

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

123 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

February 6, 2012

## VIA HAND DELIVERY

Eric Lipman  
Florida Elections Commission  
Collins Building  
107 W. Gaines Street, Suite 224  
Tallahassee, FL 32399-1050

Tracie Aulet  
Florida Elections Commission  
Collins Building  
107 W. Gaines Street, Suite 224  
Tallahassee, FL 32399-1050

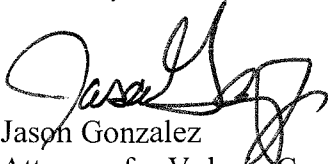
Re: Affidavit of James Oddie

Dear Mr. Lipman and Ms. Aulet:

I am providing a copy of the Affidavit of James Oddie to be considered in Case No. FEC 11-219 in RE: Volusia County Republican Executive Committee. An original signed Affidavit will follow.

Thank you for your consideration of this information.

Sincerely,

  
Jason Gonzalez  
Attorney for Volusia County REC

JBG/nrb

Enclosure

RECEIVED  
2012 FEB - 6 P 2:52  
STATE OF FLORIDA  
ELECTIONS COMMISSION

RECEIVED

2012 FEB -6 P 2:52

STATE OF FLORIDA  
ELECTIONS COMMISSION

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

IN RE: VOLUSIA COUNTY REPUBLICAN  
EXECUTIVE COMMITTEE,

Case No. FEC 11-219

AFFIDAVIT OF JAMES ODDIE

STATE OF FLORIDA

COUNTY OF VOLUSIA

BEFORE ME, the undersigned authority this day personally appeared JAMES ODDIE, who, being by me first duly sworn, deposes and says:

1. My name is James Oddie. I am the Treasurer of the Volusia County Republican Executive Committee ("VCREC").

2. The information contained in this Affidavit is based on my personal knowledge.

3. The VCREC is a political party executive committee registered with the Volusia County Supervisor of Elections Office.

4. As alleged in the complaint, the VCREC was responsible for filing its 2010 G4 treasurer's report on October 29, 2010.

5. As described in more detail below, the VCREC filed its 2010 G4 report six days after the deadline, as a direct result of "unusual circumstances" as that term is defined in Section 106.29(3)(c), Florida Statutes and Rule B-1.0055, Florida Administrative Code.

6. Approximately three (3) weeks prior to the October 29, 2010 filing deadline, I attempted to electronically file the VCREC's 2010 G4 report on the Volusia County Supervisor of Elections website. The website malfunctioned each time I attempted to file the report and transmitted an error message that stated: "date out of range".

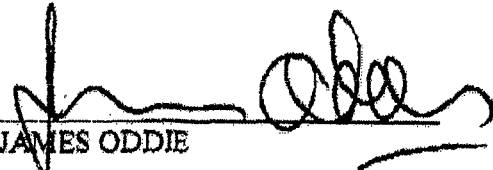
7. I immediately notified the Volusia County Supervisor of Elections of the malfunction and she told me that she would have the website fixed and notify me when the site was ready for our report to be filed. This occurred prior to the October 29, 2010 filing deadline.

8. During the course of preparing the VCREC's 2010 G4 report, the Volusia Supervisor of Elections website, which I was using to file the report, closed with only a partial report filed. When I attempted to file the remainder of the report prior to the October 29, 2010 deadline, the computer system would not allow the information to be uploaded in a complete report.

9. I was never notified that the website had been repaired. Several days after the filing deadline I was concerned that the website had not been repaired and I had not been notified by the Volusia County Supervisor of Elections, Ann McFall, about the status of the problem, so I made an additional attempt to file the VCREC report. The website continued to malfunction, but because the filing was past due, I filed the report subject to the "date out of range" error message.

10. At all times, the VCREC acted diligently and in good faith and in reliance upon the local election official's guidance and commitment to repair the online filing website to provide the website link that ultimately enabled me to file a correct report.

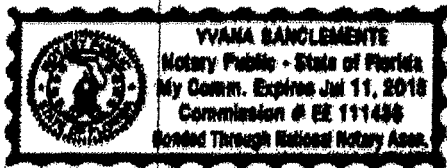
DATED this 6<sup>th</sup> day of February, 2012.

  
JAMES ODDIE

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, JAMES ODDIE, the Affiant, to me presented drivers license number \_\_\_\_\_; and JAMES ODDIE, took an oath before me that he executed this Affidavit for the purpose herein expressed, and that all of the statements contained herein are true and correct. *Personality Known verified Drivers License*

Witness my hand and official seal at \_\_\_\_\_, County of Volusia, in the State of Florida, this 6 day of February, 2012.



*Yvana Sanclemente*  
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

In Re: VOLUSIA COUNTY  
REPUBLICAN EXECUTIVE  
COMMITTEE, RESPONDENT

Case No.: FEC 11-219

NOTICE OF HEARING ON APPEAL OF AUTOMATIC FINE

TO: Jason Gonzalez, Esq.                      Ann McFall  
Ausley & McMullen                      Volusia County Supervisor of Elections  
Post Office Box 391                      125 W. New York Avenue  
Tallahassee, Florida 32302              DeLand, Florida 32720

**PLEASE TAKE NOTICE** that on **February 21, 2011**, at **8:30am** or thereafter as the parties can be heard, the Florida Elections Commission will bring on to be heard Respondent's appeal of the fine imposed by the filing officer for Respondent failing to file timely a campaign treasurer's report. The Commission shall meet at: **City Hall, City Commission Chambers, 300 S. Adams Street, Tallahassee, Florida.**

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

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

**PLEASE GOVERN YOURSELF ACCORDINGLY.**

Dated on January 19, 2012.



