

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Palm Beach Gardens Needs Term Limits

Case No.: FEC 15-082

TO: Palm Beach Gardens Needs Term Limits
Michael Peragine, Chair
277 Sedona Way
Palm Beach Gardens, FL 33418

Patricia Snider, City Clerk
City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, FL 33410

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on, **February 17, 2016 at 9:00 am, or as soon thereafter as the parties can be heard**, at the following location: **Florida State Conference Center, 555 West Pensacola Street, Room #108, Tallahassee, Florida 32306.**

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

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

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

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

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

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

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

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

See further instructions on the reverse side.

Amy McKeever Toman
Executive Director
Florida Elections Commission
February 2, 2016

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.

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

November 30, 2015

Palm Beach Gardens Needs Term Limits
Attn: Michael J. Peragine, Chairman
277 Sedona Way
Palm Beach Gardens, FL 33418

**RE: Case No.: FEC 15-074; 15-075; 15-076; 15-077; 15-081; 15-082; 15-083; 15-087;
15-090; 15-091; 15-092**

Respondent: Palm Beach Gardens Needs Term Limits (Appeal of Auto fine)

Dear Mr. Peragine:

The Florida Elections Commission at its last regularly scheduled meeting was unable to hear this case. Therefore, this case has been rescheduled for its next meeting, which is scheduled for **February 17-18, 2016** in Tallahassee. A notice of hearing will be mailed approximately 14 days before the hearing.

If you have any questions, please contact us at the number listed above or at fec@myfloridalegal.com.

Sincerely,

/s/ Amy McKeever Toman
Executive Director

AMT/dam

cc: City of Palm Beach Gardens, Complainant/Filing Officer

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Palm Beach Gardens Needs Term Limits

Case No.: FEC 15-082

TO: Palm Beach Gardens Needs Term Limits
Michael Peragine, Chair
277 Sedona Way
Palm Beach Gardens, FL 33418

Patricia Snider, City Clerk
City of Palm Beach Gardens
10500 North Military Trail
Palm Beach Gardens, FL 33410

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on, **November 17, 2015 at 8:30 AM, or as soon thereafter as the parties can be heard**, at the following location: **Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, FL 32399.**

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

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

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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.

Amy McKeever Toman
Executive Director
Florida Elections Commission
November 2, 2015

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.

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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.

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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 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

(850) 922-4539

September 14, 2015

Palm Beach Gardens Needs Term Limits

Attn: Michael J. Peragine, Chairman

277 Sedona Way

Palm Beach Gardens, FL 33418

RE: Case No.: FEC 15-074; 15-075; 15-076; 15-077; 15-081; 15-082; 15-083; 15-087; 15-090; 15-091; 15-092

Respondent: Palm Beach Gardens Needs Term Limits (Appeal of Auto fine)--Corrected

Dear Mr Peragine:

The Florida Elections Commission at its last regularly scheduled meeting was unable to hear this case. Therefore, this case has been rescheduled for its next meeting, which is scheduled for **November 17-18, 2015** in Tallahassee. A notice of hearing will be mailed approximately 14 days before the hearing.

If you have any questions, please contact us at the number listed above or at fec@myfloridalegal.com

Sincerely,

/s/ Amy McKeever Toman

Executive Director

AMT/dam

cc: City of Palm Beach Gardens, Complainant/Filing Officer

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Palm Beach Gardens Needs Term Limits

Case No.: FEC 15-082

TO: Palm Beach Gardens Needs Term Limits
Attn: Michael J. Peragine, Chair
2925 PGA Boulevard, Suite 204
Palm Beach Gardens, FL 33410

City of Palm Beach Gardens, City Clerk
Attn: Patricia Snider
10500 North Military Trail
Palm Beach Gardens, FL 33410

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on **August 26, 2015, at 8:30 am, or as soon thereafter as the parties can be heard**, at the following location: **Senate Office Building, Room 110-S, 404 South Monroe Street, Tallahassee, FL 32399.**

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

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

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

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

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

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

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

See further instructions on the reverse side.

