

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Richard Allen Swilley

Case No.: FEC 17-164

TO: Richard Allen Swilley
705 SE 7th Avenue
Gainesville, FL 32601-2601

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

NOTICE OF HEARING (CONSENT ORDER)

A hearing will be held in this case before the Florida Elections Commission on, **November 28, 2017 at 8:30 am, or as soon thereafter as the parties can be heard**, at the following location: **412 Knott Building, Pat Thomas Committee Room, 404 South Monroe Street, Tallahassee, Florida 32399.**

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

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

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

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

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

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

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

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

See further instructions on the reverse side.

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

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

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

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

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

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

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

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

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Agency Case No.: FEC 17-164
F.O. No.: FOFEC <#>**

**Richard Allen Swilley,
Respondent.**

CONSENT FINAL ORDER

Respondent, Richard Allen Swilley, and the Florida Elections Commission (Commission) agree that this Consent Order resolves all of the issues between the parties in this case. The parties jointly stipulate to the following facts, conclusions of law, and order.

FINDINGS OF FACT

1. On April 19, 2017, the Division of Elections filed a referral with the Commission alleging that Respondent violated Florida's election laws.
2. On September 5, 2017, the Commission entered an Order of Probable Cause finding there was probable cause to charge the Respondent with five counts of violating Section 106.07(7), Florida Statutes.
3. Respondent has expressed a desire to enter into negotiations directed toward reaching a consent agreement.
4. Respondent and staff stipulate to the following facts:
 - a. Respondent was a 2016 candidate for State Representative, District

21.

b. Respondent failed to notify the filing officer on the prescribed reporting date that no report would be filed because he had not received funds, made contributions, or expended reportable funds during following reporting periods: 2016 P4, 2016 G2, 2016 G3, 2016 G4, and 2016 G5.

CONCLUSIONS OF LAW

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

6. The Commission staff and the Respondent stipulate that staff can prove the facts in paragraph four above by clear and convincing evidence and to the Commission's ability to impose a civil penalty in this case.

ORDER

7. The Respondent and the staff of the Commission have entered into this Consent Order freely and voluntarily.

8. The Respondent shall bear his own attorney's fees and costs that are in any way associated with this case.

9. The Commission will consider this Consent Order at its next available meeting.

10. Respondent voluntarily waives the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal this Consent Order.

11. This Consent Order is enforceable under Sections 106.265 and 120.69, Florida Statutes. Respondent expressly waives any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida, and Respondent shall pay all fees and costs associated with enforcement.

12. Payment of the civil penalty by cashier's check, or money order, good for at least

120 days, or attorney trust account check, is a condition precedent to the Commission's consideration of this Consent Order.

PENALTY

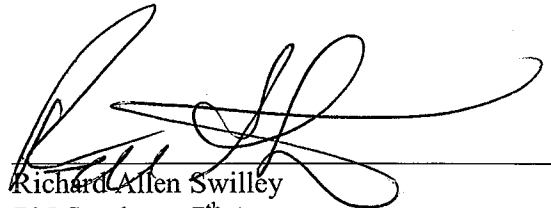
WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent violated Section 106.07(7), Florida Statutes, on five occasions, and imposes a civil penalty in the amount of \$250.

Therefore, it is

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of **\$250**, inclusive of fees and costs. The civil penalty shall be paid cashier's check or money order, good for at least 120 days, or attorney trust account check. The civil penalty shall be payable to the Florida Elections Commission and sent to 107 West Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

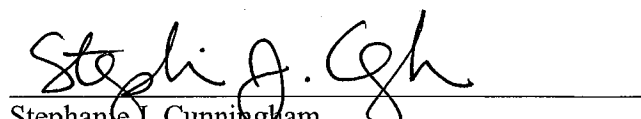
Respondent hereby agrees and consents to the terms of this Consent Order on

10/13/2017


Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, FL 32601

Commission staff hereby agrees and consents to the terms of this Consent Order on

October 27, 2017


Stephanie J. Cunningham
Assistant General Counsel

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

Approved by the Florida Elections Commission at its regularly scheduled meeting held
on _____, in Tallahassee, Florida.

M. Scott Thomas, Chairman
Florida Elections Commission

Copies furnished to:
Stephanie J. Cunningham, Assistant General Counsel
Richard Allen Swilley, Respondent
Division of Elections, Complainant



P.O. Box 147029
Gainesville, FL 32614-7029

OFFICIAL CHECK

0000472150

63-7847
2631

DATE 10/12/17 AMOUNT *****250.00

NOT VALID
AFTER ONE YEAR

PAY TWO HUNDRED FIFTY AND 00/100 DOLLARS

TO THE ORDER OF THE FLORIDA ELECTIONS COMMISSION
RE: RICHARD SWILLEY

AUTHORIZED SIGNATURE



FILED

17 SEP -5 PM 12:38

STATE OF FLORIDA
ELECTIONS COMMISSION

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

Case No.: FEC 17-164

v.

**Richard Allen Swilley,
Respondent.**

ORDER OF PROBABLE CAUSE

THIS MATTER was heard by the Florida Elections Commission (Commission) at its regularly scheduled meeting on August 16, 2017, in Tallahassee, Florida.

On July 10, 2017, Staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. The facts articulated in Staff's Recommendation are adopted by reference and incorporated herein. Based on the Complaint, Report of Investigation, Staff's Recommendation, and oral statements (if any) made at the probable cause hearing, the Commission finds that there is **probable cause** to charge Respondent with the following violation(s):

Count 1:

On or about August 5, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 P4 Report.

Count 2:

On or about September 23, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he

would not be filing his 2016 G2 Report.

Count 3:

On or about October 7, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 G3 Report.

Count 4:

On or about October 14, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 G4 Report.

Count 5:

On or about October 21, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 G5 Report.

DONE AND ORDERED by the Florida Elections Commission on August 16, 2017.



M. Scott Thomas, Chairman
Florida Elections Commission

Copies furnished to:
Stephanie J. Cunningham, Assistant General Counsel
Richard Allen Swilley, Respondent
Division of Elections, Complainant

NOTICE OF RIGHT TO A HEARING

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

Second, you may request an informal hearing held before the Commission, if you do not dispute any material fact in the Staff Recommendation. You have 30 days from the date the Order of

Probable Cause is filed with the Commission to request such a hearing. The date this order was filed appears in the upper right-hand corner of the first page of the order. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violation(s) and the potential fine. At the request of Respondent, the Commission will consider and determine willfulness at an informal hearing. Otherwise, live witness testimony is unnecessary.