Rosanna Catalano  
Executive Director

## INSTRUCTIONS FOR HEARING ON APPEAL OF AUTOMATIC FINE

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

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

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

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

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

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

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

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

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

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

**FLORIDA ELECTIONS COMMISSION  
CASE REPORT  
Case Number: FEC-11-219**

**NAME:** VOLUSIA COUNTY REPUBLICAN EXECUTIVE COMMITTEE

**DATE APPEAL RECEIVED:** 12/7/10  
**DATE HEARD BY FEC:** 2/21/12  
**DATE HEARING REQUEST RECEIVED:** 12/7/10  
**DATE REPORT DUE:** 10/29/10 ( 2010 G4)  
**DATE OF ELECTRONIC RECEIPT:** 11/5/10  
**DATE FILING OFFICER RECEIVED REPORT:** 11/5/10  
**NUMBER OF DAYS LATE:** 6

CANDIDATE [ ]	STATE [ ]
PC [ ]	DISTRICT [ ]
CCE [ ]	COUNTY [ x ]
POLITICAL PARTY [ x ]	CITY [ ]
ECO [ ]	

**AMOUNT OF FINE: \$3,000.00**

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

**TOTAL RECEIPTS FOR REPORTING PERIOD:** \$16,718.55

**TOTAL EXPENDITURES FOR REPORTING PERIOD:** \$11,673.24

**DATE FIRST NOTIFICATION WAS RECEIVED:** Fine letter dated 11/15/10

**SUMMARY:** Volusia County Republican Executive Committee is a political party executive committee (PPX) registered with the Volusia County Supervisor of Elections Office. The PPX's chair is Joe Stich and its treasurer is Jim Oddie. Daniel E. Nordby is an attorney representing the PPX in this appeal.

Mr. Nordby is appealing the fine claiming that equipment failure caused the untimely filing of the report. According to Mr. Nordby, the late filing was due to computer failure "associated with the Supervisor of Elections' electronic reporting system." However, Mr. Nordby did not submit any further documentation to support his appeal.

Ann McFall, Volusia County Supervisor of Elections, submitted a letter dated 12/8/10, in which she states she was unaware of any extensive computer issues in her office.

**PRIOR CASES:** The committee has had several cases before the Commission. In FEC 96-297, the Commission found unusual circumstances and the committee's assessed fine was reduced to \$650. In FEC 96-298, the Commission found no unusual circumstances and the committee was ordered to pay an assessed fine of \$250. In FEC 06-393, the committee entered into a Minor Violation Consent Order and paid a civil penalty of \$200. In FEC 11-178 and 11-179, the complaints were legally insufficient and the cases were dismissed.

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

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

RECEIVED

10 DEC -7 AM 11: 38

IN RE: VOLUSIA COUNTY REPUBLICAN  
EXECUTIVE COMMITTEE

Case No. STATE OF FLORIDA  
ELECTIONS COMMISSION

**NOTICE OF APPEAL  
AND REQUEST FOR HEARING**

In accordance with Section 106.29(3)(c), Florida Statutes, the Volusia County Republican Executive Committee (“VCREC”) hereby files a timely appeal of the late-report fine assessed against it by the Volusia County Supervisor of Elections and requests a hearing before the Commission. In support of its position, VCREC states:

1. Appellant is the Volusia County Republican Executive Committee, a county executive committee of a political party organized in accordance with Section 103.091, Florida Statutes. For the purpose of this proceeding, Appellant’s address is that of undersigned counsel.

2. On November 17, 2010, VCREC Chairman Joe Stich received a notice from the Volusia County Supervisor of Elections that a fine of \$3,000 had been imposed for failure to timely file a campaign treasurer’s report due October 29, 2010. A copy of this notice is attached as Exhibit “A.”

3. Florida law provides that a county executive committee may appeal or dispute a late-report fine based on unusual circumstances surrounding the failure to file on the designated due date. § 106.29(3)(c), Fla. Stat. The Florida Elections Commission has the statutory authority to waive the fine in whole or in part. *Id.*

4. The VCREC’s failure to timely file its report for the 2010 G4 reporting period was based on unusual circumstances within the meaning of Section 106.29(3)(c), Florida Statutes, and Rule 2B-1.0055, Florida Administrative Code.



5. Specifically, the late filing was due to a computer/equipment failure associated with the Supervisor of Elections' electronic reporting system that could not have been anticipated by VCREC and which made timely filing of the report impossible. This failure occurred despite reasonable precautions taken by VCREC to assure its ability to file its report.

6. VCREC expressly reserves its right to introduce additional evidence regarding the unusual circumstances preventing the timely filing of its 2010 G4 campaign treasurer's report at a later point in this proceeding.

WHEREFORE, the Volusia County Republican Executive Committee respectfully requests that the Florida Elections Commission: 1) grant a hearing on this matter; and 2) exercise its authority to waive the fine in whole or in part.