Amy McKeever Toman
Executive Director
Florida Elections Commission
August 11, 2015



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street, Suite 224

Collins Building

Tallahassee, Florida 32399-1050

(850) 922-4539

May 29, 2015

James D'Loughy
2925 PGA Blvd., Suite 204
Palm Beach Gardens, FL 33410

RE: Case No.: FEC 15-082; Respondent: Palm Beach Gardens Needs Term Limits

Dear Mr. D'Loughy:

The Florida Elections Commission at its last regularly scheduled meeting was unable to hear this case. Therefore, this case has been rescheduled for its next meeting, which is scheduled for August 18-19, 2015 in Tallahassee. A notice of hearing will be mailed approximately 14 days before the hearing.

If you have any questions, please contact us at the number listed above or at fec@myfloridalegal.com.

Sincerely,

/s/ Amy McKeever Toman

Executive Director

AMT/dam

cc: City of Palm Beach Gardens, Complainant/Filing Officer
Michael Peragine, Chairman, Palm Beach Gardens Needs Term Limits



Motion for Continuance

James D'Loughy

to:

fec

05/13/2015 09:41 PM

Cc:

Donna Malphurs, "Michael J. Peragine", james

Show Details

Date: May 13, 2015

To: FEC

From: Michael Peragine, Chairman/ James D'Loughy, Member

Re: Motion for Continuance of Hearing(s) (Automatic Fine)

15-074; 15-075; 15-076; 15-077; 15-081; 15-082;

15-083; 15-087; 15-090; 15-091; 15-092

Respondent, Palm Beach Gardens Needs Term Limits, a political committee lawfully registered in Palm Beach Gardens, hereby requests a continuance of the HEARING(S) (AUTOMATIC FINE) for each of the above-captioned cases scheduled to be heard before the Florida Elections Commission on May 20, 2015, at 8:30 am, at the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399. Our Committee was notified of the hearing via mail on or about May 8, 2015 and that is simply not sufficient notice to appropriately respond. Therefore, we move to reschedule the Hearing(s) to the next Florida Elections Commission hearing date in August of 2015.

Thank you in advance for your consideration.

END OF MAIL

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Palm Beach Gardens Needs Term Limits

Case No.: FEC 15-082

TO: Palm Beach Gardens Needs Term Limits
Attn: Michael J. Peragine, Chair
2925 PGA Boulevard, Suite 204
Palm Beach Gardens, FL 33410

City of Palm Beach Gardens, City Clerk
Attn: Patricia Snider
10500 North Military Trail
Palm Beach Gardens, FL 33410

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on **May 20, 2015, at 8:30 am, or as soon thereafter as the parties can be heard**, at the following location: **Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee FL 32399.**

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Amy McKeever Toman
Executive Director
Florida Elections Commission
May 5, 2015

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**FLORIDA ELECTIONS COMMISSION
CASE REPORT
Case Number: FEC-15-082**

NAME: PALM BEACH GARDEN NEEDS TERM LIMITS

DATE APPEAL RECEIVED: 1/12/15

DATE HEARD BY FEC: n/a

DATE HEARING REQUEST RECEIVED: n/a

DATE REPORT DUE: 10/17/14 (2014 G5)

DATE OF HAND DELIVERED: 12/19/14

DATE FILING OFFICER RECEIVED REPORT: 12/19/14

NUMBER OF DAYS LATE: 63

AMOUNT OF FINE: \$625.00

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

TOTAL RECEIPTS FOR REPORTING PERIOD: \$2,500.00

TOTAL EXPENDITURES FOR REPORTING PERIOD: \$0

DATE FIRST NOTIFICATION WAS SENT: unknown

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

SUMMARY: Palm Beach Gardens Needs Terms Limits is a political committee (PC) registered in Palm Beach county. The PC's chair and treasurer was James D'Loughy¹.

The PC is appealing the fine claiming that unusual circumstances caused this report to be untimely filed. According to Mr. D'Loughy, "the undersigned delegated the duties of preparing and filing the committee's financial reports to another committee member who unequivocally undertook the responsibilities for the Committee's reporting compliance. Upon receipt of multiple notices from the filing clerk that certain reports were not timely filed, said committee member assured the undersigned that the reports were all timely filed and that the clerk's notices were sent in error and were being addressed. While all of the reports were at some point filed with the City's filing clerk, it was later learned that the committee member may have not timely performed his duties because of pending personal and familiar health issues during the reporting periods. Said committee member has always been reliable in every respect, and I had no reason to doubt that the reports were being timely filed".