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

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

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

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Richard Allen Swilley

Case No.: FEC 17-164

TO: Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, FL 32601-2601

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

NOTICE OF HEARING (PROBABLE CAUSE DETERMINATION)

A hearing will be held in this case before the Florida Elections Commission on, **August 16, 2017 at 10:30 am, or as soon thereafter as the parties can be heard**, at the following location: **Senate Office Building, 404 South Monroe Street, Room 110-S, Tallahassee, Florida 32399**

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

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See further instructions on the reverse side.

Amy McKeever Toman
Executive Director
Florida Elections Commission
August 1, 2017

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

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Richard Allen Swilley

Case No.: FEC 17-164

STAFF RECOMMENDATION FOLLOWING INVESTIGATION

Pursuant to Section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the referral in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.07(7), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on June 16, 2017, the following facts and law support this staff recommendation:

1. On April 19, 2017, the Florida Elections Commission (“Commission”) received a referral from the Department of State, Division of Elections (“Division” or “Complainant”), alleging that Richard Allen Swilley (“Respondent”) violated Chapter 106, Florida Statutes.
2. Respondent was a 2016 candidate for State Representative, District 21. (ROI Exhibit 1)¹
3. By letter dated June 7, 2017, the Executive Director notified the Respondent that the Commission staff would investigate the following statutory provisions:

Section 106.07(7), Florida Statutes: As alleged in complaint, Respondent failed to timely notify the filing officer that he had no reportable activity and, therefore, would not be filing a report on the prescribed reporting date for each of the following reporting periods:

- 2016 P4
- 2016 G2
- 2016 G3
- 2016 G4
- 2016 G5

4. By letter dated June 24, 2016, Kristi Reid Bronson, Chief, Bureau of Election Records, sent Respondent a letter acknowledging that the Division had received his Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates form. (ROI Exhibit 2)
5. The acknowledgment letter advised Respondent that all of the Division’s publications and reporting forms were available on its website and directed Respondent to

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

print out the Calendar of Reporting Dates as well as other relevant documents. (ROI Exhibit 2)

6. Pursuant to Section 106.07(7), Florida Statutes, in a reporting period during which a candidate has not received funds, made any contributions, or expended any reportable funds, the filing of the required report for that period is waived. However, the candidate is required to notify the filing officers in writing on the prescribed reporting date that no report is being filed on that date.

7. The Candidate & Campaign Treasurer Handbook references the statutory requirement regarding written notification and directs candidates to notify the Division by way of the Division's electronic filing system. (ROI Exhibit 3, page 5) The Candidate EFS User's Guide shows the process through which to notify the Division. The user's guide instructs candidates to select the relevant reporting period and place a checkmark in a box titled "Waiver" to indicate the lack of reportable financial activity. (ROI Exhibit 4, pages 3-4)

8. Respondent failed to notify the filing officer on the prescribed reporting dates that no reports would be filed for the following reporting periods, as set forth in the table below. (ROI Exhibit 5)

Report	Report Period	Cover	Date Due	Notification	Date Notification Filed	No. of Days Late
2016 P4	07/23/16 07/29/16	-	08/05/16		08/06/16	1
2016 G2	09/03/16 09/16/16	-	09/23/16		09/24/16	1
2016 G3	09/17/16 09/30/16	-	10/07/16		10/24/16	17
2016 G4	10/01/16 10/07/16	-	10/14/16		10/24/16	10
2016 G5	10/08/16 10/14/16	-	10/21/16		10/24/16	3

9. In a written response to the referral, the Respondent stated that he withdrew from the race and thought that was all he needed to do until he received a letter notifying him of his late filings. (ROI exhibit 6)

10. On October 24, 2016, the Division received Respondent's request to withdraw his candidacy. (Attachment A)

11. “Probable Cause” is defined as reasonable grounds of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged. *Schmitt v. State*, 590 So. 2d 404, 409 (Fla. 1991). Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Department of Highway Safety and Motor Vehicles v. Favino*, 667 So. 2d 305, 309 (Fla. 1st DCA 1995).

12. The above facts show that the Respondent was a 2016 candidate for State Representative, District 21. Respondent failed to notify the filing officer that no reports would be filed for the following reporting periods: 2016 P4, 2016 G2, 2016 G3, 2016 G4, 2016 G5.

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

Count 1:

On or about August 5, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 P4 Report.

Count 2:

On or about September 23, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 G2 Report.

Count 3:

On or about October 7, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 G3 Report.

Count 4:

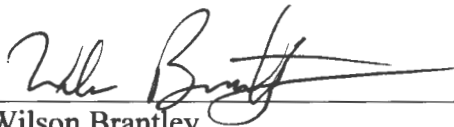
On or about October 14, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in writing on the prescribed reporting date that he would not be filing his 2016 G4 Report.

Count 5:

On or about October 21, 2016, Richard Allen Swilley violated Section 106.07(7), Florida Statutes, when he failed to notify the filing officer in


writing on the prescribed reporting date that he would not be filing his 2016 G5 Report.

Respectfully submitted on July 10, 2017.



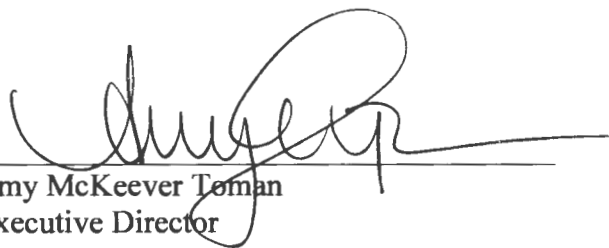
Wilson Brantley
Law Student

Respectfully submitted on July 10, 2017.



Stephanie J. Cunningham
Assistant General Counsel

I reviewed this Staff Recommendation this 10th day of July 2017.



Amy McKeever Toman
Executive Director

Attachment A

RECEIVED

16 OCT 24 AM 9:41

DIVISION OF ELECTIONS
SECRETARY OF STATE

Richard Swilley
705 SE 7th Ave
Gainesville, FL 32601
October 24, 2016

Florida Division of Elections
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

To whom it may concern:

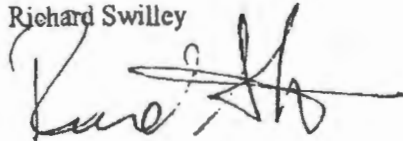
I mailed a letter to your department on September 9, 2016 requesting to have my name withdrawn from the candidacy effective that date. I'm not sure what happened to that letter or why it was not processed but please withdraw my candidacy effective immediately.

I have never had any expenditures nor have I had any contributions.

CAN 68224

Sincerely,

Richard Swilley



10/24/2016

FLORIDA ELECTIONS COMMISSION

Report of Investigation for Failure to Notify Filing Officer

Case Number: FEC 17-164

Section 106.07(7), Florida Statutes, failure of a candidate who did not receive any contributions or make any expenditures during a reporting period to notify timely the filing officer, in writing, that no report is being filed.

