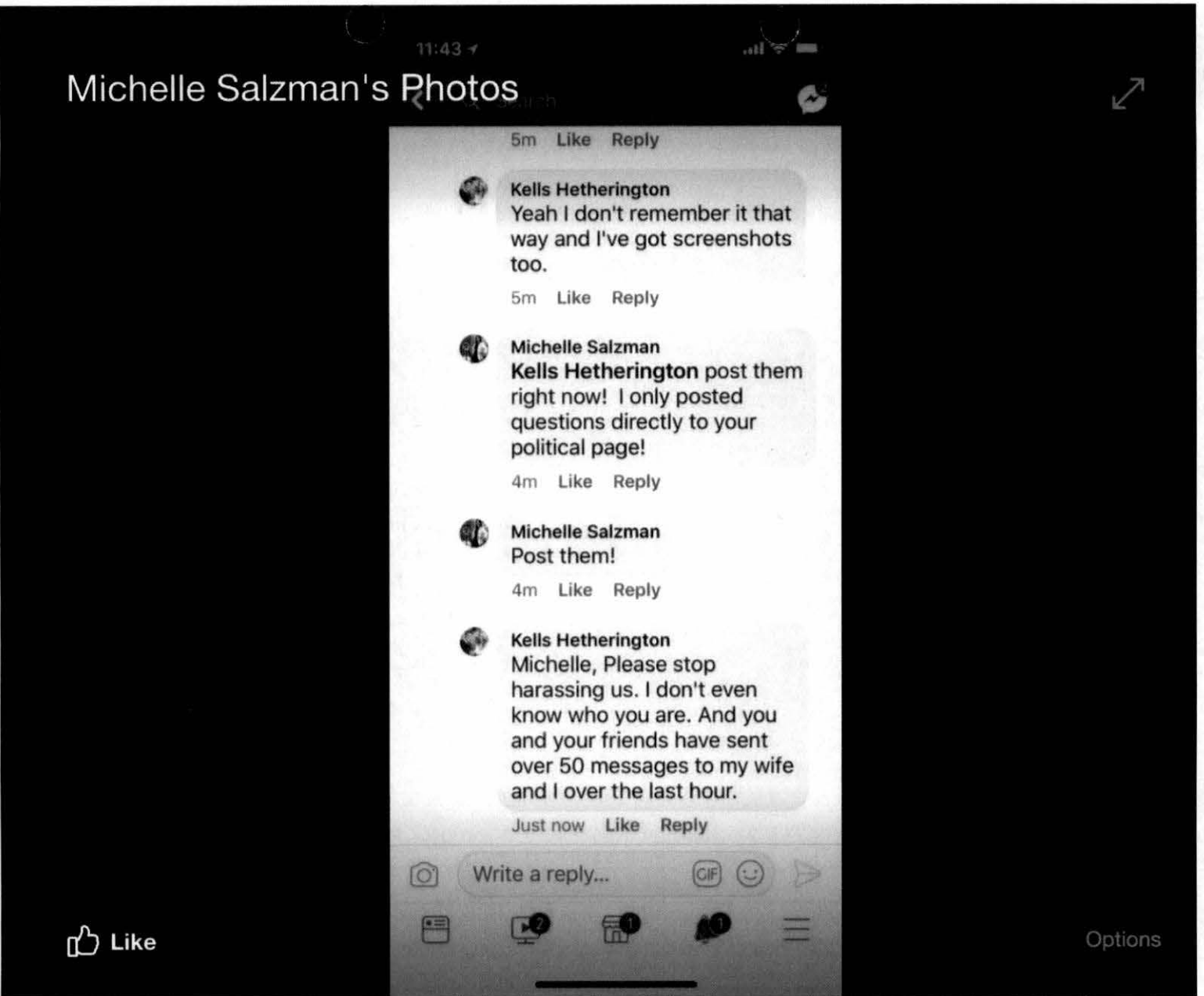
e honored to
with amazing
people and
businesses.

The
25 T

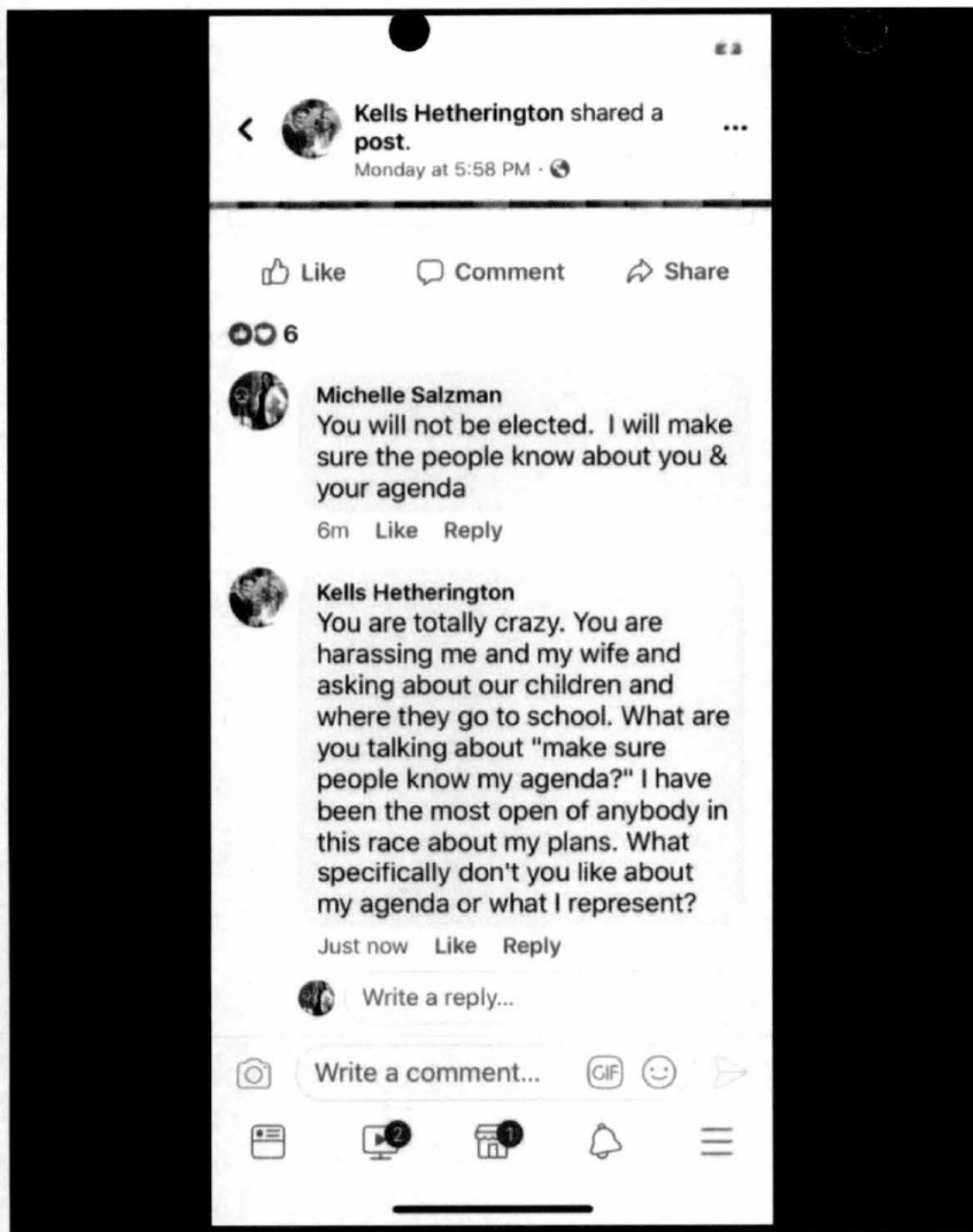
C

Michelle began cyber stalking Mr. Hetherington and his wife on or about 11:30 PM Central Standard Time on May 16, 2018 when with her husband Philip, she bombarded him on Facebook.

Michelle Salzman's Photos



After Mr. Hetherington blocked Michelle Salzman on Facebook, Michelle then began harassing him on other Facebook pages where she wrote, ***“You will not be elected. I will make sure the people know about you & your agenda.”***



Then in complete anger Michelle broadcasts a call to her Facebook friends asking them to join her in her online cyber stalking/assault of Mr. Hetherington. Curiously, she later acknowledges that she was asked by Mr. Hetherington to stop communicating with him and furthermore that she was blocked from his page, but explains that **"I was mad- and became aggressive back."**

Like · 1w



Michelle Salzman I know I missed some things... but I wanted to be completely transparent about all that I could. Essentially, I just wanted answers- basic answers... not in any way aggressive.. then he started deleting questions and then blocked my ability to comment in the political page- so I made a status.. after the status - he got aggressive- but instead of offering answers he started saying o was harassing his wife (I never tried to contact her).. at that point I was mad- and became aggressive back.

Like · 1w



Michelle Salzman Some things I did not get screen shots of...

Like · 1w

Michelle then generates what is known online as a "meme" to have what is best described as an online pamphlet to electioneer against Mr. Hetherington. But the pamphlet goes beyond a simple campaign attack when she writes, **"Anyone wanna give me some good info on him?"**



Michelle Salzman

1 hr · 2

UPDATE: THIS GUY KILLS DELETED MY COMMENTS & QUESTIONS ON HIS PAGE AND BLOCKED ME FROM COMMENTS/LIKES ETC! Maybe I haven't had enough carbs or sugar today- but this guy here is running to replace Mr. Boone, is a fine man, with a great heart for the public education system and a stellar record on the school board... Sadly, he isn't running, but Paul Fetsko, Candidate for Escambia County School Board District 2 is, and is a much better choice.

This opponent:

NO EXPERIENCE IN EDUCATION- HIS KID IS NOT IN A PUBLIC SCHOOL- HE IS NOT FROM HERE- AND ON AND ON.

I've sent him some questions about his platform because at this point I feel like someone should do him a huge favor and tell him to save his time and money...

Anyone wanna give me some good info on him?



On May 19, 2019, Michelle posts the following photo of Mr. Hetherington and a harassing message on a popular Facebook discussion page with over 6,000 members. **What's most noteworthy here is that Michelle notes that her comments were deleted from Mr. Hetherington's page, evidencing that Mr. Hetherington had suggested that she go elsewhere with her complaints.**



Michelle Salzman shared a Page.