- The 2014 G5 Report covers the time period from 10/4/14 through 10/10/14
- The PC reported receiving 1 contribution, while making 0 expenditures during this reporting period.
- Palm Beach County does not complete queued-transaction reports.
- On 4/16/15, FEC staff made contact with Mr. D'Loughy to ensure that he was aware of this appeal for an automatic fine.

PRIOR CASES: This PC has established a pattern of being involved in automatic fine appeals. This PC has approximately 12 automatic fine appeals appearing before the Commission during its May 2015 meeting

¹ On January 8, 2015, the PC appointed a new chairman/treasurer, Michael Peragine



10500 N. MILITARY TRAIL PALM BEACH GARDENS, FLORIDA 33410-4698
www.pbgfl.com

2015 APR 22 A 10:17

April 21, 2015

Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050
Attn.: Ms. Amy McKeever Toman, Executive Director

Sent via: FedEx

Dear Ms. Toman,

I am in receipt of your correspondence dated April 10, 2015, received April 13, 2015, wherein the Respondent James D'Loughy, (Palm Beach Gardens Needs Term Limits) has appealed the fines totaling \$6,273.00 levied relating to delinquent Campaign Treasurer Reports P4, P5, P6, P7, G4, G5, G6, D4, G7, M10, and M11.

Below is information that will offer clarification and refute Mr. D'Loughy's claims of unusual circumstances cited in his January 9, 2015 Appeal Letter (enclosed).

January 9, 2015 Appeal Letter by Mr. D'Loughy:

1. Statement by Mr. D'Loughy:

"If the reports were not filed timely, it was due to *unusual circumstances*; to wit, the undersigned (James D'Loughy) delegated the duties of preparing and filing the committee's financial report to another committee member who unequivocally undertook the responsibilities for the Committee's reporting compliance".

Response by Filing Officer Snider:

At the time of the appeal, Mr. D'Loughy served as the Campaign Treasurer, Registered Agent, and Chairman for the Palm Beach Gardens Needs Term Limits (PBGNTL), in accordance with Section 106, F.S. In order for Mr. D'Loughy to delegate any responsibilities associated with the preparation and filing of the committee's financial reports to another committee member, he would have had to submit a letter of resignation and submit to me Forms DS-DE 5, Statement of Organization of Political Committee, DS-DE 6, Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees, and Form DS-DE 41, Registered Agent Statement of Appointment changing the appointment. Mr. D'Loughy could have also, at any time, appointed a Deputy Campaign Treasurer that could have served on his behalf. Since Mr. D'Loughy did not properly delegate responsibility to another individual by either method mentioned above, he remained solely responsible for the proper and timely filing of the Campaign Treasurer Reports.

Additionally, Mr. D'Loughy was aware of the due dates for all reports since he was provided the calendar of reporting dates on July 14, 2014, September 12, 2014, and October 28, 2014.

2. Statement by Mr. D'Loughy:

"Upon receipt of multiple notices from the filing clerk that certain reports were not timely filed, said committee member assured Mr. D'Loughy that the reports were all timely filed and that the clerk's notices were sent in error and were being addressed".

Response by Filing Officer Snider:

My notices were not sent in error. In fact, a total of 40 notices were sent to and received by Mr. D'Loughy detailing the report delinquencies. All notices were sent via United States Postal Service, Certified/Return Receipt.

3. Statement by Mr. D'Loughy:

"While all of the reports were at some point filed with the City's filing clerk, it was later learned that the committee member may have not timely performed his duties because of pending personal and familiar health issues during the reporting periods".

Response by Filing Officer Snider:

All of the reports were subsequently filed; however, all nineteen (19) were delinquent, and when received on December 19, 2014 at 4:55 p.m., Mr. D'Loughy's greeting to me was "Well, I'm finally here."

Given the time, this only allowed 5 minutes for my Deputy City Clerk and me to date stamp all 19 reports and provide copies to Mr. D'Loughy for his records.

In response to the comment "that the committee member may have not timely performed his duties", I reiterate that Mr. D'Loughy failed to properly delegate his duties as outlined in paragraph 1.

Attached for your review is a copy of the Palm Beach Post article which quotes Mr. D'Loughy as saying "Basically we goofed. We are all political novices about filing forms".