Respondent: Richard Allen Swilley

Complainant: Division of Elections

Respondent Type:

- Candidate
 Political Committee

I. Preliminary Information:

1. An appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9) was filed on June 23, 2016. (Ex. 1)

2. An acknowledgement letter was mailed to the address provided on Respondent's DS-DE 9 on June 24, 2016 advising Respondent that all of the Division's publications and reporting forms are available on their website, including Chapter 106, Florida Statutes, the *Candidate and Campaign Treasurer Handbook*, and the Calendar of Reporting Dates. (Ex. 2)

3. The acknowledgement letter also states, "An online instruction guide is available to you on the EFS to assist with navigation, data entry, and submission of reports" and provides the telephone number for the Division's EFS Help Desk.

4. The *Candidate and Campaign Treasurer Handbook* discusses filing a notice-of-no-activity when there is no activity to disclose on page 47. (Ex. 3)

5. Pages 12, 13, 44, and 45 of the *Candidate EFS User's Guide* discuss how to notify the Division on the prescribed reporting date that no report will be filed using the EFS. Specifically, page 13 instructs the user to click the box next to "waiver" if there is no activity to disclose. (Ex. 4)

6. In a telephone interview on April 2, 2014, Kristi Reid-Bronson clarified that once the waiver box is chosen and a new report is opened as shown on page 12, the only available option on the report summary screen will be "Go To File Report" as shown on page 13. Choosing "Go To File Report" will take the user directly to the screens where the candidate/treasurer PINS are entered as shown on pages 44 and 45.

II. Alleged Violation of Section 106.07(7), Florida Statutes:

7. Respondent's filing history reflects the untimely filed notifications summarized below. (Ex. 5)

Report	Report Cover Period	Date Notification Due	Date Notification Filed	No. of Days Late
2016 P4	07/23/16 – 07/29/16	08/05/16	08/06/16	1
2016 G2	09/03/16 – 09/16/16	09/23/16	09/24/16	1
2016 G3	09/17/16 – 09/30/16	10/07/16	10/24/16	17
2016 G4	10/01/16 – 10/07/16	10/14/16	10/24/16	10
2016 G5	10/08/16 – 10/14/16	10/21/16	10/24/16	3

8. Respondent provided a written response to the referral. Respondent said that he withdrew from the race and thought that was all he needed to do until he later received a letter informing him of the late filings. (Ex. 6)

III. FEC History:

9. Respondent has not had any prior cases before the Commission.

Conclusion:

10. I attempted to contact Respondent to inquire of him whether he has read Chapter 106, Florida Statutes and/or the *Candidate and Campaign Treasurer Handbook*; Respondent did not return my telephone call. However, Respondent signed his Statement of Candidate form on June 21, 2016. (Ex 7)

11. The Investigative Phone Log is included with this report. (Ex. 8)

SIGNATURE OF INVESTIGATOR: Keith Smith **Date:** 06/16/17

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Richard Allen Swilley -- FEC 17-164

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	DS-DE 9
Exhibit 2	Division's acknowledgement ltr.
Exhibit 3	Pages from <i>Candidate & Campaign Treasurer Handbook</i>
Exhibit 4	Pages from <i>Candidate EFS User's Guide</i>
Exhibit 5	Respondent's filing history/Campaign Finance Activity
Exhibit 6	Response to referral
Exhibit 7	Statement of Candidate
Exhibit 8	Phone log

APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY FOR CANDIDATES

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

(PLEASE PRINT OR TYPE)

RECEIVED DEPARTMENT OF STATE

2016 JUN 23 AM 11:27

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

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

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

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

Richard Allen Swilley

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

705 SE 7th Ave Gainesville, FL 32601

4. Telephone

(352) 328-6010

5. E-mail address

swiltra@yahoo.com

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

House of Representative Dist. 21

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

My intent is to run as a Write-In candidate

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

Write-In No Party Affiliation Party candidate.

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

10. Name of Treasurer or Deputy Treasurer

Richard Allen Swilley

11. Mailing Address

705 SE 7th Ave

12. Telephone

(352) 328-6010

13. City

Gainesville

14. County

Alachua

15. State

FL

16. Zip Code

32601

17. E-mail address

swiltra@yahoo.com

18. I have designated the following bank as my

Primary Depository Secondary Depository

19. Name of Bank

Suntrust

20. Address

411 N Main St

21. City

Gainesville

22. County

Alachua

23. State

FL

24. Zip Code

32601

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

25. Date

6/21/16

26. Signature of Candidate

X [Signature]

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

I, Richard Allen Swilley, do hereby accept the appointment

designated above as: Campaign Treasurer Deputy Treasurer.

EXHIBIT

6/21/16

Date

X

[Signature]

Signature of Campaign Treasurer or Deputy Treasurer



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 24, 2016

Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, Florida 32601

Dear Mr. Swilley:

This will acknowledge receipt of the Appointment of Campaign Treasurer and Designation of Campaign Depository for the office of State Representative, which was placed on file in our office on June 23, 2016. Your name has been placed on the 2016 active candidate list.

Campaign Treasurer's Reports

Your first campaign treasurer's report will be due on **July 1, 2016**. The report will cover the period of June 1-24, 2016 (P1). All candidates who file reports with the Division of Elections are required to file by means of the Division's Electronic Filing System (EFS).

Credentials and Sign-ons

Below is the web address to access the EFS and your user identification number. The enclosed sealed envelope contains your initial password. Once you have logged in using the initial password, you will be immediately prompted to change it to a confidential sign-on. You, your campaign treasurer, and deputy treasurers are responsible for protecting these passwords from disclosure and are responsible for all filings using these credentials, unless the Division is notified that your credentials have been compromised.

EFS Website Address: <https://efs.dos.state.fl.us>

Identification Number: 68224

EXHIBIT 2 (1 of 3)
Division of Elections

R.A. Gray Building, Suite 316 • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6240 • 850.245.6260 (Fax) dos.myflorida.com/elections/

FLORIDA
DIVISION OF
ELECTIONS

Richard Allen Swilley
June 24, 2016
Page Two

Pin Numbers

Pin numbers are confidential secure credentials that allow you to submit reports and update personal information. The enclosed sealed envelope contains your confidential pin numbers.

Each candidate is required to provide the Division of Elections with confidential personal information that may be used to allow access in the event that password is forgotten or lost. When you enter the campaign account screen, there will be a drop down box where you pick a question (such as *What is your mother's maiden name?*) and supply an answer. All passwords and answers to questions are stored as encrypted data and cannot be viewed by Division staff and given out over the phone. Please notify the Division if your credentials have been compromised.