May 19 at 6:11am

As a full-time advocate and volunteer for the public school system, I make it a point to make sure that I know about all candidates and all district so I can help keep the parents in Escambia county in formed.

Tonight I ran across some of the most awful politics I have seen, yes! Worse than what we have seen...

This guy running for school board district 2 deleted all of my comments and started threatening me and telling me that I am totally crazy and having his wife private message me pictures of her name badges. I am completely stunned.. beware- he will delete your comments & twist your words in a heartbeat.. He JUST moved to the area..

yeah, I got catty after he started attacking me: but I am livid. And yes, Mr. Hetherington, a little crazy when it comes to what I volunteer for day in and out in Pensacola for over a decade...

I only wanted answers- he created mountains from molehills

<https://www.facebook.com/imforkells/>



members/

Michelle engages hundreds of others through public online discussions, including county commissioner Douglas Underhill, messaging him about bringing down Kells Hetherington. (Prior to this communication, Mr. Underhill had asked to endorse Mr. Hetherington. When Mr. Hetherington refused to accept Mr. Underhill's endorsement, Mr. Underhill became an entrenched political enemy.)



Douglas Underhill I He asked me to sign a petition him at the Innerarity Park Groundbreaking, which of course I did. Then I asked the one question I always ask: Why are you running? He answered, "I always wanted to be in politics." I told him that was the worst possible answer. No politicians in our schools, please.

Like · 1w



^ Hide 12 Replies



Michelle Salzman We should chat soon.. I hear it's bigger than school board..

Like · 1w



Douglas Underhill Michelle Salzman it certainly is. The plan is to allow my opponent to look clean while these people do the dirty work. Thats how swamp gators work. DC has come to Escambia.

Like · 1w



Debi Kuhn We had an entire discussion in our improv troupe-he tried to add everyone in the group.

Like · 1w



Michelle Salzman Douglas: they sure have

Like · 1w

Michelle quickly lodges an elections complaint with the state, grasping for any possible means to bring down Mr. Hetherington. She makes roughly a dozen false claims in her statement.

And yet that's not enough for her...

On May 23, 2018, Michelle contacts Mr. Hetherington through Facebook using an alias. Her messages appear below.

MAY 23RD, 9:04PM

Hey There - I heard you had a "run" with Phil and Michelle Salzman. It is all over there facebook. Anyway, I am writing you to tell you that your wife is correct, Michelle is a bully. Please check out Phil's page and his rant about your conversation.

So I am going to give you something golden. Michelle was a stripper for many years at Babe's.

She had the daytime job, so she had men on the side that would put thousands of dollars in her account.

Anyway. Don't let her bully you. She needs to be stopped.

Her kids have both been admitted to psych wards btw

So an ex stripper and a lady that us unstable/crazy and a bully runs the PTA?

This is the problem. Please fix.

Mr. Hetherington's attorney sends Michelle and her husband a message instructing them to cease masquerading as other people through Facebook.

Dear Mr. and Mrs. Saltzman:

This office has the pleasure of representing Kells and Alison Hetherington, Mr. Hetherington has shared with me several of your posts on social media, as well as your communication with the Florida Elections Commission, coupled with your apparent efforts at masquerading as someone that you are not on Facebook. Many of these efforts go well beyond First Amendment freedoms, and into the area of stalking, or cyberstalking.

Accordingly, you are directed to cease and desist immediately. Failure to do so may result in potential civil and/or criminal liability.

If you have any questions regarding the demand made in this correspondence in general or my clients' intentions in particular, please do not hesitate to contact me.

PLEASE GOVERN YOURSELVES ACCORDINGLY. Sincerely [redacted]s,

Michelle later goes to great lengths to attempt to be around Mr. Hetherington in person by organizing two debates under the guise of the Parent Teacher Association where she was at the time the outgoing president. These events were for no other reason than to intimidate and harass Mr. Hetherington (only her and a few of her friends showed up). Interestingly, the PTA had never before hosted such candidate debates prior to 2018, but decided to do so last year at a location that is less than a mile down the street from Mr. Hetherington's home.

Michelle succeeded in getting close to Mr. Hetherington when she arranged through the League of Women voters to be the check in person for their debate and got herself assigned to the School Board debate. When Mr. Hetherington arrived for the debate, Michelle was the one to greet him and she and her husband then proceeded to sit next to him for several hours as he waited to go on camera.

In the screenshot below Michelle's post reveals that she intended to stalk him at this event:



Michelle Salzman He might change his mind when he finds out I'm a member of the LWW and plan to be there... 🗨️

Like · 44m





Larry Downs Jr. Will he be there?


Like · 8h



William Gandy I doubt it. He doesn't seem to be able to answer any questions or act like an adult.


Like · 8h



Kathy Fetsko I sent you a message, Larry.  1

Like · 8h · Edited



Michelle Salzman He might change his mind when he finds out I'm a member of the LWV and plan to be there... 

Like · 44m



William Gandy It always make me wonder when people delete comments...

Like · 8h



FLORIDA ELECTIONS COMMISSION
107 W. Gaines Street, Suite 224
Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783
www.fec.state.fl.us; fec@myfloridalegal.com

May 6, 2019

John W. Hetherington
155 East Avenue
New Canaan, CT 06840

RE: Case No.: FEC 18-133; Respondent: Kells Hetherington

Dear Mr. Hetherington:

The Commission staff has completed its investigation of this matter. As required by Section 106.25, Florida Statutes, we are forwarding a copy of the Report of Investigation (ROI) to you. Should you choose to file a response to the ROI, you must do so **within 14 days** of the date of this letter.

A staff attorney will now review the ROI and make a written recommendation (Staff Recommendation or SR) to the Commission as to whether there is probable cause to charge your client with violating Chapters 104 or 106, Florida Statutes. You will receive a copy of the SR and will have an opportunity to file a response.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address. Also, please remember that complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are **confidential** until the Commission finds probable cause or no probable cause.

For additional information, please refer to the "Frequently Asked Questions" section of the Commission's website (www.fec.state.fl.us). If you have any additional questions, **please contact Stephanie Cunningham**, the attorney assigned to this case.

Sincerely,

Donna Ann Malphurs

Agency Clerk

/dam

Enclosure: Report of Investigation w/Exhibits

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Case No.: FEC 18-133

Respondent: Kells Hetherington
Counsel for Respondent: John W. Hetherington

Complainant: Michelle Salzman

On May 25, 2018, the Florida Elections Commission (Commission) received a sworn complaint alleging that Respondent violated Chapter 106, Florida Statutes. Commission staff investigated whether Respondent violated the following statute:

Section 106.143(3), Florida Statutes, prohibiting a candidate from campaigning based on his party affiliation while running for nonpartisan office.

I. Preliminary Information:

1. Respondent, Kells Hetherington, was a 2018 candidate for the Escambia County School Board, District 2; he was defeated during the primary election held on August 28, 2018. Respondent was a first-time candidate.
2. On April 27, 2018, Respondent's "APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY FOR CANDIDATES" form (DS-DE 9) was filed with the Escambia County Supervisor of Elections office. Respondent appointed himself as campaign treasurer. To review the DS-DE 9 form, refer to Exhibit 1.
3. Respondent is represented by John W. Hetherington.
4. Complainant, Michelle Salzman, is a former president of the Escambia County PTA council.

II. Alleged Violation of Section 106.143(3), Florida Statutes:

5. I investigated whether Respondent violated this section of the election laws by campaigning based on his party affiliation while running for a nonpartisan office.
6. The 2018 Escambia County Candidate Handbook identifies candidates for school board member as a nonpartisan office. In addition, Respondent signed a "Candidate Oath – School Board Nonpartisan Office" form as a candidate for the nonpartisan office of School Board, District 2. To review the relevant page from the county handbook as well as Respondent's signed "Candidate Oath," refer to Exhibit 2.
7. Complainant offered with her complaint a copy of Respondent's "Candidate's

Statement” that was posted on the Escambia County Supervisor of Elections website. Complainant noted two references within the statement: “conservative ideas” and “A lifelong Republican.”

8. The last sentence of the first paragraph reads, “We were attracted by the low taxes and conservative ideas that this community offers.” The last sentence of the third paragraph reads, “A lifelong Republican, I was raised in the Congregationalist Church.” To review the “Candidate’s Statement,” refer to Exhibit 3.

9. In a response to the complaint, Respondent stated his biography “can damn well say that I’m a lifelong Republican. My First Amendment right to free speech is not abridged simply because I’m running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done.” To review Respondent’s response, refer to Exhibit 4.

10. In a questionnaire-affidavit, Respondent was asked whether he had anyone review his candidate’s statement prior to having it posted on the supervisor of elections website and whether he sought legal advice or reviewed any Division of Elections opinions; Respondent did not return the questionnaire-affidavit¹. To review the questionnaire-affidavit, refer to Exhibit 5.

11. Commission staff reviewed Respondent’s “Candidate’s Statement” on June 19, 2018, and noticed the wording, “A lifelong Republican” had been changed to read, “A lifelong conservative ...” To review the “Candidate’s Statement” from June 19, 2018, refer to Exhibit 6.

12. In a questionnaire-affidavit, Respondent was asked to explain why the verbiage, “A lifelong Republican” was changed to “A lifelong conservative.” As noted in paragraph 10, Respondent did not return the questionnaire-affidavit.

13. No record was found to indicate that Respondent has previously violated this section of the election laws.

III. FEC History:

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

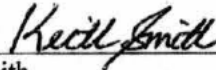
Conclusion:

15. In an affidavit, Escambia County Supervisor of Elections David H. Stafford attested that Respondent was provided with Chapter 106, Florida Statutes as well as the *Candidate and Campaign Treasurer Handbook*. The supervisor of elections also attested that their office had no record of Respondent having sought elective office prior to his 2018 campaign. In addition, Mr. Stafford attested that their office had no recollection of having any conversation with Respondent relative to campaigning based on party affiliation or any record of anything in writing discussing the issue with Respondent. To review the affidavit of the Escambia County Supervisor of Elections, refer to Exhibit 7.