It's important to note that Mr. D'Loughy is not a political novice, in fact, he was a municipal candidate in 2013 and filed all reports timely during that campaign in accordance with the reporting schedule. Additionally, Mr. D'Loughy is a practicing member of the Florida Bar and is well aware of his statutory obligations.

Then in September 2013 Mr. D'Loughy filed the necessary State forms establishing the Palm Beach Gardens Needs Term Limits and subsequently filed the first 14 Campaign Treasurer Reports in accordance with the reporting schedule. Of the 14, 11 were timely filed. It was beginning with the P4 report that he stopped turning the reports into my office.

4. Statement by Mr. D'Loughy:

"Said committee member has always been reliable in every respect, and I had no reason to doubt that the reports were being timely filed".


Response by Filing Officer Snider:

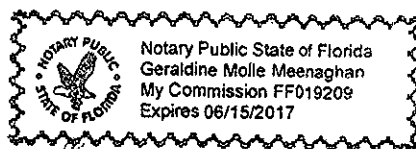
This statement is irrelevant since Mr. D'Loughy failed to provide the necessary paperwork relinquishing his duties as outlined in paragraph 1, and it does not waive his responsibility as Campaign Treasurer, Registered Agent, and Chairman for the Palm Beach Gardens Needs Term Limits to timely and properly file his reports.

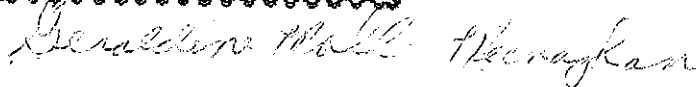
I respectfully request the Commission uphold the fines imposed in the amount of \$6,273 00.

Please contact me if you require any additional information.

Sincerely,


Patricia Snider, CMC, City Clerk
Enclosure





PALM BEACH GARDENS NEEDS TERM LIMITS
2925 PGA Boulevard, Suite 204
Palm Beach Gardens, Florida 33410

January 9, 2015

Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

via: and by fax: (850) 921-0783

Re: Appeal of Financial Reporting Fine
Levied by Palm Beach Gardens

Dear Sir or Madam Clerk,

The purpose of this letter is to appeal the automatic fine(s) imposed by the Palm Beach Gardens filing clerk against Palm Beach Gardens Needs Term Limits ("PBGNTL") (a Political Committee filed with the city of Palm Beach Gardens) for the alleged failure to timely file its financial reports pursuant to F.S. 106, with respect to the following Campaign Treasurers' Report(s): **P4, P5, P6, P7, G1, G2, G3, G4, G5, G6, D1, D2, D3, D4, D5, D6, D7, M10, and M11.** (see City of Palm Beach Garden's City Filing Clerk letter dated 12/24/14 attached hereto)

If the reports were not filed timely, it was due to *unusual circumstances*; to wit, the undersigned delegated the duties of preparing and filing the committee's financial reports to another committee member who unequivocally undertook the responsibilities for the Committee's reporting compliance. Upon receipt of multiple notices from the filing clerk that certain reports were not timely filed, said committee member assured the undersigned that the reports were all timely filed and that the clerk's notices were sent in error and were being addressed. While all of the reports were at some point filed with the City's filing clerk, it was later learned that the committee member may have not timely performed his duties because of pending personal and familiar health issues during the reporting periods. Said committee member has always been reliable in every respect, and I had no reason to doubt that the reports were being timely filed.

Thank your in advance for your careful consideration in viewing the forgoing **unusual circumstances** as a mitigating factor and either waive or reduce the fine(s)

Sincerely Yours,

James D'Loughy

cc: P. Snider, PBG City Clerk. ()

Palm Beach Gardens term-limits group owes thousands in election fines

Updated: 3:44 p.m. Thursday, Jan. 22, 2015 | Posted: 1:18 p.m. Thursday, Jan. 22, 2015

Email 2 Facebook 0 Twitter 0 Share This 2
By — - Palm Beach Post Staff Writer

PALM BEACH GARDENS —

The leader of the successful ballot drive to impose term limits on city council members has accumulated more than \$6,000 in city fines related to the effort, for missing contribution report deadlines 19 times.

James D'Loughy, an attorney and former council candidate, is appealing to the Florida Election Commission, requesting a lower fine. He said Wednesday that he hopes to hear back from the commission by May or June.