Respectfully submitted,



DANIEL E. NORDBY  
Fla. Bar No. 014588  
[dnordby@ausley.com](mailto:dnordby@ausley.com)  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
850-224-9115  
850-222-7560 (facsimile)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 7th day of December, 2010, the foregoing Notice of Appeal and Request for Hearing was sent by U. S. Mail and facsimile to the following:

Ms. Ann McFall  
Supervisor of Elections  
125 W. New York Avenue  
DeLand, Florida 32720  
Fax: 386-822-5715



Attorney



*Ann McFall*  
Supervisor of Elections  
County of Volusia

November 15, 2010

Mr. Joe Stich, Chair  
Republican Executive Committee  
747 South Ridgewood Avenue  
Daytona Beach, Fl. 32114

Dear Mr. Stich:

Per F. S. 106.07, the Campaign Treasurer's Report for the period ending October 28, 2010 was filed electronically 6 days late. As you may recall, the treasurer of the organization, Jim Oddie, notified me that he believed there were errors in the last report in mid October. I encouraged him to file the report when it came due and my office will assist the REC in bringing the reports in compliance. The report was filed on November 5, 2010 instead of the due date of October 29, 2010. Per F.S. 106.07.13(8)(a)(2b):


"...For the reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report...Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission..."

Calculation of the penalty is:  $\$500 \times 6 \text{ days late} = \$3000$  or not to exceed  
 $25\% \text{ of } \$16,718.55 = \$4179.64$ .

Therefore, there is a balance due in the amount of \$3000 with a deadline of 20 days upon receipt of this correspondence.

My office will be in contact with Mr. Oddie regarding the appropriate changes that need to be made with regards to reporting periods in the coming week. I am confident all contributions and expenditures are recorded, just not in the appropriate period.

Kindest regards,

  
Ann McFall,  
Supervisor of Elections

Historic Courthouse  
125 West New York Avenue, DeLand, FL 32720-5415  
(386) 736-5930 • (386) 254-4690 • (386) 423-3311 • FAX (386) 822-5715  
[www.volusia.org/elections](http://www.volusia.org/elections)

**EXHIBIT "A"**

If your signature has changed, please update your signature by completing a new Florida voter registration application. It is important to keep your signature updated, so that absentee ballots and/or petition signatures can be counted.



*Ann McFall*  
Supervisor of Elections  
County of Volusia

December 8, 2010

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

RE: Volusia Co. Republican Exec. Comm.

To Whom It May Concern:

As the filing officer in Volusia County, Florida, per F.S. 106 I have the duty to notify the Florida Elections Commission of a delinquent campaign treasurer's report (Form DE-DE 12) filed by the Volusia County Republican Executive Committee. The report was due October 29, 2010. It was received by my office electronically on November 5, 2010 and a signed copy delivered by the REC Chair to my office on November 9, 2010. I explained then that there will be a penalty assessed, and the Chair of the organization said he understood and accepted that. Even in giving the organization the benefit of the doubt and assessing the fine as of the electronic filing date of November 5, 2010, the fine calculates to be \$3000. I notified the Republican Executive Committee by certified mail, return receipt requested (see copy of notice attached) on November 15, 2010. It was received by the organization on November 17, 2010.

I have attempted to include all relevant documents. I understand through a facsimile that I received yesterday, the committee is using some sort of excuse of a computer breakdown. I don't know of any extensive computer issue in my office. In fact, most all of the candidates and committees have filed the required reports in a timely manner, with the exception of the committee in question.

Feel free to contact my office, if there is any further information you may need.

Sincerely,

Ann McFall  
Supervisor of Elections

*Historic Courthouse*  
125 West New York Avenue, DeLand, FL 32720-5415  
(386) 736-5930 • (386) 254-4690 • (386) 423-3311 • FAX (386) 822-5715  
[www.volusia.org/elections](http://www.volusia.org/elections)

If your signature has changed, please update your signature by completing a new Florida voter registration application. It is important to keep your signature updated, so that absentee ballots and/or petition signatures can be counted.

JA



*Ann McFall*  
Supervisor of Elections  
County of Volusia

RECEIVED  
2011 DEC 27 A 10:37  
STATE OF FLORIDA  
ELECTIONS COMMISSION

December 21, 2011

Tracie Aulet, Investigation Spec.  
Florida Elections Commission  
107 W. Gaines St. Suite 224  
Tallahassee, Fl. 32399-1050

Re: Case # FEC 11-219 CTR due 10/20/2010  
Volusia County Republican Exec. Comm.

Dear Ms. Aulet:

Enclosed you will find all documents requested that are available concerning the case mentioned above. I have also included a description of each request and whether it is available below.

1. CTR report in question (Enclosed)
2. Envelope that contained the report (N/A-The report was filed electronically, followed by hand delivery by the Chairman of the VCREC)
3. Card of letter reminding candidate that report was due (Reminder by telephone)
4. Filing officer's failure to file letter and fine letter (Enclosed)
5. Certified mail receipt that the letter was received (Enclosed)
6. Additional relevant notes or phone logs (None)
7. Document establishing the committee (The committee was established many years ago. Those records are no longer available)
8. Appointment of Campaign Treasurer (Not available)
9. The filing history (In going back, I have found that this was the first late report that had been filed in at least 5 years)

Please do not hesitate to contact me if you or your staff has any questions.