¹ The questionnaire-affidavit was e-mailed to Respondent’s attorney on April 2, 2019 and was due April 19, 2019.

16. Respondent executed a Statement of Candidate indicating that he had been provided access to read and understand the requirements of Chapter 106, Florida Statutes; the form is dated April 27, 2018. To review the Statement of Candidate, refer to Exhibit 8.

Respectfully submitted on May 1, 2019.



Keith Smith
Investigation Specialist

Current address of Respondent

Kells Hetherington
10335 Gulf Beach Highway – Apt. #208
Pensacola, Florida 32509

Current address of Complainant

Michelle Salzman
10296 Vintage Drive
Pensacola, Florida 32514

Current Address of Respondent's Atty.:

John W. Hetherington
155 East Avenue
New Canaan, Connecticut 06840

Name and Address of Filing Officer:

The Honorable David H. Stafford
Supervisor of Elections
213 Palafox Place – Second Floor
Pensacola, Florida 32502

Copy furnished to: David Flagg, Investigations Manager

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Kells Hetherington -- FEC 18-133

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	DS-DE 9 form
Exhibit 2	Relevant pages from county handbook/Candidate Oath
Exhibit 3	"Candidate's Statement" submitted w/complaint
Exhibit 4	Response to the complaint
Exhibit 5	Questionnaire-affidavit
Exhibit 6	"Candidate's Statement" from June 19, 2018
Exhibit 7	SOE affidavit
Exhibit 8	Statement of Candidate

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

128 APR 27 11:51

COPY

(PLEASE PRINT OR TYPE)

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

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES): <input checked="" type="checkbox"/> Initial Filing of Form Re-filing to Change: <input type="checkbox"/> Treasurer/Deputy <input type="checkbox"/> Depository <input type="checkbox"/> Office <input type="checkbox"/> Party					
2. Name of Candidate (In this order: First, Middle, Last) Kells Luke Hetherington			3. Address (Include post office box or street, city, state, zip code) 10335 Gulf Beach Highway Apt 708 Pensacola, FL 32507		
4. Telephone (202) 431-0482		5. E-mail address KellsHetherington@gmail.com			
6. Office sought (include district, circuit, group number) Escambia County School Board (2nd District)			7. If a candidate for a <u>nonpartisan</u> office, check if applicable: <input type="checkbox"/> My intent is to run as a Write-In candidate.		
8. If a candidate for a <u>partisan</u> office, check block and fill in name of party as applicable: My intent is to run as a <input type="checkbox"/> Write-In <input type="checkbox"/> No Party Affiliation <input type="checkbox"/> _____ Party candidate.					
9. I have appointed the following person to act as my <input checked="" type="checkbox"/> Campaign Treasurer <input type="checkbox"/> Deputy Treasurer					
10. Name of Treasurer or Deputy Treasurer Kells Hetherington					
11. Mailing Address 10335 Gulf Beach Highway Apt 708				12. Telephone (202) 431 0484	
13. City Pensacola		14. County Escambia		15. State FL	16. Zip Code 32507
17. E-mail address KellsHetherington@gmail.com					
18. I have designated the following bank as my <input checked="" type="checkbox"/> Primary Depository <input type="checkbox"/> Secondary Depository					
19. Name of Bank Wells Fargo			20. Address 21 E Garden Street		
21. City Pensacola		22. County Escambia		23. State FL	24. Zip Code 32501
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.					
25. Date April 27, 2018			26. Signature of Candidate X <i>[Signature]</i>		
27. Treasurer's Acceptance of Appointment (fill in the blanks and check the appropriate block)					
I, <u>Kells Hetherington</u> , do hereby accept the appointment (Please Print or Type Name)					
designated above as: <input checked="" type="checkbox"/> Campaign Treasurer <input type="checkbox"/> Deputy Treasurer.					
Date <u>April 27, 2018</u> X			Signature of Campaign Treasurer or Deputy Treasurer <i>[Signature]</i>		

EXHIBIT



2018

**Escambia County
Candidate
Handbook**

David H. Stafford, CERA

Escambia County Supervisor of Elections

EXHIBIT

2 (1 of 4)

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EXHIBIT 2 (2 of 4)

2018 Local Offices Up for Election and Terms

<i>Judicial (Nonpartisan)</i>	
<i>Per State Constitution, Article V, Section 10, 1st Tuesday after 1st Monday in January</i>	<i>Term Begins</i>
County Court Judge, Groups 2, 4 and 5 (6 year term)	Tuesday, January 8, 2019
<i>County and School Board</i>	
<i>Per Florida Statutes 100.041(2)(a) & (3)(a), 2nd Tuesday following General Election</i>	<i>Term Begins</i>
County Commissioner, Districts 2 and 4 (Partisan - 4 year term)	Tuesday, November 20, 2018
School Board Member, Districts 1, 2 and 3 (Nonpartisan - 4 year term)	Tuesday, November 20, 2018
<i>Special Districts</i>	
<i>Per Laws of Florida Chapter 2001-324 Section 4(b), 2nd Tuesday following General Election</i>	<i>Term Begins</i>
Emerald Coast Utilities Authority, Districts 2 & 4 (Partisan - 4 year term)	Tuesday, November 20, 2018
<i>Per Laws of Florida, Chapter 83-407 Section 3(b)(2) - Election Night</i>	<i>Term Begins</i>
Santa Rosa Island Authority (Nonpartisan - 2 year term)	Tuesday, November 6, 2018
<i>Per Florida Statutes 582.18, 1st Tuesday after 1st Monday in January</i>	<i>Term Begins</i>
Escambia Soil and Water Conservation District, Groups 2, 4, and 5 (Nonpartisan - 4 year term) (Group 5 is to fill remaining 2 year term)	Tuesday, January 8, 2019
<i>City of Pensacola (Nonpartisan)</i>	
<i>Per City Charter, Article III, Section 6.07, 4th Tuesday in November</i>	<i>Term Begins</i>
Mayor of Pensacola (4 year term)	Tuesday, November 27, 2018
City Council, Districts 2, 4 and 6 (4 year term)	Tuesday, November 27, 2018
<i>Town of Century (Nonpartisan)</i>	
<i>Per Century Town Charter Section 5.05 (c) 1st Monday in January, following the regular town election</i>	<i>Term Begins</i>
Century Town Council, Seats 3, 4 and 5 (4 year term)	Monday, January 7, 2019

EXHIBIT 2 (3 & 4)

**CANDIDATE OATH –
SCHOOL BOARD
NONPARTISAN OFFICE**

'18 JUN 22 8:51 AM

Check box *only* if you are seeking to qualify as a write-in candidate:

Write-in candidate

OFFICE USE ONLY

Candidate Oath

(Sections 99.021(1)(a) and 105.031, Florida Statutes)

I, Kells Hetherington

(Print name above as you wish it to appear on the ballot. If your last name consists of two or more names but has no hyphen, check box . (See page 2 - Compound Last Names). No change can be made after the end of qualifying. Although a write-in candidate's name is not printed on the ballot, the name must be printed above for oath purposes.)

am a candidate for the nonpartisan office of School Board 2
(Office) (District #)

; I am a qualified elector of Escambia County, Florida;
(Circuit #) (Group or Seat #)

I am qualified under the Constitution and the Laws of Florida to hold the office to which I desire to be nominated or elected; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office from which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

Section 876.05, Florida Statutes, oath (only applicable if elected and when term of office begins): I, a citizen of the State of Florida and of the United States of America, and being employed by or an officer of the school board and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida.

Candidate's Florida Voter Registration Number (located on your voter information card): [REDACTED]

Phonetic spelling for audio ballot: Print name phonetically on the line below as you wish it to be pronounced on the audio ballot as may be used by persons with disabilities (see instructions on page 2 of this form): [Not applicable to write-in candidates.]

X Kells Hetherington (202) 431-0482 Kellsbetherrington@gmail.com
Signature of Candidate Telephone Number Email Address

10335 Gulf Beach Highway A, Panama FL 32507
Address City State ZIP Code

STATE OF FLORIDA
COUNTY OF Escambia

Kellee A. Baker
Signature of Notary Public
Print, Type, or Stamp Name of Notary Public below:
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF241949
Expires 8/21/2019

Sworn to (or affirmed) and subscribed before me this 22
day of June, 20 18.

Personally Known: _____ or Produced Identification:
Type of Identification Produced: FDL EXHIBIT 2 (A&A)

STATEMENT

Kells Hetherington is in direct violation of Florida Statue 106.143 paragraph (3):

LISTED ON THE ESCAMBIAVOTES.COM/CANDIDATE-LIST:

Contact Information:

10335 Gulf Beach Hwy Apt 708
Pensacola, FL - 32507
kellshetherington@gmail.com
(202)431-0482

Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Alison and I own a home on Gulf Beach Highway in District 2. After getting married in Washington D.C, my wife and I moved to Pensacola where we have family nearby. We were attracted by the low taxes and conservative ideals that this community offers.

In Washington, I worked for Tucker Carlson as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science from Manhattanville College.

Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong Republican, I was raised in the Congregationalist Church.

My greatest supporter is my lovely wife, Allison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 right here in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

He also specifically mentions his intentions to bring the conservative and republican agenda to the school board, a nonpartisan seat and race. Although, I am a republican, this is a direct and an intentional violation of our laws.. and he has been challenged about this several times he deletes the challenging comments on his political site as if no one asked. I challenged his statement about this in a public forum at a local candidate meet and greet and he had no response.

EXHIBIT 3

18-133



Response to Michelle Salzman complaint

Kells Hetherington

to:

fec, Kells Hetherington

06/11/2018 06:52 PM

Hide Details

From: "Kells Hetherington" <kellshetherington@gmail.com>

To: fec@myfloridalegal.com, "Kells Hetherington" <kellshetherington@gmail.com>

This is in response to the complaint filed by Ms. Michelle Salzman:

I think the real issue Ms. Salzman has with me is my response to the question below asked by a friend of hers:

16 MAY 21:38

What is Your opinion on lgbtQ training for teachers

Hi Josh, no I do not think it is necessary.

Sent by Alison Hetherington [?]

Well u should do a survey and see, see how your lgbtq youth feel about they way there treated in schools. It well surprise you to see how much it actually is needed. You need to be informed about this if you want a chance at winning. School broad need to be diverse and well informed unfortunately your not.