Timely Filing

All reports filed must be completed and filed through the EFS no later than midnight, Eastern Standard Time, of the due date. Reports not filed by midnight of the due date are late filed and subject to the penalties in Section 106.07(8), Florida Statutes. In the event that the EFS is inoperable on the due date, the report will be accepted as timely filed if filed no later than midnight of the first business day the EFS becomes operable. No fine will be levied during the period the EFS was inoperable.

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first 3 days late and, thereafter, \$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. However, for 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.

Electronic Receipts

The person submitting the report on the EFS will be issued an electronic receipt indicating and verifying the report was filed. Each campaign treasurer's report filed by means of the EFS is considered to be under oath by the candidate and campaign treasurer and such persons are subject to the provisions of Section 106.07(5), Florida Statutes.

EXHIBIT

2 (2 of 3)

Richard Allen Swilley
June 24, 2016
Page Three

Instructions and Assistance

An online instruction guide is available to you on the EFS to assist with navigation, data entry, and submission of reports. The Division of Elections will also provide assistance to all users by contacting the EFS Help Desk at (850) 245-6280.

All of the Division's publications and reporting forms are available on the Division of Elections' website at <http://dos.myflorida.com/elections/>. It is your responsibility to read, understand, and follow the requirements of Florida's election laws. Therefore, please print a copy of the following documents: Chapters 104 and 106, Florida Statutes, *Candidate and Campaign Treasurer Handbook*, *Calendar of Reporting Dates*, and Rule 1S-2.017, Florida Administrative Code.

Please let me know if you need additional information.

Sincerely,



Kristi Reid Bronson, Chief
Bureau of Election Records

KRB/stb

Enclosures

EXHIBIT 2 (~~3 of 3~~)

2016 Candidate & Campaign Treasurer Handbook

Florida Department of State
Division of Elections
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250
850.245.6240

(Rev. 01/22/16)

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Chapter 16: Filing Campaign Reports

Each campaign treasurer designated by a candidate shall file regular reports of all contributions received and all expenditures made by or on behalf of such candidate.

The candidate and his or her campaign treasurer shall certify as to the correctness of each report. Each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer or candidate who willfully certifies the correctness of any report while knowing that such report is incorrect, false or incomplete commits a misdemeanor of the first degree.

(Section 106.07, F.S.)

Where to File

A campaign treasurer is required to file campaign treasurer's reports with the officer with whom the candidate registers.

Candidates filing reports with the Division are required to file by means of the Electronic Filing System. If the candidate's filing officer is other than the Division, contact the appropriate filing officer to find out the requirements.

The web address for filing online with the Division is: <https://efs.dos.state.fl.us/>
(Section 106.07(2), F.S.)

When to File

Reports must be filed on the 10th day following the end of each calendar month from the time the candidate registers, except that if the 10th day occurs on a Saturday, Sunday or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday or legal holiday.

A statewide candidate must file reports:

1. On the 60th day immediately preceding the primary election, and each week thereafter, with the last weekly report being filed on the 4th day immediately preceding the general election.
2. On the 10th day immediately preceding the general election, and each day thereafter, with the last daily report being filed the 5th day immediately preceding the general election.

All other candidates must file reports on the 60th day immediately preceding the primary election and bi-weekly on each Friday thereafter through and including the 4th day immediately preceding the general election, with additional reports due on the 25th and 11th days before the primary election and the general election.

For candidates that file with the Division, see the "Reporting Dates Calendar" at:

<http://dos.myflorida.com/elections/forms-publications/publications/>

An individual seeking a publicly elected position on a political party executive committee who receives a contribution or makes an expenditure must file a single report of all contributions and expenditures on the 4th day immediately preceding the primary election. (*See Chapter 18, Reporting for Individuals Seeking a Publicly Elected Position on a Party Executive Committee.*)

Unless the electronic filing requirements of Section 106.0705, Florida Statutes, apply, reports shall be filed no later than 5 p.m. of the day designated. A report postmarked by the U.S. Postal Service no later than midnight of the day designated is deemed timely filed. A report received by the filing officer within 5 days after the designated due date that was delivered by the U.S. Postal Service is deemed timely filed unless it has a postmark indicating the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing or a receipt from an established courier company, which bears a date on or before the date on which the report is due, is proof of mailing in a timely manner. Reports filed with the Division through the Electronic Filing System (EFS) are due no later than midnight, Eastern Time, of the due date.

(Sections 106.07, 106.0705
and 106.141, F.S.)

Penalty for Late Filing

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first three days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is

greater, for the period covered by the late report. However, for the reports immediately preceding the primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. For a candidate's termination report, the fine shall be \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater for the period covered by the late report. All fines must be paid from the candidate's **personal funds** – not campaign funds.

(Section 106.07(2) and (8), F.S.)

Notice of No Activity

In any reporting period during which a candidate has not received funds or made any expenditures, the filing of the required report for that period is waived. **However, the candidate must notify the filing officer in writing on or before the prescribed reporting date that no report is being filed on that date.** (A notice of no activity filed with the Division must be filed electronically using the EFS.) The next report filed must specify that the report covers the entire period between the last submitted report and the report being filed.

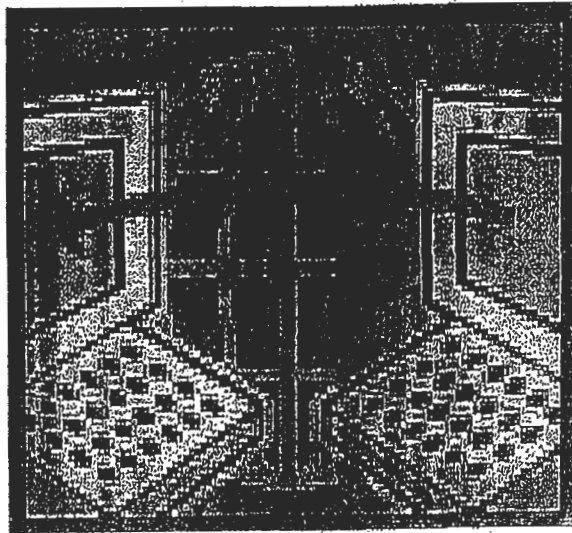
(Section 106.07, F.S.)

Incomplete Reports

If a campaign treasurer files a report that is deemed incomplete, it shall be accepted on a conditional basis. The campaign treasurer will be notified by the filing officer as to why the report is incomplete. The campaign

Department of State
Division of Elections

Candidate EFS User's Guide



Florida Department of State
Division of Elections
R.A. Gray Building, Room 316
500 S Bronough Street
Tallahassee, FL 32399-0250

EFS HELP LINE: 850-245-6280

January 2011

Rule 1S-2.017, F.A.C.