Sincerely,

Ann McFall  
Supervisor

*Historic Courthouse*  
125 West New York Avenue, DeLand, FL 32720-5415  
(386) 736-5930 • (386) 254-4690 • (386) 423-3311 • FAX (386) 822-5715  
[www.volusia.org/elections](http://www.volusia.org/elections)

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

(1) Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee

**Name**

(2) 533 North Nova Road, Suite 106-B

**Address (number and street)**

Ormond Beach, FL 32174

**City, State, Zip Code**

CHECK IF ADDRESS HAS CHANGED

**OFFICE USE ONLY**

**ONLINE SUBMISSION**  
[1025507]

Submitted on:

11/5/2010 22:53:13 (eastern)

(3) ID Number: \_\_\_\_\_

(4) Check appropriate box(es):

Candidate (office sought): \_\_\_\_\_

Political Committee

Committee of Continuous Existence

Party Executive Committee

Electioneering Communication

CHECK IF PC HAS DISBANDED

CHECK IF CCE HAS DISBANDED

CHECK IF NO OTHER ELECTIONEERING COMMUNICATION REPORTS WILL BE FILED

RECEIVED  
2010 NOV -9 PM 2:40  
5  
DIVISION OF ELECTIONS  
VOLUSIA COUNTY

**(5) REPORT IDENTIFIERS**

Cover Period: From 8/20/2010 To 10/28/2010 Report Type G4

Original  Amendment  Special Election Report  Independent Expenditure Report

**(6) CONTRIBUTIONS THIS REPORT**

Cash & Checks \$ 16,718.55

Loans \$ 0.00

Total Monetary \$ 16,718.55

In-Kind \$ 0.00

**(7) EXPENDITURES THIS REPORT**

Monetary Expenditures \$ 11,673.24

Transfers to Office Account \$ 0.00

Total Monetary \$ 11,673.24

(8) Other Distributions \$ 0.00

(9) TOTAL Monetary Contributions To Date

\$ 104,729.15

(10) TOTAL Monetary Expenditures To Date

\$ 105,247.22

**(11) CERTIFICATION**

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

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

(Type name)

Jim Oddie

Individual (only for electioneering commun )  Treasurer  Deputy Treasurer

Signature [Signature]

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

(Type name)

Joe Stich

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

Signature [Signature]



*Ann McFall*  
Supervisor of Elections  
County of Volusia

November 15, 2010

Mr. Joe Stich, Chair  
Republican Executive Committee  
747 South Ridgewood Avenue  
Daytona Beach, Fl. 32114

Dear Mr. Stich:

Per F. S. 106.07, the Campaign Treasurer's Report for the period ending October 28, 2010 was filed electronically 6 days late. As you may recall, the treasurer of the organization, Jim Oddie, notified me that he believed there were errors in the last report in mid October. I encouraged him to file the report when it came due and my office will assist the REC in bringing the reports in compliance. The report was filed on November 5, 2010 instead of the due date of October 29, 2010. Per F.S. 106.07.13(8)(a)(2b):

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 $25\% \text{ of } \$16,718.55 = \$4179.64$

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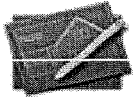
My office will be in contact with Mr. Oddie regarding the appropriate changes that need to be made with regards to reporting periods in the coming week. I am confident all contributions and expenditures are recorded, just not in the appropriate period.

Kindest regards,

Ann McFall,  
Supervisor of Elections

*Historic Courthouse*  
125 West New York Avenue, DeLand, FL 32720-5415  
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**FEC 11-219 - Hearing**  
Donna Malphurs to: nbedonie

01/06/2012 11:43 AM

From: Donna Malphurs/OAG  
To: nbedonie@ausley.com

Attached is the entire file pertaining to the auto-fine appeal for Volusia County REC. Let me know if you have any questions.

Also, please let Mr. Gonzalez know that the fine is calculated correctly; its based on 25% of the total receipts for the G4 reporting period.



Volusia County REC docs.pdf

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



To: Jason Gonzalez <jgonzalez@ausley.com>,  
Cc:  
Bcc:  
Subject: Autofine

---

Jason,

Can you give me a call? I am concerned about your email. I have no authority to dismiss an autofine. In fact, staff cannot even enter into a negotiated settlement or Consent Order on the autofines. They must go before the full Commission. The \$300 Consent Order would have disposed of the previous case (FEC 11-018) because once the Commission accepts the consent order, that constitutes final agency action in that case.

Eric M. Lipman  
General Counsel  
Florida Elections Commission  
(850) 922-4539

Jason Gonzalez

Thanks Eric - I will get with my client and get ba...

01/05/2012 02:28:22 PM

---

From: Jason Gonzalez <jgonzalez@ausley.com>  
To: Eric Lipman <Eric.Lipman@myfloridalegal.com>  
Date: 01/05/2012 02:28 PM  
Subject: RE: FEC 11-111

---

Thanks Eric -

I will get with my client and get back to you.

On another matter, the Volusia REC and Chairman Joe Stitch had the auto fine case FEC 11-219 that was supposed to go away with the consent order and fine we paid back in the Fall. When we last spoke about it in Detroit you were going to make sure it was dismissed. I am told it is still showing as pending. Can you check again on that? Thanks.

Jason





**FLORIDA ELECTIONS COMMISSION**

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

December 7, 2011

RECEIVED  
2011 DEC 27 A 10:37  
STATE OF FLORIDA  
ELECTIONS COMMISSION

The Honorable Ann McFall  
Volusia County Supervisor of Elections  
125 West New York Avenue  
DeLand, FL 32720-5415

**RE: Case No.: FEC 11-219; Campaign Treasurer's Report due October 9, 2011**

Dear Supervisor McFall:

The **Volusia County Republican Executive Committee** has appealed the fine assessed against it for failing to timely file a required report.