If you taken a look at my profile u would have seen I am gay and a lgbtq

If you taken a look at my profile u would have seen I am gay and a lgbtq youth advocate among others nonprofit in Pensacola ... I never heard of you. Why did you request me to add you?



Do u know me salzman?

It was shortly after this that we began hearing from her and her husband and many of her friends for the first time.

Her other concerns are completely misplaced:

Collecting signatures outside a store that allows me to be there is totally within my rights, as is running for public office so long as I am a resident of this district on the date of the election. And my biography can damn well say that I'm a life-long Republican. My First Amendment right to free speech is not abridged simply because I'm running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done. Ms Salzman would be well served to

EXHIBIT 4 (1 of 2)

get her facts straight before she continues to be a nuisance.

Ms. Salzman and her husband began stalking and bullying my wife and me online May 18, a week before she filed this frivolous complaint in which she has perjured herself. Not only that, but she rounded up a group of her online friends to join in her bullying attacks against me. Can you imagine this woman is the outgoing president of the PTA in Escambia County?

Ms. Salzman and her husband are bullies and if they are intent on bullying me further, I will not hesitate to take legal action.

I'm asking that the commission dismiss this frivolous complaint with prejudice.

--
Kells Hetherington

Cell: (202) 431-0482

EXHIBIT 4 (2 of 2)

AFFIDAVIT OF BACKGROUND INFORMATION
Case Number: FEC 18-133

STATE OF FLORIDA
County of Escambia

Kells Hetherington, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by _____ as _____.
3. Prior to your 2018 campaign, had you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in.

4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s).

5. Have you ever held the office of chairperson or treasurer position for a political committee and an electioneering communications organization? If so, please list the names and addresses of the committees and dates when you held the position.

6. What action have you taken to determine your responsibilities under Florida's election laws?

7. Do you possess a copy of Chapter 106, Florida Statutes? Yes No

8. If so, when did you first obtain it? _____

EXHIBIT 5 (1 of 3)

9. Have you read Chapter 106, Florida Statutes? Yes No

10. Do you possess a copy of the *Candidate and Campaign Treasurer Handbook*? Yes No

11. If so, when did you first obtain it? _____

12. Have you read the *Candidate and Campaign Treasurer Handbook*? Yes No

13. As part of the complaint, Ms. Salzman offered a copy of your "Candidate's Statement" which appeared to be posted on the supervisor of elections website. Were you solely responsible for creating/drafting the "Candidate's Statement"? () Yes () No. If no, please provide the name(s) of any individual(s) who assisted you.

14. After creating/drafting the "Candidate's Statement," but prior to having it posted on the Escambia County Supervisor of Elections website, did you have anyone review it for you? If so, please provide the name(s) of any individual(s) who reviewed the statement and explain why you had him/her review the statement for you.

15. Prior to having the "Candidate's Statement" posted on the Escambia County Supervisor of Elections website, did you seek any legal advice from an attorney to determine whether the statement could be construed to be in violation of the election laws? () Yes () No. If yes, please provide the name of the attorney and his/her area of practice.

16. Prior to having the "Candidate's Statement" posted on the Escambia County Supervisor of Elections website, did you review any Division of Elections' opinions relative to Section 106.143(3), Florida Statutes? () Yes () No. If yes, please list which opinions you reviewed.

EXHIBIT 5 (2 of 3)

17. What was the purpose of using the verbiage, "A lifelong Republican" as part of the "Candidate's Statement"?

18. When your "Candidate's Statement" was viewed in June 2018, the verbiage, "A lifelong Republican" was changed to read, "A lifelong conservative." Were you responsible for changing the verbiage from "A lifelong Republican" to "A lifelong conservative"? () Yes () No. If yes, please explain why it was changed.

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

Signature of Affiant

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____.

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

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

Case Investigator: KS

EXHIBIT 5 (363)

Select Language
 Powered by Google Translate

Candidate: Kells Hetherington

Office: School Board, District 2

List All Contributions and Expenditures

Show only financial reports (Hides bio)



Available reports...
 M4 5/10/2018
 M5 6/11/2018

Contact Information:
 10335 Gulf Beach Hwy Apt 708
 Pensacola, FL - 32507
 kellshetherington@gmail.com
 (202)431-0482

Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Alison and I own a home on Gulf Beach Highway in District 2. Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong conservative, I was raised in the Congregational Church.

Prior to working full time in finance, I worked in Washington D.C for Fox News host Tucker Carlson, as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science in Communications from Manhattanville College.

My greatest supporter is my lovely wife, Alison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

The following financial reports are available:

Report	Monetary Contributions	In Kind Contributions	Expenditures and Distributions	Print Report
M4 (4/1/2018 - 4/30/2018)	\$0.00	\$0.00	\$0.00	
M5 (5/1/2018 - 5/31/2018)	\$3,350.00	\$0.00	\$2,362.12	

Candidate qualifying forms and miscellaneous documents

Appointment Form for Treasurer

Appointment Form for Deputy Treasurer

Statement of Candidate

Pre-File Form

EXHIBIT 6

REC'D: FL ELECTIONS COM
29 MAR 19 AM 9:32

AFFIDAVIT OF FILING OFFICER
Case Number: FEC 18-133

STATE OF FLORIDA
County of Escambia

David H. Stafford, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by ESCAMBIA COUNTY as SUPERVISOR OF ELECTIONS.
3. Please provide copies of the listed items from the following candidate's campaign file: Kells Hetherington.

Check	ITEM
✓	The Statement of Candidate form for the 2018 campaign.
✓	Appointments of Treasurers and Designation of Campaign Depository form for the 2018 campaign.

4. Please check each item provided to the candidate and list the date that the item was provided.

Check	ITEM	DATE
✓	Chapter 106, Florida Statutes	4-27-18
✓	Candidate and Campaign Treasurer Handbook <u>Please Indicate Year.</u>	2018
✓	Other: ¹ <u>LOCAL CANDIDATE HANDBOOK</u>	4/27/18

5. Relative to Chapter 106, *Florida Statutes* and the *Candidate and Campaign Treasurer Handbook*, how are these publications provided to the candidate?

- Publications are given directly to the candidate.
- Publications are available in the office, candidates are advised to pick-up the publications for themselves.

¹ Any local publications relative to the Election laws that may have been provided in lieu of the *Candidate and Campaign Treasurer Handbook* published by the Division of Elections. If your office published the item(s), please send a copy of the item(s) with the affidavit.

EXHIBIT 7 (1 of 3)

Candidates are advised to download copies of the publications from our website or the Division of Elections' website.

Other, please explain. CD with documents

6. Does your office have any record of Kells Hetherington having sought elective office within your jurisdiction prior to the 2018 election? Yes or No. If yes, please list the previous office(s) he ran for, the date(s) of the election(s), and the result(s) of the election(s).

7. Did Mr. Hetherington win election to the School Board, District 2 during the 2018 election? Yes No.

8. Does your office have any record of Kells Hetherington having been named as a chairperson or campaign treasurer of a political committee or electioneering communication organization within your jurisdiction? Yes or No. If yes, please list the name(s) of the committees.

9. Did you or any member from your staff have any conversations with Kells Hetherington relative to campaigning based on party affiliation? Yes or No. If yes, please indicate whether the conversation was in person, in writing, or by telephone and the subject matter of the conversation. If applicable, please provide copies documenting the discussion.

NO RECORD OF ANYTHING IN WRITING. NO RECOLLECTION OF ANY CONVERSATIONS.

I SWEAR OR AFFIRM THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

[Signature]
Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 28 day of March, 2019.

[Signature]
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

EXHIBIT

7 (2 of 3)



Keelle A. Sekanta
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF241949
Expires 8/21/2019

Personally Known or Produced Identification _____
Type of Identification Produced: _____

Case investigator: KS

EXHIBIT 7 (3 of 3)

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please print or type)

OFFICE USE ONLY

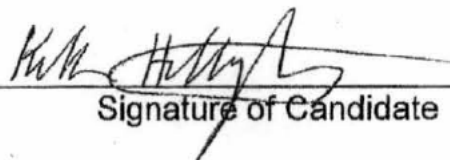
COPY

'18 APR 27 11:51AM

I, Kells Hetherington,

candidate for the office of Escambia County School Board (District 2);

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

X 
Signature of Candidate

April 27, 2018
Date

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

EXHIBIT 8

Stephanie Cunningham

From: jwhetherington@gmail.com
Sent: Friday, May 24, 2019 1:33 PM
To: Stephanie Cunningham
Subject: Notice of withdrawal

Stephanie-

Please be advised that I am no longer representing Kells Hetherington. Please consider this my Notice of Withdrawal.

Sincerely yours,

John W Hetherington, Esq

Sent from my iPhone

Stephanie Cunningham

From: John Hetherington <jwhetherington@gmail.com>
Sent: Thursday, May 23, 2019 4:53 PM
To: Stephanie Cunningham
Subject: Notice of Withdrawal
Attachments: FEC Letter 2019.docx

Please note the attached Notice of Withdrawal. I will be out of the US for a period of time.

Thank you and good wishes.

John Hetherington

Ms. Donna Ann Malphurs
Agency Clerk
Florida Elections Commission
107 W. Gaines Street, Suite 224
Collins Building
Tallahassee, Florida 32399-1050

CC. Stephanie Cunningham, Esq.

Ref.: Case No.: FEC 18-133

Reference is made to the to the Report of Investigation in this matter dated May 1, 2019 which I have received. The following is noted:

First, the penalty for this alleged infraction has already been paid and accepted, thus the matter should be deemed concluded.

Proceeding to the text of the subject Report, however, the following is submitted:

Exhibit 5 is actually listed as an "Affidavit." It is incomplete, lacks an attestation and is therefore not an affidavit. The substance moreover seeks to build a case based on self-incrimination, demonstrating a clumsy indifference to professionalism as well as justice.

Further, your department needs to be aware that the Respondent and his wife continue to be a target of harassment by the Complainant, Michelle Salzman. This relentless harassment has a confirmed impact on Mrs. Hetherington and it may be assumed that legal remedies including damages for the intentional infliction of emotional injury are being considered.