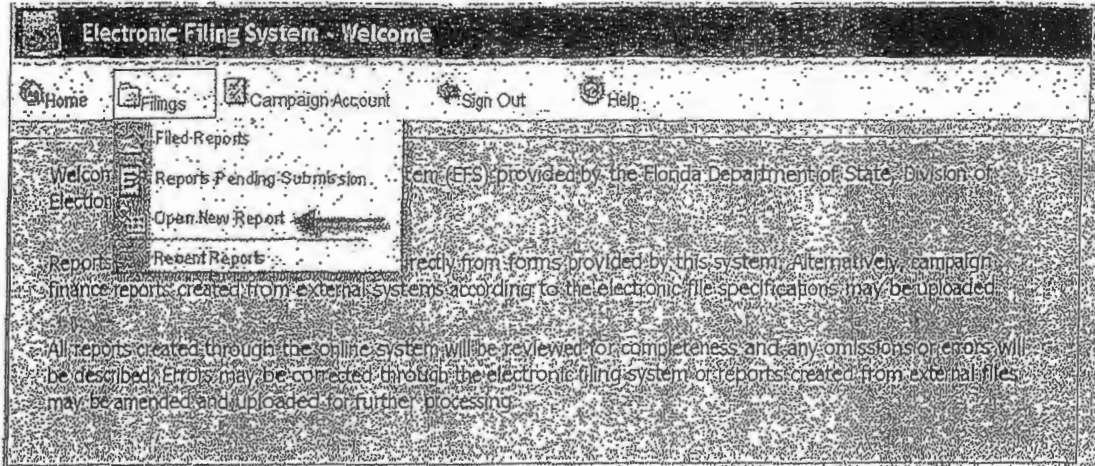
DS-DE 110A (eff. 01/11)

EXHIBIT

4 (1 of 6)

Create a New Report by Data Entry

From the Welcome Screen, click  Filings and then  Open New Report



Use this form to submit an original report. To submit an amendment to a previously filed report, first select the report from the filed reports listing and then choose the Amend Report option from the Edit menu item.

Coverage Periods
Campaign finance reports itemize financial activity occurring during a specific reporting period. The reporting period is defined by first selecting the reporting year, and then the report type. The beginning and ending coverage dates and the filing due date of the report are automatically associated with the Reporting Year and Report Type.


Election Cycle:


Report Type:

Coverage Period: Due Date:

Special Election Report Waiver

Uploading a Campaign Finance Report
A Campaign Finance report file meeting the department's specifications may be uploaded at the time a report is opened. Use the browse button to locate and select the report text or zip file to be uploaded. You may upload the report file in a compressed zip. The zip file must contain only one report file.

Click  arrow next to **Election Cycle**. Scroll to the cycle associated with the report you are entering.

Click  arrow next to **Report Type** and select the report type that corresponds to the appropriate cover period and due date.

The Cover Period dates will automatically fill in based on the **Calendar of Election and Reporting Dates**. The end date may be changed for **EXHIBIT 4 (306)** termination reports.

The Due Date will automatically fill in based on the Calendar of Election and Reporting Dates.

****NOTE****

If this report is a waiver of report (no activity), click the box next to Waiver.

Election Cycle: 2010 General Election
 Report Type: F2 2010
 Coverage Period: 10/17/2010 - 10/28/2010 Due Date: 10/29/2010
 Waiver

Click at the bottom of the screen. A Report Detail screen (view only) will appear. This screen will not indicate any activity until individual detail data is entered, saved and a review is performed.

Report: 2010 - 04 - 27 2010 General Election Covers: 10/16/2010-10/28/2010 Due: 10/29/2010

Amend Waiver Complete Status: Incomplete Detail Records
 File Date: Review Status: Not Reviewed
 Stamp: Date E.L.: Last Review:

of transactions: 0 Review Recalculate Go To File Report Append File Delete Report Save

Contributions		Total Amount	Expenditures		Total Amount
Cash and checks		0.00	Monetary		0.00
Loans		0.00	Transfers to Off. Act.		0.00
Total Monetary		0.00	Total Monetary		0.00
In Kind		0.00	Other Distributions		0.00

Review Messages

Created: 10/26/2010 11:41:25 AM By: 60552 Revised: 10/26/2010 11:41:25 AM By: 60552

File the Report

If the **Review Status** is Updated Detail – Needs Review the report has not been reviewed since the last update. (See page 38 for instructions on how to submit the report to the system for review.)

If the status of the report is Complete Detail Records, you are ready to file the report.

Report: 2010 - F3 - 26 2010 General Election Coverage: 8/7/2010-8/19/2010 Due: 8/20/2010

Complete Waiver Complete Status: Complete Detail Records

File Date: [] Review Status: Reviewed

Status: Data Sent Date Reviewed: 8/19/2010 3:56:42 PM

Transactions: []

Contributions		Total Amount	Expenditures		Total Amount
Cash and Checks	0.00	0.00	Monetary	151.00	151.00
Gifts	0.00	0.00	Transfers to Other	0.00	0.00
Total Monetary	0.00	0.00	Total Expenditures	151.00	151.00
In-Kind	0.00	0.00	Other Deviations	0.00	0.00

Created: 8/19/2010 2:01:35 PM By: 50552 Reviewed: 8/19/2010 3:56:42 PM By: 50552

Click on

The candidate enters his or her PIN, and then selects

NOTE: A PIN is the same as your signature attesting to the validity of the report.

Step 1: Enter the candidate/Chairperson PIN.

Step 2: Select the "Report Approved" button.

Report: 2010 - F3 - 26 Coverage Period: 8/7/2010-8/19/2010 Due: 8/20/2010

Review Status: re-e-e Original Amended

Waiver

PIN for Candidate/Chairperson: []

EXHIBIT 4 (506)

If there is more than one treasurer, click on the drop down and select the treasurer that is filing the report.

Campaign Treasurer: James Bond

The treasurer enters his or her PIN and then clicks

File Report

Report: 2010-F3-26 Coverage Period: 8/7/2010-8/19/2010 Due: 8/20/2010

Review Status: Reviewed

Campaign Treasurer: James Bond

PIN for specified Treasurer:

To Edit Report Again Select Cancel:

IMPORTANT NOTE: If changes need to be made after a candidate enters his PIN, the treasurer must undo the candidate's PIN validation before the system will allow changes. See page 48 for instructions.