James D'Loughy helped lead the drive for city council term limits in Palm Beach Gardens

James D'Loughy helped lead the drive for city council term limits in Palm Beach Gardens

D'Loughy — through his political committee, Palm Beach Gardens Needs Term Limits — spent more than a year gathering thousands of signatures required to put term-limits questions on the November ballot. By a wide margin, voters approved the measures, which limited council members to two three-year terms, a restriction that applies retroactively to current members. As a result, four of the city's five members, two of whom have been in office more than 20 years, will be forced out by 2017.

Though the effort succeeded more than two months ago, the political committee continues to exist and is required to file regular reports listing all contributions and expenditures, according to City Clerk Patricia Snider.

"Basically we goofed. We are political novices about filing forms," D'Loughy said.

"We had somebody doing it and it was basically the fly ball dropped between the outfielders. We're working with the FEC to determine the penalties and we'll just have to own up to whatever they decide."

Snider said Wednesday that she sent two and sometimes three reminders each time a report was late but that she said had to assess fines and report the violations to the state.

"I was trying to help him as much as I possibly could," she said. "I went above and beyond."

The reports were due from Aug. 1 through Dec. 10, 2014. D'Loughy finally brought in the 19 reports, at 4:55 p.m. on Dec. 19 — five minutes before city hall's closing time — and said words to the effect of, "well, finally here." Snider said.

She accepted the reports but after reviewing them realized they'd all been filled out wrong, she said.

"I gave him a very thorough and detailed explanation of what he needed to do," she said.

He resubmitted them but by then the fines amounted to \$6,273, she said.

And those weren't the only fines.

He previously paid \$566 for missing a Feb. 14 reporting deadline after that fine was upheld by the Florida Elections Commission.

He later applied for a waiver from having to file a report for June 21 to July 4, on the basis that the political committee had no activity during that period. But there was activity after all — that's when he'd paid the \$566.

Because the city denied the waiver and because the report for that period was late, he was fined another \$257, which has yet to be paid, Snider said. "He owes a fine because he paid a fine during that time," she said.

D'Loughy says the political committee just needs to "do a bit of housekeeping" to put the matter behind it.

"But there was no nefarious, clandestine operation that caused us not to file these timely," he said. "Just, one hand didn't know what the other hand was doing. We were in the heat of the moment of gathering petitions and then waging our campaign."

"This is not uncommon in any campaign. It happens all the time. Unfortunately it happened to us and we're having to answer for it monetarily, but we play by the rules and the rules are the rules."

I am in receipt of Mr D'Loughy's appeal letter and would like to offer the following clarifications:

Statement by Mr. D'Loughy:

In Mr D'Loughy's appeal, he states that he delegated the duties of preparing and filing the committee's financial reports to another committee member who unequivocally undertook the responsibilities for the Committee's reporting compliance.

Response by Filing officer Snider:

At no time did Mr D'Loughy file any paperwork to appoint another individual as a Deputy Treasurer or relinquish responsibility of Treasurer to anyone else and as such, the responsibility for the reports lies with Mr D'Loughy.

In fact, Mr. D'Loughy requested the calendar of reporting dates, which I provided to him on July 14, 2014, September 12, 2014 and October 28, 2014. If Mr. D'Loughy was not completing the reports then why didn't he request the calendar be sent to the committee member that he alleges was completing the reports to ensure they had the correct reporting periods and due dates?

Statement by Mr. D'Loughy:

Upon receipt of multiple notices from the filing clerk that certain reports were not timely file, said committee member assured Mr D'Loughy that the reports were all timely filed and that the clerk's notices were sent in error and were being addressed

Response by Filing officer Snider:

Multiple notices were sent, in fact, there were a total of 40 letters sent to Mr D'Loughy. I have all the certified/return receipt delivery notifications on file. I stopped sending second and third notices with the G6 report as none of the previously delinquent reports were received as a result of my sending the notices. These were also sent to the FEC with my complaint which was filed for PBGNTL's failure to file after notice. My notices were not sent in error. As for Mr D'Loughy's assumption that the notices were being addressed, I was never contacted by Mr D'Loughy or any other member of the committee in an attempt to correct the delinquent reports. All notices were sent in accordance with Chapter 106, Fla Stat.

Statement by Mr. D'Loughy:

While all of the reports were at some point filed with the City's filing clerk, it was later learned that the committee member may have not timely performed his duties because of pending personal and familial health issues during the reporting periods.