An illustration of the continuing senseless and vindictive moves by Michelle Salzman is provided in Exhibits A-. Mrs Salzman notes that that the school board election was a year earlier, while persisting in maligning the Respondent with no provocation whatever.

The Complainant

Yours, etc.

John W. Hetherington
Attorney for Respondent

Stephanie Cunningham

From: John Hetherington <jwhetherington@gmail.com>
Sent: Thursday, May 23, 2019 3:27 PM
To: Stephanie Cunningham
Cc: Kells Hetherington
Subject: Notice of Withdrawal

Please note the attached. I will be out of the US for a period of time.

Thank you,

John Hetherington

Stephanie Cunningham

From: John Hetherington <jwhetherington@gmail.com>
Sent: Thursday, May 23, 2019 3:08 PM
To: Stephanie Cunningham
Cc: Kells Hetherington
Subject: Notice of Withdrawal
Attachments: FEC Letter 2019.docx

Please note the attached. I will be out of the US for a period of time.

Thanks and good wishes.

John Htherington

Ms. Donna Ann Malphurs
Agency Clerk
Florida Elections Commission
107 W. Gaines Street, Suite 224
Collins Building
Tallahahassee, Florida 32399-1050

CC. Stephanie Cunningham, Esq.

Ref.: Case No.: FEC 18-133

Reference is made to the to the Report of Investigation in this matter dated May 1, 2019 which I have received. The following is noted:

First, the penalty for this alleged infraction has already been paid and accepted, thus the matter should be deemed concluded.

Proceeding to the text of the subject Report, however, the following is submitted:

Exhibit 5 is actually listed as an "Affidavit." It is incomplete, lacks an attestation and is therefore not an affidavit. The substance moreover seeks to build a case based on self-incrimination, demonstrating a clumsy indifference to professionalism as well as justice.

Further, your department needs to be aware that the Respondent and his wife continue to be a target of harassment by the Complainant, Michelle Salzman. This relentless harassment has a confirmed impact on Mrs. Hetherington and it may be assumed that legal remedies including damages for the intentional infliction of emotional injury are being considered.

An illustration of the continuing senseless and vindictive moves by Michelle Salzman is provided in Exhibits A-. Mrs Salzman notes that that the school board election was a year earlier, while persisting in maligning the Respondent with no provocation whatever.

The Complainant

Yours, etc.

John W. Hetherington
Attorney for Respondent

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Case No.: FEC 18-133

Respondent: Kells Hetherington

Counsel for Respondent: John W. Hetherington

Complainant: Michelle Salzman

On May 25, 2018, the Florida Elections Commission (Commission) received a sworn complaint alleging that Respondent violated Chapter 106, Florida Statutes. Commission staff investigated whether Respondent violated the following statute:

Section 106.143(3), Florida Statutes, prohibiting a candidate from campaigning based on his party affiliation while running for nonpartisan office.

I. Preliminary Information:

1. Respondent, Kells Hetherington, was a 2018 candidate for the Escambia County School Board, District 2; he was defeated during the primary election held on August 28, 2018. Respondent was a first-time candidate.

2. On April 27, 2018, Respondent's "APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY FOR CANDIDATES" form (DS-DE 9) was filed with the Escambia County Supervisor of Elections office. Respondent appointed himself as campaign treasurer. To review the DS-DE 9 form, refer to Exhibit 1.

3. Respondent is represented by John W. Hetherington.

4. Complainant, Michelle Salzman, is a former president of the Escambia County PTA council.

II. Alleged Violation of Section 106.143(3), Florida Statutes:

5. I investigated whether Respondent violated this section of the election laws by campaigning based on his party affiliation while running for a nonpartisan office.

6. The 2018 Escambia County Candidate Handbook identifies candidates for school board member as a nonpartisan office. In addition, Respondent signed a "Candidate Oath – School Board Nonpartisan Office" form as a candidate for the nonpartisan office of School Board, District 2. To review the relevant page from the county handbook as well as Respondent's signed "Candidate Oath," refer to Exhibit 2.

7. Complainant offered with her complaint a copy of Respondent's "Candidate's

Statement” that was posted on the Escambia County Supervisor of Elections website. Complainant noted two references within the statement: “conservative ideas” and “A lifelong Republican.”

8. The last sentence of the first paragraph reads, “We were attracted by the low taxes and conservative ideas that this community offers.” The last sentence of the third paragraph reads, “A lifelong Republican, I was raised in the Congregationalist Church.” To review the “Candidate’s Statement,” refer to Exhibit 3.

9. In a response to the complaint, Respondent stated his biography “can damn well say that I’m a lifelong Republican. My First Amendment right to free speech is not abridged simply because I’m running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done.” To review Respondent’s response, refer to Exhibit 4.

10. In a questionnaire-affidavit, Respondent was asked whether he had anyone review his candidate’s statement prior to having it posted on the supervisor of elections website and whether he sought legal advice or reviewed any Division of Elections opinions; Respondent did not return the questionnaire-affidavit¹. To review the questionnaire-affidavit, refer to Exhibit 5.

11. Commission staff reviewed Respondent’s “Candidate’s Statement” on June 19, 2018, and noticed the wording, “A lifelong Republican” had been changed to read, “A lifelong conservative ...” To review the “Candidate’s Statement” from June 19, 2018, refer to Exhibit 6.

12. In a questionnaire-affidavit, Respondent was asked to explain why the verbiage, “A lifelong Republican” was changed to “A lifelong conservative.” As noted in paragraph 10, Respondent did not return the questionnaire-affidavit.

13. No record was found to indicate that Respondent has previously violated this section of the election laws.

III. FEC History:

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

Conclusion:

15. In an affidavit, Escambia County Supervisor of Elections David H. Stafford attested that Respondent was provided with Chapter 106, Florida Statutes as well as the *Candidate and Campaign Treasurer Handbook*. The supervisor of elections also attested that their office had no record of Respondent having sought elective office prior to his 2018 campaign. In addition, Mr. Stafford attested that their office had no recollection of having any conversation with Respondent relative to campaigning based on party affiliation or any record of anything in writing discussing the issue with Respondent. To review the affidavit of the Escambia County Supervisor of Elections, refer to Exhibit 7.

¹ The questionnaire-affidavit was e-mailed to Respondent’s attorney on April 2, 2019 and was due April 19, 2019.

16. Respondent executed a Statement of Candidate indicating that he had been provided access to read and understand the requirements of Chapter 106, Florida Statutes; the form is dated April 27, 2018. To review the Statement of Candidate, refer to Exhibit 8.

Respectfully submitted on May 1, 2019.



Keith Smith
Investigation Specialist

Current address of Respondent

Kells Hetherington
10335 Gulf Beach Highway – Apt. #208
Pensacola, Florida 32509

Current address of Complainant

Michelle Salzman
10296 Vintage Drive
Pensacola, Florida 32514

Current Address of Respondent's Atty.:

John W. Hetherington
155 East Avenue
New Canaan, Connecticut 06840

Name and Address of Filing Officer:

The Honorable David H. Stafford
Supervisor of Elections
213 Palafox Place – Second Floor
Pensacola, Florida 32502

Copy furnished to: David Flagg, Investigations Manager

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Kells Hetherington -- FEC 18-133

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	DS-DE 9 form
Exhibit 2	Relevant pages from county handbook/Candidate Oath
Exhibit 3	“Candidate’s Statement” submitted w/complaint
Exhibit 4	Response to the complaint
Exhibit 5	Questionnaire-affidavit
Exhibit 6	“Candidate’s Statement” from June 19, 2018
Exhibit 7	SOE affidavit
Exhibit 8	Statement of Candidate

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

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

(PLEASE PRINT OR TYPE)

COPY

18 APR 27 11:51

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

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

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

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

Kells Luke Hetherington

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

10335 Gulf Beach Highway
Apt 708
Pensacola, FL 32507

4. Telephone

(202) 431-0482

5. E-mail address

Kellshetherington@gmail.com

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

Escambia County School Board (2nd District)

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

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

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

Write-In No Party Affiliation _____ Party candidate.

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

10. Name of Treasurer or Deputy Treasurer

Kells Hetherington

11. Mailing Address

10335 Gulf Beach Highway Apt 708

12. Telephone

(202) 431 0482

13. City

Pensacola

14. County

Escambia

15. State

FL

16. Zip Code

32507

17. E-mail address

Kellshetherington@gmail.com

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

19. Name of Bank

Wells Fargo

20. Address

21 E Garden Street

21. City

Pensacola

22. County

Escambia

23. State

FL

24. Zip Code

32501

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

25. Date

April 27, 2018

26. Signature of Candidate

X *[Signature]*

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

I, Kells Hetherington, do hereby accept the appointment
(Please Print or Type Name)

designated above as: Campaign Treasurer Deputy Treasurer.