[search](#) | [directory](#) | [contact us](#) | [411](#) | [subscribe](#) | [tour](#) | [help](#)

Florida Department of State - Division of Elections

Florida Election System Reports

Candidate/Committee Lookup

Candidate Name: Richard Allen Swilley

Name:

Account: 68224

Election:

Acct:

Type:

Date Due	Type	Date Filed	Status	Days Late	Fine Assessed	Appealed	Amount Fined	Amount Paid
1/22/2017	TR	10/24/2016						
10/28/2016	G6	10/24/2016						
10/21/2016	G5	10/24/2016	FEC	3	\$0.00		\$0.00	\$0.00
10/14/2016	G4	10/24/2016	FEC	10	\$0.00		\$0.00	\$0.00
10/7/2016	G3	10/24/2016	FEC	17	\$0.00		\$0.00	\$0.00
9/23/2016	G2	9/24/2016	FEC	1	\$0.00		\$0.00	\$0.00
9/9/2016	G1	9/8/2016						
8/26/2016	P7	8/26/2016						
8/19/2016	P6	8/18/2016						
8/12/2016	P5	8/11/2016						
8/5/2016	P4	8/6/2016	FEC	1	\$0.00		\$0.00	\$0.00
7/29/2016	P3	7/29/2016						
7/15/2016	P2	7/15/2016						
7/1/2016	P1	6/30/2016						

EXHIBIT 5 (1 of 2)



Florida Department of State Division of Elections

2016 General Election Richard Allen Swilley (WRI) State Representative

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.

	Filing Period	Contributions			Expend	Other	Transfers
		Monetary	Loans	InKind			
W	06/23/2016 - 06/24/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	06/25/2016 - 07/08/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	07/09/2016 - 07/22/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	07/23/2016 - 07/29/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	07/30/2016 - 08/05/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	08/06/2016 - 08/12/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	08/13/2016 - 08/25/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	08/26/2016 - 09/02/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	09/03/2016 - 09/16/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	09/17/2016 - 09/30/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	10/01/2016 - 10/07/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	10/08/2016 - 10/14/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	10/15/2016 - 10/21/2016	0.00	0.00	0.00	0.00	0.00	0.00
W	10/24/2016 - 10/24/2016	0.00	0.00	0.00	0.00	0.00	0.00
	All Dates (Totals)	0.00	0.00	0.00	0.00	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

EXHIBIT 5 (2 of 2)



Attention Case No. FEC 17-164; respondent: Richard Allen Swilley

Richard

to:

fec@myfloridalegal.com

05/31/2017 10:53 AM

Hide Details

From: Richard <swillra@yahoo.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

Please respond to Richard <swillra@yahoo.com>

Mrs. Riley,

First of all, thank you for allowing an extended time to reply! School and work have conspired to keep my life sufficiently busy that finding time to research this issue has been problematic.

So if I understand this complaint fully, it's that I didn't file the financial requirements by the due dates required which might infer fraud on my part. Per the submission data, including the late filings, I have never received any funding nor have I campaigned in an attempt to receive such funding.

So the underlying question is probably 'why did I run for this seat?' In retrospect, this was a mistake on my part. It was my intention of discovering what this process included and learn how a politician's career begins. Immediately, I discovered that I had no desire to pursue any political position; I'm not sure I had much of one to begin with, thus the lack of passion to continue. When returning to school last year, my time commitment was basically zero and any curiosity regarding political posts also went to zero. With the work required returning to school, spending time with my son, frequently advising a former exchange student via the Guardian Ad Litem program, and full-time employment, one or two of the financial reports were filed late (if memory serves, that was '2016 P4'). Soon after, I removed my name from the District 21 ballot. I thought that was all that was needed until some time later I received a letter informing me of the additional late filings. I immediately called, and with phone assistance, had those filings completed.

During any of those times, I *never* received funding nor endorsed any activity for such. It was a learning experience and one I wouldn't recommend to any "normal" person. Ever.

Thank you and let me know if you need any further information from me.

-Richard Swilley

P.S. Does this need to be mailed via certified letter as well or is this email sufficient for a reply?

EXHIBIT

6

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please print or type)

OFFICE USE ONLY

RECEIVED
DEPARTMENT OF STATE

2016 JUN 23 AM 11:27

I, Richard Allen Swilley,

candidate for the office of House District 21;

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

X 
Signature of Candidate

6/21/2016
Date

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

**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 17-164**

Respondent: Richard Allen Swilley

Complainant: Division of Elections

1. **Date and time:** 06/14/17 @ 9:28 a.m.
Name: Respondent
Phone #: 352-328-6010
Summary: I called Respondent to review his response with him and to inquire whether he read Chapter 106, FS, and/or the Candidate Handbook. I left a message on his voice-mail explaining the purpose of my telephone call and asked that he return my call at his earliest convenience.
Memo to File? No
Entered by: KS
2. **Date and time:**
Name:
Phone #:
Summary:
Memo to File? No
Entered by:
3. **Date and time:**
Name:
Phone #:
Summary:
Memo to File? No
Entered by:
4. **Date and time:**
Name:
Phone #:
Summary:
Memo to File? No
Entered by:
5. **Date and time:**
Name:
Phone #:
Summary:
Memo to File? No
Entered by:
6. **Date and time:**
Name:

EXHIBIT

8



FLORIDA ELECTIONS COMMISSION

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

June 7, 2017

Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, FL 32601-2601

RE: Case No.: FEC 17-164; Respondent: Richard Allen Swilley

Dear Mr. Swilley:

On April 19, 2017, the Florida Elections Commission received a complaint alleging that you violated Florida's election laws. I have reviewed the complaint and find that it contains one or more **legally sufficient allegations**. The Commission staff will investigate the following alleged violation:

Section 106.07(7), Florida Statutes: As alleged in the complaint, Respondent failed to timely notify the filing officer that he had no reportable activity and, therefore, would not be filing a report on the prescribed reporting date for each of the following reporting periods:

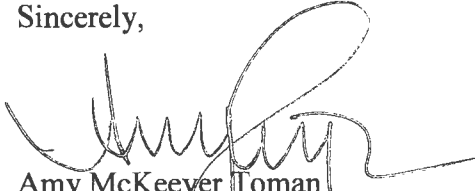
- 2016 P4
- 2016 G2
- 2016 G3
- 2016 G4
- 2016 G5

When we conclude the investigation, a copy of the Report of Investigation (ROI) will be mailed to you at the above address. Based on the results of the investigation, a staff attorney will make a written recommendation (Staff Recommendation or SR) to the Commission as to whether there is probable cause to charge respondent with violating Chapters 104 or 106, Florida Statutes. You will have an opportunity to respond to both the ROI and the SR. The Commission will then hold one or more hearings to determine whether the alleged violations occurred and, if so, the amount of the fine to be imposed. You and the complainant will receive notice at least 14 days before any hearing at which your case is to be considered.

