

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: **United We Can**

Case No.: **FEC 17-042**

TO: Dora Chen, Esquire
SEIU
1800 Massachusetts Avenue NW
Washington, DC 20036

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

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on, **May 17, 2017 at 8:30 am, or as soon thereafter as the parties can be heard**, at the following location: **Augustus B. Turnbull Conference Center, 555 West Pensacola Street, Room 214, Tallahassee, Florida 32301**

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
May 1, 2017

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

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

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

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

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

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

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

FLORIDA ELECTIONS COMMISSION
CASE REPORT
Case Number: FEC-17-042

NAME: UNITED WE CAN

DATE APPEAL RECEIVED: 2/10/17

DATE REPORT DUE: 11/4/16 (2016 G7)

DATE OF ELECTRONIC RECEIPT: 11/4/16¹

DATE FILING OFFICER RECEIVED REPORT: 11/4/16

NUMBER OF DAYS LATE: 38

AMOUNT OF FINE: \$17,650.00

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

TOTAL RECEIPTS FOR REPORTING PERIOD: \$72,521.40

TOTAL EXPENDITURES FOR REPORTING PERIOD: \$0

DATE FIRST NOTIFICATION WAS SENT: 1/6/17

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

SUMMARY: United We Can is a political committee (PC) registered with the State of Florida. The PC's chair is Mary Kay Henry and its treasurer is Gerald Hudson. This PC is being represented by Dora V. Chen, Esq.

The PC is appealing the fine claiming that unusual circumstances existed that caused the 2016 G7 Report to be untimely filed. According to Ms. Chen, "First, the Committee did not simply fail to file its November 3, 2017 daily report. United We Can did in fact file its November 3 daily report on November 4, 2017, which was a "waiver" or no activity report. However, on December 12, 2017, upon reviewing United We Can's activities in preparation for the Committee's November monthly report, I determined that there was an additional in-kind contribution from United We Can (federal PAC) to United We Can (Florida PAC) that had been made on November 3, 2017, which should have been disclosed. Since it was an in-kind contribution, there was no corresponding transfer of funds into United We Can-Florida's bank account. In order to ensure that the public record was complete and that the Committee was in 100% compliance with all of its reporting obligations, I directed that United We Can's November 3 report be amended to reflect the in-kind contribution of \$72, 521.40".

- The 2016 G7 Report covers the time period from 10/22/16 through 11/3/16.
- The 2016 G7 Queued-Transactions Report reflects that this report was created on 11/4/16 at approximately 3:24 pm, before being filed on 11/4/16 at approximately 3:25 pm.²
- In a 2/13/17 email with Kristi Reid-Bronson, FEC staff was informed, "The committee filed a notice of no activity (waiver) on 11/4/16. A waiver is not a report. On 12/12/16, the committee filed a report showing \$72,521.40 of activity. The fine is based on the report being 38 days late".

PRIOR CASES: None

¹ Respondent initially filed a waiver that reflected no activity occurred during the 2016 G7 reporting period. Respondent later filed a 2016 G7 Report to reflect financial activity.

² The report discussed in this bullet refers to the waiver that reflected zero activity.



RE: Acct #69414
Bronson, Kristi R.

to:

Cedric Oliver

02/13/2017 09:18 AM

Hide Details

From: "Bronson, Kristi R." <Kristi.Bronson@DOS.MyFlorida.com>

To: Cedric Oliver <Cedric.Oliver@myfloridalegal.com>

The committee filed a notice of no activity (waiver) on 11-4-16 . A waiver is not a report. On 12-12-16 , the committee filed a report showing \$ 72,521.40 of activity. The fine is based on the report being 38 days late.

Regards,

*Kristi Reid Bronson, Chief
Division of Elections,
Bureau of Election Records
(850) 245-6240*

This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided. Please note: Florida has a very broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, your e-mail message may be subject to public disclosure.

From: Cedric Oliver [<mailto:Cedric.Oliver@myfloridalegal.com>]

Sent: Monday, February 13, 2017 8:10 AM

To: Bronson, Kristi R.

Subject: Acct #69414

Kristi, Could you please explain the discrepancy for this PC's 2016 G7 Report. DOE records reflect that this report was filed on 11/4/16, which is the day the report was due. This PC was fined \$17,650.00.

The Department of State is committed to excellence. Please take our Customer Satisfaction Survey .

**UNITED WE CAN
1800 Massachusetts Avenue, NW
Washington, DC 20036**

February 10, 2017

Via Email and U.S. Mail

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

Re: Reasons for Appeal – United We Can Political Committee (PAC 69414)

Dear Ms. Toman:

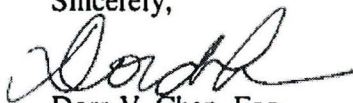
United We Can hereby appeals the automatic fine of \$17,650 assessed on January 6, 2017.

First, the Committee did not simply fail to file its November 3, 2017 daily report. United We Can did in fact file its November 3 daily report on November 4, 2017, which was a “waiver” or no activity report. (See Attachment A).