April 27, 2018 X
Date

[Signature]
Signature of Campaign Treasurer or Deputy Treasurer

EXHIBIT



2018

**Escambia County
Candidate
Handbook**

David H. Stafford, CERA

Escambia County Supervisor of Elections

EXHIBIT 2 (1 of 4)

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EXHIBIT 2 (2 of 4)

2018 Local Offices Up for Election and Terms

Judicial (Nonpartisan)	
<i>Per State Constitution, Article V, Section 10, 1st Tuesday after 1st Monday in January</i>	<i>Term Begins</i>
County Court Judge, Groups 2, 4 and 5 (6 year term)	Tuesday, January 8, 2019
County and School Board	
<i>Per Florida Statutes 100.041(2)(a) & (3)(a), 2nd Tuesday following General Election</i>	<i>Term Begins</i>
County Commissioner, Districts 2 and 4 (Partisan - 4 year term)	Tuesday, November 20, 2018
School Board Member, Districts 1, 2 and 3 (Nonpartisan - 4 year term)	Tuesday, November 20, 2018
Special Districts	
<i>Per Laws of Florida Chapter 2001-324 Section 4(b), 2nd Tuesday following General Election</i>	<i>Term Begins</i>
Emerald Coast Utilities Authority, Districts 2 & 4 (Partisan - 4 year term)	Tuesday, November 20, 2018
<i>Per Laws of Florida, Chapter 83-407 Section 3(b)(2) - Election Night</i>	<i>Term Begins</i>
Santa Rosa Island Authority (Nonpartisan - 2 year term)	Tuesday, November 6, 2018
<i>Per Florida Statutes 582.18, 1st Tuesday after 1st Monday in January</i>	<i>Term Begins</i>
Escambia Soil and Water Conservation District, Groups 2, 4, and 5 (Nonpartisan - 4 year term) (Group 5 is to fill remaining 2 year term)	Tuesday, January 8, 2019
City of Pensacola (Nonpartisan)	
<i>Per City Charter, Article III, Section 6.07, 4th Tuesday in November</i>	<i>Term Begins</i>
Mayor of Pensacola (4 year term)	Tuesday, November 27, 2018
City Council, Districts 2, 4 and 6 (4 year term)	Tuesday, November 27, 2018
Town of Century (Nonpartisan)	
<i>Per Century Town Charter Section 5.05 (c)</i>	<i>Term Begins</i>
<i>1st Monday in January, following the regular town election</i>	
Century Town Council, Seats 3, 4 and 5 (4 year term)	Monday, January 7, 2019

EXHIBIT 2 (3 & 4)

**CANDIDATE OATH –
SCHOOL BOARD
NONPARTISAN OFFICE**

18 JUN 22 8:51 AM

Check box **only** if you are seeking to qualify as a write-in candidate:

Write-in candidate

OFFICE USE ONLY

Candidate Oath

(Sections 99.021(1)(a) and 105.031, Florida Statutes)

I, Kells Hetherington

(Print name above as you wish it to appear on the ballot. If your last name consists of two or more names but has no hyphen, check box . (See page 2 - Compound Last Names). No change can be made after the end of qualifying. Although a write-in candidate's name is not printed on the ballot, the name must be printed above for oath purposes.)

I am a candidate for the nonpartisan office of School Board, 2
(Office) (District #)
 I am a qualified elector of Escambia County, Florida;
(Circuit #) (Group or Seat #)

I am qualified under the Constitution and the Laws of Florida to hold the office to which I desire to be nominated or elected; I have qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with the office I seek; and I have resigned from any office from which I am required to resign pursuant to Section 99.012, Florida Statutes; and I will support the Constitution of the United States and the Constitution of the State of Florida.

Section 876.05, Florida Statutes, oath (only applicable if elected and when term of office begins): I, a citizen of the State of Florida and of the United States of America, and being employed by or an officer of the school board and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida.

Candidate's Florida Voter Registration Number (located on your voter information card): [REDACTED]

Phonetic spelling for audio ballot: Print name phonetically on the line below as you wish it to be pronounced on the audio ballot as may be used by persons with disabilities (see instructions on page 2 of this form): *[Not applicable to write-in candidates.]*
[REDACTED]

X Kells Hetherington (22) 431 - 0482 KellsHetherington@gmail.com
Signature of Candidate Telephone Number Email Address

10335 Gulf Beach Highway A, Panama FL 32507
Address City State ZIP Code

STATE OF FLORIDA
 COUNTY OF Escambia

Kellee A. Sekerka
 Signature of Notary Public Kellee A. Sekerka
 Print, Type, or Stamp Name of Notary Public below:
 NOTARY PUBLIC
 STATE OF FLORIDA
 Comm# FF241949
 Expires 8/21/2019

Sworn to (or affirmed) and subscribed before me this 22
 day of June, 2018.

Personally Known: _____ or Produced Identification:
 Type of Identification Produced: FDL EXHIBIT 2 (A&A)

STATEMENT

Kells Hetherington is in direct violation of Florida Statue 106.143 paragraph (3):

LISTED ON THE ESCAMBIAVOTES.COM/CANDIDATE-LIST:

Contact Information:

10335 Gulf Beach Hwy Apt 708
Pensacola, FL - 32507
kellshetherington@gmail.com
(202)431-0482

Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Alison and I own a home on Gulf Beach Highway in District 2. After getting married in Washington D.C, my wife and I moved to Pensacola where we have family nearby. We were attracted by the low taxes and conservative ideals that this community offers.

In Washington, I worked for Tucker Carlson as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science from Manhattanville College.

Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong Republican, I was raised in the Congregationalist Church.

My greatest supporter is my lovely wife, Alison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 right here in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

He also specifically mentions his intentions to bring the conservative and republican agenda to the school board, a nonpartisan seat and race. Although, I am a republican, this is a direct and an intentional violation of our laws.. and he has been challenged about this several times he deletes the challenging comments on his political site as if no one asked. I challenged his statement about this in a public forum at a local candidate meet and greet and he had no response.

EXHIBIT

3

18-133



Response to Michelle Salzman complaint

Kells Hetherington

to:

fec, Kells Hetherington

06/11/2018 06:52 PM

Hide Details

From: "Kells Hetherington" <kellshetherington@gmail.com>

To: fec@myfloridalegal.com, "Kells Hetherington" <kellshetherington@gmail.com>

This is in response to the complaint filed by Ms. Michelle Salzman:

I think the real issue Ms. Salzman has with me is my response to the question below asked by a friend of hers:

16 MAY 21:38



What is Your opinion on lgbtQ training for teachers

Hi Josh, no I do not think it is necessary.

Sent by Allison Hetherington [?]

Well u should do a survey and see , see how your lgbtq youth feel about they way there treated in schools . It well surprise you to see how much it actually is needed . You need to be informed about this if you want a chance at winning . School broad need to be diverse and well informed unfortunately your not .

If you taken a look at my profile u would have seen I am gay and a lgbtq

If you taken a look at my profile u would have seen I am gay and a lgbtq youth advocate among others nonprofit in Pensacola ... I never heard of you . Why did you request me to add you ?



Do u know ms salzman ?

It was shortly after this that we began hearing from her and her husband and many of her friends for the first time.

Her other concerns are completely misplaced:

Collecting signatures outside a store that allows me to be there is totally within my rights, as is running for public office so long as I am a resident of this district on the date of the election. And my biography can damn well say that I'm a life-long Republican. My First Amendment right to free speech is not abridged simply because I'm running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done. Ms. Salzman would be well served to

EXHIBIT 4 (1 & 2)

get her facts straight before she continues to be a nuisance.

Ms. Salzman and her husband began stalking and bullying my wife and me online May 18, a week before she filed this frivolous complaint in which she has perjured herself. Not only that, but she rounded up a group of her online friends to join in her bullying attacks against me. Can you imagine this woman is the outgoing president of the PTA in Escambia County?

Ms. Salzman and her husband are bullies and if they are intent on bullying me further, I will not hesitate to take legal action.

I'm asking that the commission dismiss this frivolous complaint with prejudice.

--

Kells Hetherington

Cell: (202) 431-0482

EXHIBIT 4 (2 of 2)

AFFIDAVIT OF BACKGROUND INFORMATION

Case Number: FEC 18-133

STATE OF FLORIDA

County of Escambia

Kells Hetherington, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by _____ as _____.
3. Prior to your 2018 campaign, had you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in.

4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s).

5. Have you ever held the office of chairperson or treasurer position for a political committee and an electioneering communications organization? If so, please list the names and addresses of the committees and dates when you held the position.

6. What action have you taken to determine your responsibilities under Florida's election laws?

7. Do you possess a copy of Chapter 106, Florida Statutes? Yes No

8. If so, when did you first obtain it? _____

EXHIBIT 5 (1 of 3)

9. Have you read Chapter 106, Florida Statutes? Yes No

10. Do you possess a copy of the *Candidate and Campaign Treasurer Handbook*? Yes No

11. If so, when did you first obtain it? _____

12. Have you read the *Candidate and Campaign Treasurer Handbook*? Yes No

13. As part of the complaint, Ms. Salzman offered a copy of your "Candidate's Statement" which appeared to be posted on the supervisor of elections website. Were you solely responsible for creating/drafting the "Candidate's Statement"? () Yes () No. If no, please provide the name(s) of any individual(s) who assisted you.

14. After creating/drafting the "Candidate's Statement," but prior to having it posted on the Escambia County Supervisor of Elections website, did you have anyone review it for you? If so, please provide the name(s) of any individual(s) who reviewed the statement and explain why you had him/her review the statement for you.

15. Prior to having the "Candidate's Statement" posted on the Escambia County Supervisor of Elections website, did you seek any legal advice from an attorney to determine whether the statement could be construed to be in violation of the election laws? () Yes () No. If yes, please provide the name of the attorney and his/her area of practice.

16. Prior to having the "Candidate's Statement" posted on the Escambia County Supervisor of Elections website, did you review any Division of Elections' opinions relative to Section 106.143(3), Florida Statutes? () Yes () No. If yes, please list which opinions you reviewed.

EXHIBIT 5 (2 of 3)

17. What was the purpose of using the verbiage, "A lifelong Republican" as part of the "Candidate's Statement"?

18. When your "Candidate's Statement" was viewed in June 2018, the verbiage, "A lifelong Republican" was changed to read, "A lifelong conservative." Were you responsible for changing the verbiage from "A lifelong Republican" to "A lifelong conservative"? () Yes () No. If yes, please explain why it was changed.

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

Signature of Affiant

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____.

Signature of Notary Public - State of Florida


Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

Case Investigator: KS

EXHIBIT 5 (~~3~~3)

Select Language 
 Powered by Google Translate

Candidate: Kells Hetherington

Office: School Board, District 2

List All Contributions and Expenditures

Show only financial reports (Hides bio)



Available reports...

M4	5/10/2018
M5	6/11/2018

Contact Information:
 10335 Gulf Beach Hwy Apt 708
 Pensacola, FL - 32507
 kellshetherington@gmail.com
 (202)431-0482
Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Alison and I own a home on Gulf Beach Highway in District 2. Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong conservative, I was raised in the Congregational Church.

Prior to working full time in finance, I worked in Washington D.C for Fox News host Tucker Carlson, as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science in Communications from Manhattanville College.