In order for us to present this appeal to the Florida Elections Commission, it is necessary to ask you to furnish us with copies of the following information, if available:

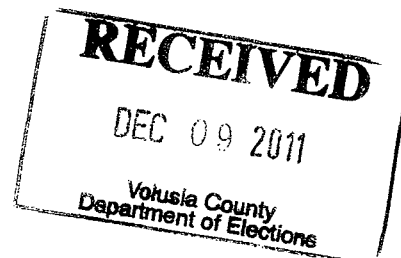
- The CTR that was filed late
- The envelope that contained the report
- Card or letter reminding candidate that report was due
- The filing officer's failure to file letter
- The filing officer's fine letter
- Certified mail receipt or other evidence that the fine letter was received
- Additional relevant notes or phone logs
- Document establishing the committee
- Appointment of Campaign Treasurer and Designation of Campaign Depository form
- The filing history

A filing history is a list of reports filed by this committee with a notation of any late filing fines assessed against the committee for failing to timely file reports. Please return the requested information to me by December 21, 2011.

I appreciate your assistance in obtaining this information. Please let me know if you have any questions.

Sincerely,

Tracie Aulet  
Investigation Specialist



## CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) I.D. Number \_\_\_\_\_  
 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_ / \_\_\_\_ / \_\_\_\_ through \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (4) Page 1 of 5

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type Occupation		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
(6) Sequence Number		Type	Occupation	Type	Description	Amendment	Amount
7/3/2010 / /	Republican Club West Volusia, 110 W. New York Ave. Deland, FL 32720	C		CH			\$156.00
1							
8/30/2010 / /	The logo Store, 720-A East Minnesota Ave Deland, FL 32724	B	business owner	CH			\$20.00
2							
7/14/2010 / /	RECVC, 747 S Ridgewood ave Daytona Beach, FL 32118	C	recvc	CA	50/50 fundraiser s, raffles and in-kind		\$627.55
3							
8/19/2010 / /	NASCAR, P.O. Box 2875 Daytona Beach, FL 32120	B	corporate sponsor	CH			\$5,000.00
4							
8/12/2010 / /	Bullard, Betty Jo 284 Gull Street Daytona Beach, FL 23119	I	retired	CH			\$375.00
5							
8/14/2010 / /	Banios, Barbara L 3606 Donna Street Port Orange, FL 32129	I	unknown	CH			\$250.00
6							
8/9/2010 / /	Antos, Mary J 1190 Champions Drive Daytona Beach, FL 32124	I	doctor	CH			\$250.00
7							
8/25/2010 / /	Evernham, Thomas W 1813 Wright Drive Port Orange, FL 32128	I	unknown	CH			\$225.00
8							

## CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) I.D. Number \_\_\_\_\_  
 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_/\_\_\_\_/\_\_\_\_ through \_\_\_\_/\_\_\_\_/\_\_\_\_ (4) Page 2 of 5

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type Occupation		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
8/23/2010 / /	Fortson, Thomas E PO Box 730309 Ormond Beach, FL 32173	I	unknown	CH			\$150.00
9							
8/23/2010 / /	Morrison, Robert C 137 Windward Circle Ormond Beach, FL 32176	I	retired	CH			\$150.00
10							
8/10/2010 / /	Buckley, Francis S 16 Bay in the Wood Port Orange, FL 32129	I	unknown	CH			\$150.00
11							
8/7/2010 / /	Conklin, Richard F 44 Pompano Drive Ponce Inlet, FL 32127	I	retired	CH			\$150.00
12							
8/20/2010 / /	Burk, P A 4 Oceans West Blvd. Apt 307C Daytona Beach, FL 32118	I	unknown	CH			\$125.00
13							
8/19/2010 / /	Dean, Marilyn K 4367 S. Peninsula Drive Ponce Inlet, FL 32127	I	retired	CH			\$125.00
14							
8/15/2010 / /	Wheeler, Ralph N 2967 S. Atlantic Ave. Apt 1501 Daytona Beach, FL 32118	I	unknown	CH			\$125.00
15							
8/6/2010 / /	Porter, Lois M 6201 Yosemite Drive Port Orange, FL 32127	I	retired	CH			\$125.00
16							

## CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) I.D. Number \_\_\_\_\_  
 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_ / \_\_\_\_ / \_\_\_\_ through \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (4) Page 3 of 5

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type   Occupation		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
8/6/2010 / /	Kroeger, Linda 2967 S. Atlantic Ave. Apt 603 Daytona Beach, FL 32118	I	retired	CH			\$125.00
17							
8/1/2010 / /	Pecoraro-James, Elizabeth 2987 S. Atlantic Ave. #1802 Daytona Beach Shores, FL 32118	I	business owner	CH			\$125.00
18							
8/19/2010 / /	Twyford, Judith E 3252 NE 13th Street Apt 3 Pompano Beach, FL 33062	I	unknown	CH			\$75.00
19							
8/16/2010 / /	Brosemer, Donna 524 Marina Point Drive Daytona Beach, FL 32114	I	unknown	CH			\$75.00
20							
8/5/2010 / /	Stewart, Vicki L 204 N. Sheridan Ave. DeLand, FL 32720	I	unknown	CH			\$15.00
21							
8/27/2010 / /	Mica, John L PO Box 181546 Castleberry, FL 32718	C	congressma n	CH			\$1,000.00
22							
9/12/2010 / /	Ranchita Canyon Associates LLC, PO Box 2126 New Smyrna Beach, FL 32170	B		CH			\$1,475.00
23							
8/24/2010 / /	Antox, James C 569 Health Blvd. Daytona Beach, FL 32114	I	doctor	CH			\$150.00
24							

## CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) I.D. Number \_\_\_\_\_  
 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_ / \_\_\_\_ / \_\_\_\_ through \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (4) Page 4 of 5

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type   Occupation		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
9/1/2010 / /	Teeters, Patricia T 567 N. Beach St. Ormond Beach, FL 32174	I	retired	CH			\$1,425.00
25							
8/12/2010 / /	Bone, Marshall B 900 Pine Tree Terr DeLand, FL 32724	I	unknown	CH			\$700.00
26							
8/17/2010 / /	Patterson, Shirley PO Box 203 DeLand, FL 32721	I	retired	CH			\$600.00
27							
8/12/2010 / /	Republican Club West Volusia, 747 S. Ridgewood Daytona Beach, FL 32118	P		CH			\$600.00
28							
8/12/2010 / /	Patterson, Shirley PO Box 203 DeLand, FL 323721	I	retired	CH			\$600.00
29							
9/7/2010 / /	Landry, Joshua 311 N Timber Creek Road Ormond Beach, FL 32174	I	unknown	CH			\$225.00
30							
8/25/2010 / /	Butts, Harold 750 Pelican Bay Drive Daytona Beach, FL 32119	I	retired	CH			\$250.00
31							
8/18/2010 / /	Moore, Louis L 425 Pelican Bay Drive Daytona Beach, FL 32119	I	unknown	CH			\$375.00
32							

## CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) I.D. Number \_\_\_\_\_  
 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_ / \_\_\_\_ / \_\_\_\_ through \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (4) Page 5 of 5

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor Type   Occupation		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
8/26/2010 / /	York, Elaine 201 Sugar Mill Drive New Smyrna Beach, FL 32168	I	unknown	CH			\$150.00
33							
8/11/2010 / /	Cole, Mary L 8 Stymie Lane New Smyrna Beach, FL 32168	I	unknown	CH			\$150.00
34							
8/18/2010 / /	McCarthy, Maria 201 Orange Grove Drive Apt 1 Ormond Beach, FL 32174	I	unknown	CH			\$150.00
35							
8/21/2010 / /	Lennon, Mark P PO Box 2744 New Smyrna Beach, FL 32170	I	unknown	CH			\$150.00
36							
8/23/2010 / /	Sentelle, Sandra B 644 Mount Olympus Blvd New Smyrna Beach, FL 32168	I	unknown	CH			\$75.00
37							
8/18/2010 / /	Hansen, Thelma M 49 Sandra Circle New Smyrna Beach, FL 32168	I	unknown	CH			\$75.00
38							
8/12/2010 / /	Rausch, Janelle R 2 Lake Fairgreen Circle New Smyrna Beach, FL 32168	I	unknown	CH			\$75.00
39							
8/12/2010 / /	Kimbell, Ellen J 9 Par Drive New Smyrna Beach, FL 32168	I	unknown	CH			\$75.00
40							

## CAMPAIGN TREASURER'S REPORT - ITEMIZED EXPENDITURES

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) I.D. Number \_\_\_\_\_  
 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_\_ through \_\_\_\_\_ (4) Page 1 of 3

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Expenditure Type	(10) Amendment	(11) Amount
8/19/2010 //	Brighthouse,	phone and internet	MO		\$215.08
1					
8/23/2010 //	The Logo Store, 720 E. Minnesota Ave Deland , FL 32724	ltd programs down payment	MO		\$482.60
2					
8/17/2010 //	Oddie, Jim P.O. Box 291841 Port Orange, FL 32129	lod breakfast	MO		\$34.20
3					
8/5/2010 //	Stich , Joe 6334 S. Atlantic Ave New Smyrna Beach, FL 32169	supply reimbursement	MO		\$105.41
4					
9/30/2010 //	Odyssey Travel, 1474 W Granada Ormond Beach, FL 32174	agent fee	MO		\$30.00
5					
9/30/2010 //	747 Old School Office Suites, 747 S. Ridgewood Ave 106 Daytona Beach, FL 32114	utilities	MO		\$40.92
6					
9/27/2010 //	747 Old School Office Suites, 747 S. Ridgewood Ave. 106 Daytona Beach, FL 32114	utilities	MO		\$44.68
7					
9/30/2010 //	US Airways,	travel fee dick morris	MO		\$178.70
8					

## CAMPAIGN TREASURER'S REPORT - ITEMIZED EXPENDITURES

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) F.D. Number \_\_\_\_\_  
 Committee 8/20/2010 through 10/28/2010  
 (3) Cover Period      /      /      through      /      /      (4) Page 2 of 3

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Expenditure Type	(10) Amendment	(11) Amount
(6) Sequence Number					
9/30/2010 / /	Delta Airlines,	travel fee dick morris	MO		\$513.70
9					
9/24/2010 / /	Ovetions, Ocean Center 101 N. Atlantic Ave Daytona Beach , FL 32114	ldd down payment	MO		\$6,695.32
10					
9/27/2010 / /	News Journal Corp., 901 6th Street Daytona Beach, FL 32117	ldd advertisement	MO		\$420.00
11					
9/10/2010 / /	747 Old school Office SDuites, 747 S. Ridgewood Ave Daytona Beach, FL 32118	office rent - 9/2010	MO		\$425.00
12					
9/13/2010 / /	Coriale, Nancy 3757 S. Atlantic Ave Daytona Beaach Shore, FL 32118	advance for ldd flowers	MO		\$300.00
13					
9/8/2010 / /	DSC - East, 1200 W. ISB Daytina Beach, FL 32120	meeting space rent	MO		\$40.00
14					
9/2/2010 / /	Butts, Hal 750 Pelican Bay Drive Daytona Beach, FL 32114	supply reimbursement	MO		\$94.26
15					
7/7/2010 / /	747 Old School Office Suites, 747 S. Ridgewood Ave Daytona Beach, FL 32118	utilities	MO		\$32.05
16					