Response by Filing officer Snider:

All of the reports were subsequently filed; however, all nineteen (19) were delinquent and when received on December 19, 2014 at 4:55 p m., Mr. D'Loughy's greeting to me was "Well, I'm finally here " If Mr. D'Loughy had relinquished his treasurer responsibilities to another committee member then why on this date was he taking responsibility for the reports.

Whether Mr D'Loughy had entrusted another member of the committee with the official duties of Treasurer or not, is entirely irrelevant to the issue before the Commission. No Deputy Treasurer was ever properly designated and no other individual was ever properly designated as Treasurer in Mr D'Loughy place Accordingly, the sole responsibility to ensure the reports were timely filed remained with Mr D'Loughy as the Treasurer of the PBGNTL committee.

As mentioned above, Mr D'Loughy did not submit any paper work to appoint a Deputy Treasurer for the PBGNTL committee. If that were the case, Mr D'Loughy would have had to sign the reports and upon receipt in my office, I would have provided a copy to the committee member to whom the responsibility had been transferred. In addition, Mr. D'Loughy was notified that all nineteen (19) reports contained errors and had to be amended. I received the amended reports on January 8, 2015. The reports were stamped in and copies were sent to Mr. D'Loughy on Monday, January 12, 2015 for his records. Prior to his January 9, 2015 letter to the Commission, Mr. D'Loughy has never asserted that the committee had a Deputy Treasurer or that someone else had been designated as the Treasurer.

Statement by Mr. D'Loughy:

Said committee member has always been reliable in every respect, and I had no reason to doubt that the reports were being timely filed.

Response by Filing officer Snider:

Mr D'Loughy is the sole Campaign Treasurer of record for PBGNTL and as such he completed section 11, certification, deeming that he certified and examined the reports and that they were true, correct, and complete. All reports bear Mr D'Loughy's signature and no other. Mr D'Loughy's assertion that "[he] had no reason to doubt that the reports were being timely filed" lacks candor at best and is a complete and utter falsehood at worst. As mentioned hereinabove, no fewer than 40 notices were sent to and received by Mr D'Loughy detailing the report delinquencies.

In the same mailing with the nineteen (19) amended reports, there was a letter of resignation from Mr D'Loughy from his appointment as Campaign Treasurer, Chairman and Registered Agent. Also contained were Forms DS-DE 6, DS-DE 5 and DS-DE 41 appointing Mr Michael Peragine as Campaign Treasurer, Chairman and Registered Agent. As all forms contained errors, I prepared a letter to Mr. D'Loughy (attached) notifying him that I would not be accepting his letter of resignation until all documents were prepared in accordance with the law.

If Mr. Peragine is the committee member that "unequivocally undertook the responsibilities for the Committee's reporting compliance, you may recall that I filed a confidential complaint against Mr Peragine notifying the FEC that he had not filed and still has not filed his termination report that was due on June 9, 2014.

Mr D'Loughy never appealed his fine of \$256.83 reporting P2, but has not paid.

PALM BEACH GARDENS NEEDS TERM LIMITS
2925 PGA Boulevard, Suite 204
Palm Beach Gardens, Florida 33410

January 9, 2015

Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

via: lex@sunshinelegals.com and by fax: (850) 921-0783

Re: Appeal of Financial Reporting Fine
Levied by Palm Beach Gardens

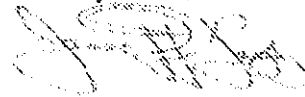
Dear Sir or Madam Clerk,

The purpose of this letter is to appeal the automatic fine(s) imposed by the Palm Beach Gardens filing clerk against Palm Beach Gardens Needs Term Limits ("PBGNTL") (a Political Committee filed with the city of Palm Beach Gardens) for the alleged failure to timely file its financial reports pursuant to F.S. 106, with respect to the following Campaign Treasurers' Report(s): P4, P5, P6, P7, G1, G2, G3, G4, G5, G6, D1, D2, D3, D4, D5, D6, D7, M10, and M11. (see City of Palm Beach Garden's City Filing Clerk letter dated 12/24/14 attached hereto)

If the reports were not filed timely, it was due to **unusual circumstances**; to wit, the undersigned delegated the duties of preparing and filing the committee's financial reports to another committee member who unequivocally undertook the responsibilities for the Committee's reporting compliance. Upon receipt of multiple notices from the filing clerk that certain reports were not timely filed, said committee member assured the undersigned that the reports were all timely filed and that the clerk's notices were sent in error and were being addressed. While all of the reports were at some point filed with the City's filing clerk, it was later learned that the committee member may have not timely performed his duties because of pending personal and familiar health issues during the reporting periods. Said committee member has always been reliable in every respect, and I had no reason to doubt that the reports were being timely filed.