My greatest supporter is my lovely wife, Alison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

The following financial reports are available:

Report	Monetary Contributions	In Kind Contributions	Expenditures and Distributions	Print Report
M4 (4/1/2018 - 4/30/2018)	\$0.00	\$0.00	\$0.00	
M5 (5/1/2018 - 5/31/2018)	\$3,350.00	\$0.00	\$2,362.12	

Candidate qualifying forms and miscellaneous documents

- Appointment_Form_for_Treasurer
- Appointment_Form_for_Deputy_Treasurer
- Statement_of_Candidate
- Pre-File_Form

EXHIBIT 6

AFFIDAVIT OF FILING OFFICER
Case Number: FEC 18-133

REC'D: FL ELECTIONS COM
23 MAR 19 AM 8:02

STATE OF FLORIDA
County of Escambia

David H. Stafford, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by ESCAMBIA COUNTY as SUPERVISOR OF ELECTIONS.
3. Please provide copies of the listed items from the following candidate's campaign file: Kells Hetherington.

Check	ITEM
✓	The Statement of Candidate form for the 2018 campaign.
✓	Appointments of Treasurers and Designation of Campaign Depository form for the 2018 campaign.

4. Please check each item provided to the candidate and list the date that the item was provided.

Check	ITEM	DATE
✓	Chapter 106, Florida Statutes	4-27-18
✓	<i>Candidate and Campaign Treasurer Handbook</i> Please indicate Year.	2018
✓	Other: ¹ LOCAL CANDIDATE NAME BOOK	4/27/18

5. Relative to Chapter 106, *Florida Statutes* and the *Candidate and Campaign Treasurer Handbook*, how are these publications provided to the candidate?

- Publications are given directly to the candidate.
- Publications are available in the office, candidates are advised to pick-up the publications for themselves.

¹ Any local publications relative to the Election laws that may have been provided in lieu of the *Candidate and Campaign Treasurer Handbook* published by the Division of Elections. If your office published the item(s), please send a copy of the item(s) with the affidavit.

EXHIBIT 7 (1 of 3)

Candidates are advised to download copies of the publications from our website or the Division of Elections' website.

Other, please explain. CD with documents

6. Does your office have any record of Kells Hetherington having sought elective office within your jurisdiction prior to the 2018 election? Yes or No. If yes, please list the previous office(s) he ran for, the date(s) of the election(s), and the result(s) of the election(s).

7. Did Mr. Hetherington win election to the School Board, District 2 during the 2018 election? Yes No.

8. Does your office have any record of Kells Hetherington having been named as a chairperson or campaign treasurer of a political committee or electioneering communication organization within your jurisdiction? Yes or No. If yes, please list the name(s) of the committees.

9. Did you or any member from your staff have any conversations with Kells Hetherington relative to campaigning based on party affiliation? Yes or No. If yes, please indicate whether the conversation was in person, in writing, or by telephone and the subject matter of the conversation. If applicable, please provide copies documenting the discussion.

NO RECORD OF ANYTHING IN WRITING. NO RECOLLECTION OF ANY CONVERSATIONS.

I SWEAR OR AFFIRM THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

[Signature]
Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 28 day of March, 2019.

[Signature]
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known or Produced Identification _____
Type of Identification Produced: _____

Case investigator: KS

EXHIBIT 7 (3 of 3)

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please print or type)

OFFICE USE ONLY

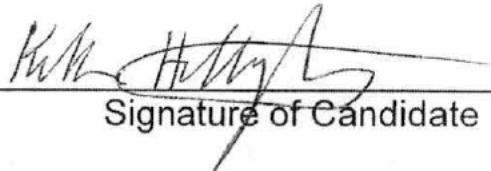
COPY

'18 APR 27 11:51

I, Kells Hetherington

candidate for the office of Escambia County School Board (District 2) ;

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

X 
Signature of Candidate

April 27, 2018
Date

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

EXHIBIT

8

Stephanie Cunningham

From: Stephanie Cunningham
Sent: Wednesday, April 24, 2019 4:16 PM
To: jwhetherington@gmail.com
Subject: FW: Certified Mail

Mr. Hetherington:

I received the below email directly from your client. Are you no longer representing Kells Hetherington or is this your current position?

Stephanie J. Cunningham
Assistant General Counsel
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
stephanie.cunningham@myfloridalegal.com
(850) 922-4539
(850) 921-0783 fax
www.fec.state.fl.us

From: Kells Hetherington <kellshetherington@gmail.com>
Sent: Monday, April 08, 2019 4:24 PM
To: Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com>
Subject: Re: Certified Mail

Stephanie:

As far as we're concerned, the matter with the election commission is concluded. I accepted, signed and had notarized the "Settlement Offer" that you sent to me by email on September 4, 2018. As prescribed, I then returned by mail the signed copy of the agreement along with a payment for [REDACTED] I sent those things to the commission Priority Mail on September 20, 2018, and they were delivered the following day as required. When my certified check was not returned within 90 days, there was accord and satisfaction per state statute.

Despite what your March 22, 2019 email seems to suggest, the Voluntary Payments Doctrine does not apply to situations involving the state where the Rebuttal Presumption is always that an agreement to pay a fine or tax is entered into under duress. As such, my acceptance of the settlement offer was never affected by my lawsuit.

The argument that there is no contract because the money order was never negotiated is neither here nor there. Per state statute, possession of a certified payment such as a money order beyond 90 days is acceptance, and accord and satisfaction. The actual negotiating of the financial instrument is not necessary.

Your negotiations with me have been in bad faith. Almost six months after accepting my payment, you want to welch on the agreement that you offered me and that I accepted. Also, the idea that you are somehow rejecting the agreement now because I sued you is completely inaccurate. My lawsuit was not filed until October 17, 2018 and the commission met on October 8, 2018. You had my agreement in hand for 18 days when the commission met in October. Obviously, you never intended to participate in this agreement.

Again, as far as we're concerned, this matter is concluded, but if it continues, we have a top-notch law firm ready to litigate.

Sincerely yours, Kells Hetherington

On Fri, Mar 22, 2019 at 9:13 AM Stephanie Cunningham <Stephanie.Cunningham@myfloridalegal.com> wrote:

Mr. Hetherington:

Attached is a copy of the letter/money order that was mailed to your attention.

Stephanie J. Cunningham

Assistant General Counsel

Florida Elections Commission

107 W. Gaines Street

Collins Building, Suite 224

Tallahassee, FL 32399-1050

stephanie.cunningham@myfloridalegal.com

(850) 922-4539

(850) 921-0783 fax

www.fec.state.fl.us

--

Kells Hetherington

Cell: (202) 431-0482

Stephanie Cunningham

From: John Hetherington <jwhetherington@gmail.com>
Sent: Friday, March 29, 2019 4:27 PM
To: Stephanie Cunningham
Subject: Notice of Appearance

Hi Ms. Cunningham

Pursuant to our telephone conversation, please consider this my appearance as attorney on behalf of Kells Hetherington.

I am an attorney admitted in New York and Connecticut (juris #306265). My address is 155 East Avenue, New Canaan CT 06840.

I would be very grateful if you would telephone me at The Marriott Hotel in Lancaster , PA (717) 239 -1600 (room 1610).

Thank you.

John W. Hetherington



FLORIDA ELECTIONS COMMISSION

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

www.fec.state.fl.us; fec@myfloridalegal.com

July 25, 2018

Kells Hetherington
10335 Gulf Beach Hwy, Apt. 708
Pensacola, FL 32507

RE: Case No.: FEC 18-133: Respondent: Kells Hetherington

Dear Mr. Hetherington:

On May 25, 2018, the Florida Elections Commission received a complaint alleging that you violated Florida's election laws. I have reviewed the complaint and find that it contains one or more legally sufficient allegations. The Commission staff will investigate the following alleged violations:

Section 106.143(3), Florida Statutes: Respondent, a 2018 candidate for Escambia County School Board, District 2, campaigned based on his party affiliation, even though the office for which he was running was nonpartisan, as alleged in the complaint.

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

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

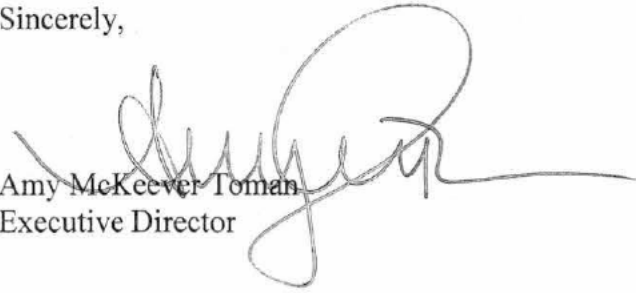
The signed consent order would then be considered by the Commission at its next available meeting, and would constitute final action by the Commission once it is accepted and approved by the Commission.

Please contact Stephanie Cunningham at 850-922-4539, extension 107, or at the address listed above, to accept this minor violation consent order offer.

If you choose not to resolve the case by consent order, an investigation will be conducted, and then the Commission will hold one or more hearings to determine whether the alleged violation(s) occurred and, if so, the amount of the fine to be imposed upon you. For more information, please see our FAQs available at <http://www.fec.state.fl.us>.

Sincerely,

Amy McKeever Toman
Executive Director

A handwritten signature in black ink, appearing to read 'Amy McKeever Toman', written over the typed name and title.

AMT/enr



Response to Michelle Salzman complaint

Kells Hetherington

to:

fec, Kells Hetherington

06/11/2018 06:52 PM

Hide Details

From: "Kells Hetherington" <kellshetherington@gmail.com>

To: fec@myfloridalegal.com, "Kells Hetherington" <kellshetherington@gmail.com>

This is in response to the complaint filed by Ms. Michelle Salzman:

I think the real issue Ms. Salzman has with me is my response to the question below asked by a friend of hers:

16 MAY 21:36



What is Your opinion on lgbtQ training for teachers

Hi Josh, no I do not think it is necessary.

Sent by Alison Hetherington [?]

Well u should do a survey and see , see how your lgbtq youth feel about they way there treated in schools . It well surprise you to see how much it actually is needed . You need to be informed about this if you want a chance at winning . School broad need to be diverse and well informed unfortunately your not .



If you taken a look at my profile u would have seen I am gay and a lgbtq

If you taken a look at my profile u would have seen I am gay and a lgbtq youth advocate among others nonprofit in Pensacola ... I never heard of you . Why did you request me to add you ?



Do u know ms salzman ?

It was shortly after this that we began hearing from her and her husband and many of her friends for the first time.