## CAMPAIGN TREASURER'S REPORT - ITEMIZED EXPENDITURES

(1) Name Joe Stich Chair - Jim Oddie, Treasurer Volusia County Republican Executive Committee (2) F.D. Number \_\_\_\_\_  
 Committee 8/20/2010 through 10/28/2010  
 (3) Cover Period \_\_\_\_\_ through \_\_\_\_\_ (4) Page 3 of 3

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Expenditure Type	(10) Amendment	(11) Amount
7/7/2010 // 17	747 Old School Office Suites, 747 S. Ridgewood Ave Daytona Beach, FL 32118	utilities	MO		\$37.11
7/7/2010 // 18	747 Old School Office Suites, 747 S. Ridgewood Ave Daytona Beach, FL 32118	two months rent - 104	MO		\$850.00
7/23/2010 // 19	Daytona State College-East, 1200 W. ISB Daytona Beach, FL 32120	room rent	MO		\$40.00
7/26/2010 // 20	Ocean Center, 101 N. Atlantic Ave Daytona Beach, FL	2009 ldd	MO		\$905.11
8/3/2010 // 21	Daytona State College-West, 1155 County Road 4139 Bldg 7 Deland, FL 32724	room rent	MO		\$40.00
8/5/2010 // 22	Mote, Joe 2733 S. Peninsula Dr Daytona Beach, FL 32118	supply reimbursement	MO		\$149.10
//					
//					



*Ann McFall*  
Supervisor of Elections  
County of Volusia

November 15, 2010

Mr. Joe Stich, Chair  
Republican Executive Committee  
747 South Ridgewood Avenue  
Daytona Beach, Fl. 32114

Dear Mr. Stich:

Per F. S. 106.07, the Campaign Treasurer's Report for the period ending October 28, 2010 was filed electronically 6 days late. As you may recall, the treasurer of the organization, Jim Oddie, notified me that he believed there were errors in the last report in mid October. I encouraged him to file the report when it came due and my office will assist the REC in bringing the reports in compliance. The report was filed on November 5, 2010 instead of the due date of October 29, 2010. Per F.S. 106.07.13(8)(a)(2b):

"...For the reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report...Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission..."

Calculation of the penalty is:  $\$500 \times 6 \text{ days late} = \$3000$  or not to exceed  
 $25\% \text{ of } \$16,718.55 = \$4179.64$

Therefore, there is a balance due in the amount of \$3000 with a deadline of 20 days upon receipt of this correspondence.

My office will be in contact with Mr. Oddie regarding the appropriate changes that need to be made with regards to reporting periods in the coming week. I am confident all contributions and expenditures are recorded, just not in the appropriate period.

Kindest regards,

Ann McFall,  
Supervisor of Elections

*Historic Courthouse*  
125 West New York Avenue, DeLand, FL 32720-5415  
(386) 736-5930 • (386) 254-4690 • (386) 423-3311 • FAX (386) 822-5715  
[www.volusia.org/elections](http://www.volusia.org/elections)

If your signature has changed, please update your signature by completing a new Florida voter registration application. It is important to keep your signature updated, so that absentee ballots and/or petition signatures can be counted.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery  11/17/10</p>
<p>1. Article Addressed to:</p> <p>Republican Executive Committee  C/O Joe Stich, Chairman  747 S Ridgewood Ave Ste 104  Daytona Beach, FL 32114-5337</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service) 7009 0960 0003 0206 4675</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE

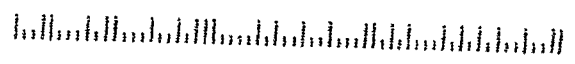


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

ANN McFARLAND  
Supervisor of Elections  
Historic Courthouse  
125 W NEW YORK AVE  
DeLAND, FLORIDA 32720-5415

**RECEIVED**  
NOV 19 2010  
Volusia County  
Department of Elections



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature: <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name): _____ C. Date of Delivery: <i>11/17/10</i></p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">Republican Executive Committee C/O Joe Stich, Chairman 747 S Ridgewood Ave Ste 104 Daytona Beach, FL 32114-5337</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type  <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

2. Article Number (Transfer from serv) 7009 0960 0001 0206 4675 *CG*

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

UNITED STATES POSTAL SERVICE

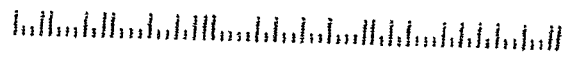


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

ANN McFARLAND  
Supervisor of Elections  
Historic Courthouse  
125 W NEW YORK AVE  
DeLAND, FLORIDA 32720-5415

**RECEIVED**  
NOV 19 2010  
Volusia County  
Department of Elections





**FLORIDA ELECTIONS COMMISSION**

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

December 7, 2011

The Honorable Ann McFall  
Volusia County Supervisor of Elections  
125 West New York Avenue  
DeLand, FL 32720-5415

**RE: Case No.: FEC 11-219; Campaign Treasurer's Report due October 29, 2010**

Dear Supervisor McFall:

The **Volusia County Republican Executive Committee** has appealed the fine assessed against it for failing to timely file a required report.