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

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

Sincerely,



Amy McKeever Toman
Executive Director

AMT/dam



Attention Case No. FEC 17-164; respondent: Richard Allen Swilley

Richard

to:

fec@myfloridalegal.com

05/31/2017 10:53 AM

Hide Details

From: Richard <swillra@yahoo.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

Please respond to Richard <swillra@yahoo.com>

Mrs. Riley,

First of all, thank you for allowing an extended time to reply! School and work have conspired to keep my life sufficiently busy that finding time to research this issue has been problematic.

So if I understand this complaint fully, it's that I didn't file the financial requirements by the due dates required which might infer fraud on my part. Per the submission data, including the late filings, I have never received any funding nor have I campaigned in an attempt to receive such funding.

So the underlying question is probably 'why did I run for this seat?' In retrospect, this was a mistake on my part. It was my intention of discovering what this process included and learn how a politician's career begins. Immediately, I discovered that I had no desire to pursue any political position; I'm not sure I had much of one to begin with, thus the lack of passion to continue. When returning to school last year, my time commitment was basically zero and any curiosity regarding political posts also went to zero. With the work required returning to school, spending time with my son, frequently advising a former exchange student via the Guardian Ad Litem program, and full-time employment, one or two of the financial reports were filed late (if memory serves, that was '2016 P4'). Soon after, I removed my name from the District 21 ballot. I thought that was all that was needed until some time later I received a letter informing me of the additional late filings. I immediately called, and with phone assistance, had those filings completed.

During any of those times, I *never* received funding nor endorsed any activity for such. It was a learning experience and one I wouldn't recommend to any "normal" person. Ever.

Thank you and let me know if you need any further information from me.

-Richard Swilley

P.S. Does this need to be mailed via certified letter as well or is this email sufficient for a reply?

**DIVISION OF ELECTIONS
FEC NOTICE FORM**

To FEC from Division of Elections

RECEIVED

2017 APR 19 P 3:32

STATE OF FLORIDA

Candidate: Richard Allen Swilley

Account Number: 68224

Treasurer: Richard Allen Swilley

The Division of Elections hereby provides this notice to the Florida Elections Commission pursuant to Sections 106.07(8)(d), 106.22(7), and 106.25(2), Florida Statutes. An apparent violation of Chapter 106, Florida Statutes, has occurred based upon repeated late filings or failure to file notifications to the filing officer in writing that no report was being filed on the prescribed reporting date under s. 106.07(7).

2016 P4

2016 G2

2016 G3

2016 G4

2016 G5

Sent By: Kristi Reid Bronson

Date: April 18, 2017

KEB

zjs

AFFIDAVIT

STATE OF FLORIDA
County of Leon

Kristi Reid Bronson, being duly sworn, says:

1. I am the Chief of the Bureau of Election Records of the Division of Elections (Division). In that capacity, I oversee the Division's duties related to the filing of campaign finance reports. This affidavit is made upon my personal knowledge, including information obtained from review of the attached records, of which I am the custodian.
2. I am of legal age and competent to testify to the matters stated herein.
3. Richard Allen Swilley (68224) was a 2016 candidate for the office of State Representative. On June 23, 2016, Mr. Swilley filed the Appointment of Campaign Treasurer and Designation of Campaign Depository with the Division designating himself as treasurer. (See attached documents and acknowledgment letter).
4. The 2016 P4 campaign treasurer's report was due on August 5, 2016. Mr. Swilley failed to notify the Division that no report was being filed on the prescribed reporting date. Mr. Swilley filed a notification of no activity on August 6, 2016. (See attached letter and file receipt).
5. The 2016 G2 campaign treasurer's report was due on September 23, 2016. Mr. Swilley failed to notify the Division that no report was being filed on the prescribed reporting date. Mr. Swilley filed a notification of no activity on September 24, 2016. (See attached letter and file receipt).
6. The 2016 G3 campaign treasurer's report was due on October 7, 2016. Mr. Swilley failed to notify the Division that no report was being filed on the prescribed reporting date. Mr. Swilley filed a notification of no activity on October 24, 2016. (See attached letter and file receipt).
7. The 2016 G4 campaign treasurer's report was due on October 14, 2016. Mr. Swilley failed to notify the Division that no report was being filed on the prescribed reporting date. Mr. Swilley filed a notification of no activity on October 24, 2016. (See attached file receipt).

8. The 2016 G5 campaign treasurer's report was due on October 21, 2016. Mr. Swilley failed to notify the Division that no report was being filed on the prescribed reporting date. Mr. Swilley filed a notification of no activity on October 24, 2016. (See attached file receipt).

I hereby swear or affirm that the foregoing information is true and correct to the best of my knowledge.


Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 18th day of April, 2017.


Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known



APPOINTMENT OF CAMPAIGN TREASURER
AND DESIGNATION OF CAMPAIGN
DEPOSITORY FOR CANDIDATES

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

(PLEASE PRINT OR TYPE)

RECEIVED
DEPARTMENT OF STATE

2016 JUN 23 AM 11:27

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

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

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

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

Richard Allen Swilley

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

705 SE 7th Ave
Gainesville, FL 32601

4. Telephone

(352) 328-6010

5. E-mail address

swiltra@yahoo.com

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

House of Representative Dist. 21

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

My intent is to run as a Write-In candidate

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

Write-In No Party Affiliation _____ Party candidate.

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

10. Name of Treasurer or Deputy Treasurer

Richard Allen Swilley

11. Mailing Address

705 SE 7th Ave

12. Telephone

(352) 328-6010

13. City

Gainesville

14. County

Alachua

15. State

FL

16. Zip Code

32601

17. E-mail address

swiltra@yahoo.com

18. I have designated the following bank as my

Primary Depository Secondary Depository

19. Name of Bank

Suntrust

20. Address

411 N Main St

21. City

Gainesville

22. County

Alachua

23. State

FL

24. Zip Code

32601

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

25. Date

6/21/16

26. Signature of Candidate

X 

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

I, Richard Allen Swilley, do hereby accept the appointment
(Please Print or Type Name)

designated above as: Campaign Treasurer Deputy Treasurer.

6/21/16

Date

X


Signature of Campaign Treasurer or Deputy Treasurer



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 24, 2016

Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, Florida 32601

Dear Mr. Swilley:

This will acknowledge receipt of the Appointment of Campaign Treasurer and Designation of Campaign Depository for the office of State Representative, which was placed on file in our office on June 23, 2016. Your name has been placed on the 2016 active candidate list.

Campaign Treasurer's Reports

Your first campaign treasurer's report will be due on **July 1, 2016**. The report will cover the period of June 1-24, 2016 (P1). All candidates who file reports with the Division of Elections are required to file by means of the Division's Electronic Filing System (EFS).