Thank your in advance for your careful consideration in viewing the forgoing **unusual circumstances** as a mitigating factor and either waive or reduce the fine(s)

Sincerely Yours,



James D'Loughy

cc: P Snider, PBG City Clerk, (PSnider@pbgfl.com)

FILED
2015 JAN 12 A 8 03
Palm Beach Gardens, Florida



10500 N. MILITARY TRAIL PALM BEACH GARDENS, FLORIDA 33410-4698
www.pbgl.com

December 24, 2014

Palm Beach Gardens Needs Term Limits
2925 PGA Boulevard, Suite 204
Palm Beach Gardens, FL 33410
Attn: Mr James D'Loughy

Sent via: FedEx

Dear Mr. D'Loughy:

In accordance with the reporting requirements set forth in Chapter 106, F.S., the Campaign Treasurer's Reports for the reporting periods P4, P5, P6, P7, G1, G2, G3, G4, G5, G6, D1, D2, D3, D4, D5, D6, G7, M10 and M11 have all been delinquent. Since all 19 delinquent reports have now been filed on December 19, 2014, fines must be assessed for the failure to file the reports by the designated due date.

Pursuant to sub-section 106.07 (8)(b), F.S., the fine shall be \$50.00 per day for the first 3 days late and, thereafter, \$500.00 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 except for P7 and G7 which are the reports immediately preceding the Primary and General election which carries a fine of \$500.00 per day, not to exceed 25% of total receipts or expenditures.

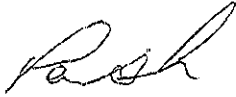
The following fines have been calculated for a total of \$6,273.00.

Report Type	Date Due	Date Received	Greater of Expenditures/Contributions	25%
P4	8/1/2014	12/19/2014	\$3,275.00	\$ 818.75
P5	8/8/2014	12/19/2014	\$2,500.00	\$ 625.00
P6	8/15/2014	12/19/2014	\$3,067.00	\$ 766.75
P7	8/22/2014	12/19/2014	\$3,650.00	\$ 912.50
G1	9/5/2014	12/19/2014	\$0.00	\$ -
G2	9/19/2014	12/19/2014	\$0.00	\$ -
G3	10/3/2014	12/19/2014	\$0.00	\$ -
G4	10/10/2014	12/19/2014	\$2,000.00	\$ 500.00
G5	10/17/2014	12/19/2014	\$2,500.00	\$ 625.00
G6	10/24/2014	12/19/2014	\$1,000.00	\$ 250.00
D1	10/25/2014	12/19/2014	\$0.00	\$ -
D2	10/26/2014	12/19/2014	\$0.00	\$ -
D3	10/27/2014	12/19/2014	\$0.00	\$ -
D4	10/28/2014	12/19/2014	\$500.00	\$ 125.00
D5	10/29/2014	12/19/2014	\$0.00	\$ -
D6	10/30/2014	12/19/2014	\$0.00	\$ -
G7	10/31/2014	12/19/2014	\$500.00	\$ 125.00
M10	11/10/2014	12/19/2014	\$6,000.00	\$ 1,500.00
M11	12/10/2014	12/19/2014	\$100.00	\$ 25.00

The fine shall be paid to the Filing Officer within 20 days after receipt of the notice of payment due. Please submit your check or money order made payable to the City of Palm Beach Gardens.

Please contact my office if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "P. Snider".