In order for us to present this appeal to the Florida Elections Commission, it is necessary to ask you to furnish us with copies of the following information, if available:

- The CTR that was filed late
- The envelope that contained the report
- Card or letter reminding candidate that report was due
- The filing officer's failure to file letter
- The filing officer's fine letter
- Certified mail receipt or other evidence that the fine letter was received
- Additional relevant notes or phone logs
- Document establishing the committee
- Appointment of Campaign Treasurer and Designation of Campaign Depository form
- The filing history

A filing history is a list of reports filed by this committee with a notation of any late filing fines assessed against the committee for failing to timely file reports. Please return the requested information to me by December 21, 2011.

I appreciate your assistance in obtaining this information. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Tracie Aulet".

Tracie Aulet  
Investigation Specialist



**FLORIDA ELECTIONS COMMISSION**

107 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

(850) 922-4539

September 14, 2011

Mr. Daniel E. Nordby, Esq.  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302

**RE: Case No.: FEC 11-219; Campaign Treasurer's Report due October 29, 2010**

Dear Mr. Nordby:

The Florida Elections Commission received your letter appealing the fine assessed against Volusia County Republican Executive Committee for failing to timely file their campaign treasurer's report and requesting a hearing before the Commission. The Commission will hear the case at its next meeting, which is presently scheduled for November 15 & 16, 2011, in Tallahassee. The Commission Clerk will notify you at least 14 days in advance of the meeting of the day and the exact time that the Commission will hear the case.

In reaching its decision, the Commission will consider the documents gathered by Commission staff and any documents you submit for the Commission's consideration before the hearing. Unless good cause is shown, the Commission will not consider at the hearing any written document unless it has been filed with the Commission Clerk at least ten days before the hearing. Rules 2B-1005, 1.0052, and 1.0055, *Florida Administrative Code*, are the Commission's rules on the appeal of automatic fines. The Commission Clerk is located at the address listed above.

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

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

The proof of mailing submitted shall reflect that it was obtained from the United States Postal Service or other mail delivery service at the time of mailing and shall reflect that the report was

mailed before midnight on the due date. A metered postage mark does not constitute a postmark or a proof of mailing. The testimony presented shall indicate that the report was mailed so that it would have received a postmark or a legible postmark on the report's due date but for the failure of the United States Postal Service to properly mark the report.

If you cannot show that your report was timely filed, the Commission may still grant you relief, but only if you show unusual circumstances. **Unusual circumstances is defined in Rule 1D-1.005(4), Florida Administrative Code, to mean "uncommon, rare, or sudden events over which the actor has no control and which directly result in the failure to act in accordance with the filing requirements."** Unusual circumstances must occur within a time period that would clearly have prevented you from filing the report in a timely manner. Unusual circumstances shall not include the failure of the United States Postal Service or other mail delivery service to postmark an envelope, legibly postmark an envelope, or timely deliver mail. Further, unusual circumstances shall not include the failure of the sender to affix sufficient postage to a report that is being mailed.

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

1. **Natural disaster or other emergency that prevented timely filing.** Evidence submitted must include copies of newspaper reports or other documents from an independent and reliable source that shows the nature, date, and location of the natural disaster or emergency.
2. **Death of the candidate or campaign treasurer or an immediate family member of the candidate or campaign treasurer.** Evidence submitted must include a copy of the death certificate, newspaper obituary, or funeral program, or notice.
3. **Serious illness, disability or non-elective surgery of the candidate or campaign treasurer.** Evidence submitted must include a physician's certification on professional letterhead stationery that includes the dates of the illness, disability, or surgery; a statement regarding the period of time that the patient was incapacitated; and a statement that surgery, if any, was not elective. Copies of hospital records reflecting the dates of hospitalization may also show the period of incapacitation.
4. **Serious illness, disability, or non-elective surgery of the immediate family member of the candidate or campaign treasurer.** Evidence submitted must include evidence of the relationship of the candidate or treasurer to the family member, the location of the family member, and the reason the presence of the candidate or campaign treasurer was required. Evidence submitted must also include a physician's certification on professional letterhead stationery that includes the dates of the illness, disability or surgery; a statement regarding the period of time that the patient was incapacitated; a statement that surgery, if any, was not

elective; and a statement that the patient required the care of a family member.

5. **Computer or equipment failure caused by events that could not have been anticipated and that made timely filing of the report impossible.** Power outages or program failure does not constitute unusual circumstances unless it is established that reasonable precautions to assure the safety of the equipment or the ability of the program to perform as anticipated were taken before the events causing failure of the equipment or program. Evidence must include a written statement made under oath in the presence of a notary or other person authorized to administer oaths indicating the cause and the duration of the power outage and the reasonable precautions taken to assure the safety of the equipment or the ability of the program to perform as anticipated.
6. **The abrupt and unexpected loss of the campaign treasurer, over which you had no control.** The loss of the campaign treasurer does not constitute unusual circumstances if the appealing party failed to monitor the campaign treasurer's performance before his or her departure or if the appealing party failed to assure prompt preparation of the report after the treasurer's departure. Evidence must include a written statement made under oath in the presence of a notary or other person authorized to administer oaths explaining the departure of your treasurer and the steps taken to monitor the treasurer's performance before his or her departure.

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

Please let me know if I may be of further assistance.

Sincerely,



Tracie Aulet  
Investigation Specialist

Enclosure: Rules 2B- 1.005, 1.0052, and 1.0055, Florida Administrative Code.