Her other concerns are completely misplaced:

Collecting signatures outside a store that allows me to be there is totally within my rights, as is running for public office so long as I am a resident of this district on the date of the election. And my biography can damn well say that I'm a life-long Republican. My First Amendment right to free speech is not abridged simply because I'm running in a nonpartisan race. The prohibition is on my campaigning as a Republican, which I have not done. Ms. Salzman would be well served to

get her facts straight before she continues to be a nuisance.

Ms. Salzman and her husband began stalking and bullying my wife and me online May 18, a week before she filed this frivolous complaint in which she has perjured herself. Not only that, but she rounded up a group of her online friends to join in her bullying attacks against me. Can you imagine this woman is the outgoing president of the PTA in Escambia County?

Ms. Salzman and her husband are bullies and if they are intent on bullying me further, I will not hesitate to take legal action.

I'm asking that the commission dismiss this frivolous complaint with prejudice.

--
Kells Hetherington

Cell: (202) 431-0482

COMPLAINT

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom it is brought.

REC'D: FL ELECTIONS COM
25 MAY '18 AM 10:34

1. PERSON BRINGING COMPLAINT:

Name: Michelle Salzman Work Phone: (850) 2075024
Address: 10296 Vintage Dr Home Phone: (850) 2075024
City: Pensacola County: Escambia State: FL Zip Code: 32514

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

If you intend to name more than one individual or entity, please file multiple complaints. A person can be an individual, political committee, political party, electioneering communication organization, club, corporation, partnership, company, association, or other type of organization.

Name of individual or entity: Kells Hetherington
Address: 10335 Gulf Beach Hwy Apt 708 Phone: (202) 431-0482
City: Pensacola County: Escambia State: FL Zip Code: 32507

If individual is a candidate, list the office or position sought: School Board - District 2

Have you filed this complaint with the State Attorney's Office? (check one) Yes No
Are you alleging a violation of Section 104.271(2), F.S.? (check one) Yes No
Are you alleging a violation of Section 104.2715, F.S.? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please attach a **concise** narrative statement in which you list the provisions of the Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate provisions of Chapter 104 and Chapter 106, Florida Statutes. Please include the following items as part of your attached statement:

- The facts and actions that you believe support the violations you allege;
- The names/telephone numbers of persons whom you believe may be witnesses to the facts;
- A copy or picture of any political advertisement(s) you mention in your statement;
- A copy of each document you mention in your statement;
- An explanation of why you believe information you reference from websites is relevant; and
- Any other evidence supporting your allegations.

SEE REVERSE SIDE OF DOCUMENT FOR ADDITIONAL INFORMATION

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

REV: FE ELECTIONS COM
25 MAY '18 AM 10:34

4. **OATH:**

STATE OF FLORIDA
COUNTY OF Escambia

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


Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22nd day of
May, 20 18


Signature of Officer Authorized to Administer Oaths or Notary Public



APRIL LANNETTE PAWLESS
MY COMMISSION # FF 914180
EXPIRES: August 30, 2019
Bonded Thru Budget Notary Services

April Pawless

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known Or Produced Identification

Type of Identification Produced personally known

5. **IMPROPERLY COMPLETED COMPLAINT FORMS MAY BE RETURNED:**

- You **MUST submit this** completed complaint **form** in order to file a complaint.
- You **MUST** complete **ALL FOUR** of the above sections of this form. **DO NOT** leave any blanks.
- You **MUST** submit the **ORIGINAL** complaint form. Copied/faxed/emailed forms are returned.
- Each complaint can only be filed against **ONE PERSON** or **ENTITY**. If you wish to file against multiple parties, you **MUST** submit a complaint form **for each party** you wish to file against.
- **DO NOT** submit multiple complaint forms with one set of attachments applying to multiple complaints. You **MUST** attach **copies** of attachments **to each complaint** to which they apply.
- **MAKE SURE** the alleged violation(s) of **Chapters 104 or 106** occurred within the last **2 years**.
- **MAKE SURE** your complaint is **sworn** and there is **no defect** to the **notarization** in Section 4.

STATEMENT -

Kells Hetherington is in direct violation of Florida Statue 106.143 paragraph (3):

LISTED ON THE ESCAMBIAVOTES.COM/CANDIDATE-LIST:

Contact Information:

10335 Gulf Beach Hwy Apt 708
Pensacola, FL - 32507
kellshetherington@gmail.com
(202)431-0482

Candidate's Statement

My name is Kells Hetherington, I'm 39-years-old and my wife Alison and I own a home on Gulf Beach Highway in District 2. After getting married in Washington D.C, my wife and I moved to Pensacola where we have family nearby. We were attracted by the low taxes and conservative ideals that this community offers.

In Washington, I worked for Tucker Carlson as Deputy Editor of his online news outlet, The Daily Caller. I also worked for the Voice of America. Earlier, I lived in Alaska for five years where I was General Manager of a public radio station in the Aleutian Islands. I graduated with a Bachelor of Science from Manhattanville College.

Here in Pensacola, I work in finance, building mathematical models and trading a portfolio of stocks, bonds and options. I have been trading successfully for over twenty years. On weekends you'll find me on my Sunfish sailing on Big Lagoon. A lifelong Republican, I was raised in the Congregationalist Church.

My greatest supporter is my lovely wife, Alison. She homeschools a student in Pensacola. When we first moved to Pensacola, she was a substitute teacher in Escambia County public schools. She has been an advocate for women with ovarian cancer for over a decade and is a board member of the Ovarian Cancer Research Fund Alliance. She's also actively involved with IMPACT 100 right here in Pensacola.

I appreciate your taking the time to take a look at my candidacy and I would be honored to serve as your District 2 School Board member.

Note: The candidate's photograph and statement are supplied by the candidate and are not endorsed by the County Supervisor of Elections or checked for accuracy.

He also specifically mentions his intentions to bring the conservative and republican agenda to the school board, a nonpartisan seat and race. Although, I am a republican, this is a direct and an intentional violation of our laws.. and he has been challenged about this several times he deletes the challenging comments on his political site as if no one asked. I challenged his statement about this in a public forum at a local candidate meet and greet and he had no response.

Further, he obtained his petitions by illegally soliciting signatures outside of a local grocery store. I have enclosed a couple screen shots of people who complained about his harassment as well as statements from the grocery chain's policy that strictly prohibit petitions of any kind be solicited for in their parking lot.

He has been cyber stalking and cyber bullying many local citizens while seeking this candidacy.

He has only lived here since November and is already about to be on the ballot of an election?

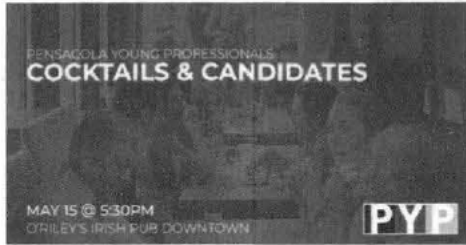
I have attached screen shots of various conversations on social media from many different citizens. He has been in clear violation of so many laws and rules.

Thank you,



Michelle Salzman

(see page 3 with screenshots)



TUE, MAY 15
Cocktails & Candidates
 O'Riley's Irish Pub Downtown · Pen...
 You like Pensacola Young Professionals

This is the open forum where he specifically stated his political affiliation and how he wanted to push the conservative agenda on the school board and throughout the Escambia County School District.

Pueschel Studstill Schneier
 He must have sent everyone in Escambia County a friend request including me. When I met him in person, I told him we were friends on Facebook and he acted like he had no idea what I was talking about. He unfriended me last night when he blocked Michelle. The nerve!

Jacqueline Aimee Rogers
 Wow! He sent requests to people out of state also. What candidate creates this ill will?
 Who is he?

Pueschel Studstill Schneier
 Jacqueline Aimee Rogers I met him at the REC meeting. He asked me to sign a petition,

Kim Paul Adkison
 I was helping Doug Underhill with his petitions and Mr. Hetherington approached me and asked if I would sign one of his petitions. I politely told him I don't reside in his district. I asked if he would sign an Underhill petition and he not only signed one for himself, he took the liberty of signing a petition in his wife's name....even told me he was doing it. You cannot sign a petition for another voter....and he wants to represent D2 on the School Board. If it looks like a skunk and smells like a skunk. You can be pretty sure, HE is a skunk!

3d Like Reply

Douglas Underhill
 For the record, we did not turn in the fraudulent petition. Lol.

3d Haha Reply

A specific witness of him falsifying voter petitions.
 source: Escambia County Citizens Watch Facebook Group

Other examples
 source: Escambia County Citizens Watch Facebook Group

Jacqueline Aimee Rogers
 I have had some strange interactions with him as well. I asked for a thread on ECW wh hadn't gotten to as I was out o town and several family events He met my adult daughter at a ground breaking and started requesting to be 'friends' with FB friends. He mentioned that met her and I asked him why h was sending requests to all her friends. He denied it and said I was friending people from the Underhill District 2 list but the requests were to my adult kids and other friends that live out state, one in another country a "know" that they don't follow c care about Escambia County politics. But he repeated his claim. Very odd. Then I am told that he is telling people that he is doing opposi research against Underhill?!!! Is he even a real candidate because who would create the

Jacqueline Aimee Rogers
 Of course, I got a friend request from him. Lol. And a friend of ours got one from his wife.

Douglas Underhill
 He asked me to sign a petition for him at the Innerarity Park Groundbreaking, which of course I did. Then I asked the one question I always ask: Why are you running? He answered, "I always wanted to be in politics." I told him that was the worst possible answer. No politicians in our schools, please.

View 9 previous replies...

town and several family events. He met my adult daughter at a ground breaking and started requesting to be 'friends' with her FB friends. He mentioned that he met her and I asked him why he was sending requests to all her friends. He denied it and said he was friending people from the Underhill District 2 list but the requests were to my adult kids and other friends that live out of state, one in another country and "know" that they don't follow or care about Escambia County politics. But he repeated his claim. Very odd. Then I am told that he is telling people that he is doing opposition research against Underhill?!!! Is he even a real candidate because who would create that kind of situation hoping to represent District 2 as a candidate. What if he won and Underhill was reelected? Built in animosity... Odd.

An example of him requesting petitions signed.
 source: Escambia County Citizens Watch Facebook Group

page 3 of 3