However, on December 12, 2017, upon reviewing United We Can’s activities in preparation for the Committee’s November monthly report, I determined that there was an additional in-kind contribution from United We Can (federal PAC) to United We Can (Florida PAC) that had been made on November 3, 2017, which should have been disclosed. Since it was an in-kind contribution, there was no corresponding transfer of funds into United We Can-Florida’s bank account. In order to ensure that the public record was complete and that the Committee was in 100% compliance with all of its reporting obligations, I directed that United We Can’s November 3 report be amended to reflect the in-kind contribution of \$72,521.40.

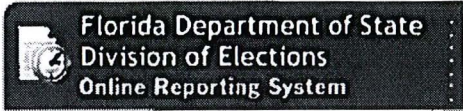
During the course of its entire existence, United We Can has filed all of its required reports with the Division of Elections in a timely manner. In consideration of our clean filing history and that the imposition of the fine was triggered by the Committee’s amendment of a previously-filed report, we submit that these are “unusual circumstances” under Rule 2B-1.0055. The Committee respectfully requests that the December 6 fine be reduced.

Sincerely,



Dora V. Chen, Esq.
Counsel to United We Can

cc: Eric Lipman, Esq.
Cedric Oliver
Donna Malphurs



Signed On As: 69414

Friday, November 04, 2016

United We Can(69414-PAC)

Attachment A

 **Filed Report Receipt**

**** Report has been Filed ****

ID: 69414 Name: United We Can

Report: 2016 - G7 - 14

Print Date: 11/4/2016 3:25:37 PM

Election: 2016 General Election

Covers: 10/22/2016-11/3/2016

Due: 11/4/2016

Amended **Waiver**

Filed: 11/4/2016 3:25:37 PM

File Status: Submitted Report for Filing

Reviewed: 11/4/2016

Review Status: Reviewed

Detail Complete: No Detail Records Found

File Method: Web Filed
Entry Method: Web Data Entry

Number of Detail Records

Contributions: 0
Expenditures: 0
Fund Transfers: 0
Distributions: 0

Pending Queued Items: 0

To Print: Right Click Mouse and Select 'Print'

[Go to Filed Report List](#)



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

Final Notice
Delivery Confirmation:

USPS TRACKING # **9114 9014 9645 0834 6215 95**
& CUSTOMER RECEIPT For Tracking or inquiries go to USPS.com
or call 1-800-222-1811.

January 24, 2017

Gerald Hudson, Treasurer
United We Can
1800 Massachusetts Ave, NW
Washington, DC 20036-0036

PAC 69414

Dear Mr. Hudson:

The campaign treasurer's report that was due on November 4, 2016, was filed on December 12, 2016. By law, you are automatically assessed a late fine of \$17,650.00.

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

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

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

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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Kristi Reid Bronson".

Kristi Reid Bronson, Chief
Bureau of Election Records

cc: Mary Kay Henry, Chairperson



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

January 6, 2017

Gerald Hudson, Treasurer
United We Can
1800 Massachusetts Ave, NW
Washington, DC 20036-0036

PAC 69414

Dear Mr. Hudson:

The campaign treasurer's report that was due on November 4, 2016, was filed on December 12, 2016. By law, you are automatically assessed a late fine of \$17,650.00.

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

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

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

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

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

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

Sincerely,

KR Kristi Reid Bronson, Chief
Bureau of Election Records

cc: Mary Kay Henry, Chairperson

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

(1) United We Can (2) 69414
 Candidate, Committe or Party Name I.D. Number

(3) 1800 Massachusetts Ave, NW Washington DC 20036
 Address (number and street) City State Zip Code

Check box if address has changed since last report

(4) Check appropriate box(es):

Candidate (office sought):
 Political Committee Check If PC has DISBANDED
 Committee of Continuous Existance Check If CCE has DISBANDED
 Party Executive Committee

(5) REPORT IDENTIFIERS

Cover Period: From 10/22/2016 To 11/03/2016 Report Type: G7

Original Amendment Special Election Report

(6) CONTRIBUTIONS THIS REPORT

Cash & Checks	\$0.00
Loans	\$0.00
<i>Total Monetary</i>	\$0.00
In-Kind	\$72,521.40

(7) EXPENDITURES THIS REPORT

Monetary Expenditures	\$0.00
Transfers to Office Account	\$0.00
<i>Total Monetary</i>	\$0.00

(8) Other Distributions

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

Name of Treasurer Deputy Treasurer

X
Signature

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

Name of Candidate Chaiman (PC/PTY Only)

X
Signature

Name: United We CanReport: 2016 G7Period: 10/22/2016 to 11/03/2016

** Records in Filed Report **

Seq #	Full Name (Last, Suffix, First, Middle)	Contributor	Occupation	Amount
Date	Street Address & City, State, Zip	Type	In-Kind Description	Amend
1	UNITED WE CAN	O	N/A, FEDERAL PAC	\$72,521.40
11/03/2016	1800 MASSACHUSETTS AVE., NW WASHINGTON, DC 20036	INK	INDEPENDENT CANVASS	ADD

ID:

CAMPAIGN TREASURER'S REPORT – ITEMIZED EXPENDITURES

Name: United We Can

Report: 2016 G7

Period: 10/22/2016 to 11/03/2016

** Records in Filed Report **

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Type	Purpose	Amount Amend

ID:

CAMPAIGN TREASURER'S REPORT – ITEMIZED DISTRIBUTIONS

Name: United We Can

Report: 2016 G7

Period: 10/22/2016 to 11/03/2016

**** Records in Filed Report ****

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Recipient Type	Purpose Related Expenditure	Amount Amend

ID:

CAMPAIGN TREASURER'S REPORT - ITEMIZED FUND TRANSFERS

Name: United We Can

Report: 2016 G7

Period: 10/22/2016 to 11/03/2016

** Records in Filed Report **

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Type	Nature of Account	Amount Amend

Queued Items for 2016-G7

Account: 69414

United We Can

Rpt Seq: 14

<i>ProcessDescription</i>	<i>Status</i>	<i>Submitter</i>	<i>Created</i>	<i>LastUpdate</i>
Create Pending Report	Processing Complete	69414	11/4/2016 3:24:44 PM	11/4/2016 3:24:44 PM
Review Pending Report	Processing Complete	69414	11/4/2016 3:24:49 PM	11/4/2016 3:24:49 PM
File Pending Report	Processing Complete	69414	11/4/2016 3:25:38 PM	11/4/2016 3:25:38 PM
Amend Filed Report	Processing Complete	69414	12/12/2016 5:57:46 PM	12/12/2016 5:57:46 PM
Review Pending Report	Processing Complete	69414	12/12/2016 6:00:01 PM	12/12/2016 6:00:01 PM
File Pending Report	Processing Complete	69414	12/12/2016 6:00:55 PM	12/12/2016 6:00:56 PM



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Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Committee Name: United We Can

Name:

Account: 69414

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
2/10/2017	M1	2/3/2017						
1/10/2017	M12	1/9/2017						
12/12/2016	M11	12/12/2016						
11/4/2016	D6	11/3/2016						
11/4/2016	G7	11/4/2016	APP	38	\$17,650.00		\$17,650.00	\$0.00
11/2/2016	D5	11/2/2016						
11/1/2016	D4	11/1/2016						
10/31/2016	D3	10/31/2016						
10/30/2016	D2	10/30/2016						
10/29/2016	D1	10/29/2016						
10/28/2016	G6	10/28/2016						
10/21/2016	G5	10/21/2016						
10/14/2016	G4	10/14/2016						
10/7/2016	G3	10/4/2016						
9/30/2016	G2A	9/27/2016						
9/23/2016	G2	9/23/2016						
9/16/2016	G1A	9/16/2016						



**Florida Department of State
Division of Elections**

United We Can

Campaign Finance Activity

Note: The information presented below was obtained from the Committee's/Candidate's Campaign Treasurer's Report filed with the Division of Elections. About the Campaign Finance Data Base. If all contributions for a reporting period are less than 1 dollar Then they may not be displayed.

	Filing Period	Contributions			Expend	Other	Transfers
		Monetary	Loans	InKind			
W	09/03/2016 - 09/09/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	09/10/2016 - 09/16/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	09/17/2016 - 09/23/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	09/24/2016 - 09/30/2016	0.00	0.00	0.00	0.00	0.00	0.00
<input type="radio"/>	10/01/2016 - 10/07/2016	0.00	0.00	122,709.05	0.00	0.00	0.00
<input type="radio"/>	10/08/2016 - 10/14/2016	0.00	0.00	15,399.31	0.00	0.00	0.00
<input type="radio"/>	10/15/2016 - 10/21/2016	0.00	0.00	1,066.84	0.00	0.00	0.00
<input type="radio"/>	10/22/2016 - 10/28/2016	1,000.00	0.00	27,138.54	0.00	0.00	0.00
W	10/29/2016 - 10/29/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	10/30/2016 - 10/30/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	10/31/2016 - 10/31/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	11/01/2016 - 11/01/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	11/02/2016 - 11/02/2016	0.00	0.00	0.00	0.00	0.00	0.00
<input type="radio"/>	10/22/2016 - 11/03/2016	0.00	0.00	72,521.40	0.00	0.00	0.00
<input type="radio"/>	11/04/2016 - 11/30/2016	0.00	0.00	0.00	389.39	0.00	0.00
<input type="radio"/>	12/01/2016 - 12/31/2016	0.00	0.00	0.00	342.79	0.00	0.00
<input type="radio"/>	01/01/2017 - 01/31/2017	0.00	0.00	0.00	251.84	0.00	0.00
<input checked="" type="radio"/>	All Dates (Totals)	1,000.00	0.00	238,835.14	984.02	0.00	0.00

Note: (E) indicates that report was filed electronically

X Indicates that detail has not been released

W Indicates that a waiver was filed and **L** Indicates that a loan report was filed

Select Detail Type

Contributions ▼

Select Sort Order

Date(Ascending) ▼

Select Output Type

Display On Screen ▼

Submit Query Now

[Query the Campaign Finance Data Base](#)

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