Patricia Snider, CMC, City Clerk

Cc: Florida Elections Commission
R. Max Lohman, City Attorney

CAMPAIGN TREASURER'S REPORT SUMMARY

(1) Palm Beach Gardens Needs Term Limits

(2) Name
 2924 PGA Blvd. Suite 201
Address (number and street)
 Palm Beach Gardens, FL 33410
City, State, Zip Code

OFFICE USE ONLY

Check here if address has changed

(3) ID Number: n/a

(4) Check appropriate box(es):

- Candidate Office Sought: _____
- Political Committee (PC)
- Electioneering Communications Org (ECO)
- Party Executive Committee (PTY)
- Independent Expenditure (IE) (also covers an individual making electioneering communications)
- Check here if PC or ECO has disbanded
- Check here if PTY has disbanded
- Check here if no other IE or EC reports will be filed

(5) Report Identifiers

Cover Period: From 10 / 04 / 14 To 10 / 10 / 14 Report Type: G5
 Original Amendment Special Election Report

(6) Contributions This Report

Cash & Checks	\$	2	500	00	
Loans	\$		0	00	
Total Monetary	\$		2	500	00
In-Kind	\$		0	00	

(7) Expenditures This Report

Monetary Expenditures	\$		0	00	
Transfers to Office Account	\$		0	00	
Total Monetary	\$		0	00	

(8) Other Distributions
 \$ _____ , _____ , 0 00

(9) TOTAL Monetary Contributions To Date
 \$ _____ , 37 , 825 00

(10) TOTAL Monetary Expenditures To Date
 \$ _____ , 32 , 785 85

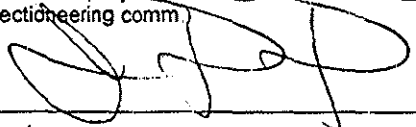
(11) Certification

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:

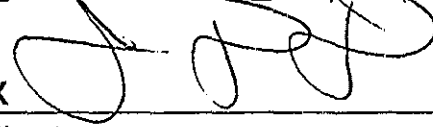
James D'Loughy
 (Type name)

Individual (only for IE or electioneering comm.) Treasurer Deputy Treasurer

X 
 Signature

James D'Loughy
 (Type name)

Candidate Chairperson (only for PC and PTY)

X 
 Signature

CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

Palm Beach Gardens Needs Term Limits

12-19-14P04:57 RCVD
n/a

(1) Name _____

(2) I.D. Number _____

(3) Cover Period 10 / 04 / 14 through 10 / 10 / 14

(4) Page 1 of 1

(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
10 / 05 / 14 / /	Sid Dinerstein 15 St. George Pl. Palm Beach Gardens FL 33418	I	Retired	CHE			\$2500.00

FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 15-082

Respondent: Palm Beach Garden Needs Term Limits

Complainant: Palm Beach County SOE

1. **Date and time:** January 20, 2015 @ 9:40 am
Name: Patricia Snider—SOE
Phone #: (561) 799-4100
Summary: I had telephone contact to request a copy of all documents/reports pertaining to this PC. Ms. Snider stated that she will get me this information. She advised me that the PC never filed a change of officers with her office, nor was a deputy treasurer ever appointed. She stated that Mr. D'Loughy came in on December 19, 2014 at 4:55pm to file all of his reports. I thanked her for this information.
Memo to File? No
Entered by: CKO

2. **Date and time:** April 13, 2015 @ 3:00 pm
Name: Patricia Snider—SOE
Phone #: (561) 799-4100
Summary: I had telephone contact to ensure that I had been given Respondent's entire file as requested. Ms. Snider stated that she sent me everything that she had regarding Respondent. I thanked her for her assistance with this matter.
Memo to File? No
Entered by: CKO

3. **Date and time:** April 16, 2015 @ 8:00 am
Name: James D'Loughy—Chairman
Phone #: (561) 622-7788
Summary: I attempted telephone contact to ensure that Respondent is aware of automatic fine appeal. I left a message to return my call.
Memo to File? No
Entered by: CKO

4. **Date and time:** April 16, 2015 @ 10:20 am
Name: James D'Loughy—Chairman
Phone #: unknown
Summary: I had telephone contact in response to message left on his behalf. Mr. D'Loughy stated that he was aware of the automatic fine appeal cases. He stated that he did not have any other information to add at this time. He also inquired as to which fines he would be personally liable for. I explained that the PC was the responsible party however he was the chair at the time that these reports were delinquent. He inquired about entering into a consent agreement. I explained that this matter would have to be discussed with FEC legal staff. I told him that I would refer this matter to our legal department and have someone contact him ASAP. He gave me best contact number for him: cell # (561) 797-9797.

Memo to File? No
Entered by: CKO