Credentials and Sign-ons

Below is the web address to access the EFS and your user identification number. The enclosed sealed envelope contains your initial password. Once you have logged in using the initial password, you will be immediately prompted to change it to a confidential sign-on. You, your campaign treasurer, and deputy treasurers are responsible for protecting these passwords from disclosure and are responsible for all filings using these credentials, unless the Division is notified that your credentials have been compromised.

EFS Website Address: <https://efs.dos.state.fl.us>
Identification Number: 68224

Richard Allen Swilley
June 24, 2016
Page Two

Pin Numbers

Pin numbers are confidential secure credentials that allow you to submit reports and update personal information. The enclosed sealed envelope contains your confidential pin numbers.

Each candidate is required to provide the Division of Elections with confidential personal information that may be used to allow access in the event that password is forgotten or lost. When you enter the campaign account screen, there will be a drop down box where you pick a question (such as *What is your mother's maiden name?*) and supply an answer. All passwords and answers to questions are stored as encrypted data and cannot be viewed by Division staff and given out over the phone. Please notify the Division if your credentials have been compromised.

Timely Filing

All reports filed must be completed and filed through the EFS no later than midnight, Eastern Standard Time, of the due date. Reports not filed by midnight of the due date are late filed and subject to the penalties in Section 106.07(8), Florida Statutes. In the event that the EFS is inoperable on the due date, the report will be accepted as timely filed if filed no later than midnight of the first business day the EFS becomes operable. No fine will be levied during the period the EFS was inoperable.

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first 3 days late and, thereafter, \$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. However, for 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.

Electronic Receipts

The person submitting the report on the EFS will be issued an electronic receipt indicating and verifying the report was filed. Each campaign treasurer's report filed by means of the EFS is considered to be under oath by the candidate and campaign treasurer and such persons are subject to the provisions of Section 106.07(5), Florida Statutes.

Richard Allen Swilley
June 24, 2016
Page Three

Instructions and Assistance

An online instruction guide is available to you on the EFS to assist with navigation, data entry, and submission of reports. The Division of Elections will also provide assistance to all users by contacting the EFS Help Desk at (850) 245-6280.

All of the Division's publications and reporting forms are available on the Division of Elections' website at <http://dos.myflorida.com/elections/>. It is your responsibility to read, understand, and follow the requirements of Florida's election laws. Therefore, please print a copy of the following documents: Chapters 104 and 106, Florida Statutes, *Candidate and Campaign Treasurer Handbook*, *Calendar of Reporting Dates*, and Rule 1S-2.017, Florida Administrative Code.

Please let me know if you need additional information.

Sincerely,



Kristi Reid Bronson, Chief
Bureau of Election Records

KRB/stb

Enclosures



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

August 8, 2016

Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, FL 32601-2601

CAN 68224

Dear Mr. Swilley:

The notification that you had no reportable activity for the report deadline of August 5, 2016, was not filed until August 6, 2016. Although the notification is late, no automatic fine is assessed because you had no receipts or expenditures during this reporting period.

However, to avoid potential issues in the future, please note that state law (s. 106.07(7), Fla. Stat.) requires you to file by the dates set out also in law, either a campaign finance report or if applicable, a notification that no reportable activity occurred for the reporting period. Failure to do may constitute a violation of sections 106.07(1) and 106.19(1)(c), Fla. Stat. The Division is required to notify the Florida Elections Commission of any apparent violation of chapter 106, Fla. Stat., or any failure to file a report or information required by chapter 106, Fla. Stat. If a matter is referred to the Florida Elections Commission, the Commission may assess a civil penalty of up to \$1,000 per violation.

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

Sincerely,

Kristi Reid Bronson, Chief
Bureau of Election Records

 Treasurer Report Status

ID: **68224** Name: **Richard Allen Swilley**

Report: 2016 - P4 - 4

Print Date: **4/18/2017 9:57:28 AM**

Election: 2016 General Election

Covers: 7/23/2016-7/29/2016

Due: 8/5/2016

Amended Waiver

Filed: **8/6/2016 10:42:49 AM**

File Status: **Filed Report**

Reviewed: **8/2/2016**

Review Status: **Reviewed**

Detail Complete: **No Detail Records Found**

File Method: Web Filed

Entry Method: Web Data Entry

Pending Queued Items: **0**

Number of Detail Records

Contributions: 0

Expenditures: 0

Fund Transfers: 0

Distributions: 0

To Print Report: Right Click Mouse and Select 'Print'



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

September 28, 2016

Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, FL 32601-2601

CAN 68224

Dear Mr. Swilley:

The notification that you had no reportable activity for the report deadline of September 23, 2016, was not filed until September 24, 2016. Although the notification is late, no automatic fine is assessed because you had no receipts or expenditures during this reporting period.

However, to avoid potential issues in the future, please note that state law (s. 106.07(7), Fla. Stat.) requires you to file by the dates set out also in law, either a campaign finance report or if applicable, a notification that no reportable activity occurred for the reporting period. Failure to do may constitute a violation of sections 106.07(1) and 106.19(1)(c), Fla. Stat. The Division is required to notify the Florida Elections Commission of any apparent violation of chapter 106, Fla. Stat., or any failure to file a report or information required by chapter 106, Fla. Stat. If a matter is referred to the Florida Elections Commission, the Commission may assess a civil penalty of up to \$1,000 per violation.

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

Sincerely,

Kristi Reid Bronson, Chief
Bureau of Election Records

 Treasurer Report Status

ID: **68224** Name: **Richard Allen Swilley**

Report: 2016 - G2 - 9

Print Date: **4/18/2017 9:57:55 AM**

Election: 2016 General Election

Covers: 9/3/2016-9/16/2016

Amended Waiver

Due: 9/23/2016

Filed: **9/24/2016 8:06:48 AM**

File Status: **Filed Report**

Reviewed: **9/24/2016**

Review Status: **Reviewed**

Detail Complete: **No Detail Records Found**

File Method: Web Filed

Number of Detail Records

Entry Method: Web Data Entry

Contributions: 0

Expenditures: 0

Pending Queued Items: **0**

Fund Transfers: 0

Distributions: 0

To Print Report: Right Click Mouse and Select 'Print'



FLORIDA DEPARTMENT OF STATE

Ken Detzner
Secretary of State

DIVISION OF ELECTIONS

November 15, 2016

Richard Allen Swilley
705 Southeast 7th Avenue
Gainesville, FL 32601-2601

CAN 68224

Dear Mr. Swilley:

The notification that you had no reportable activity for the report deadline of October 7, 2016, was not filed until October 24, 2016. Although the notification is late, no automatic fine is assessed because you had no receipts or expenditures during this reporting period.

However, to avoid potential issues in the future, please note that state law (s. 106.07(7), Fla. Stat.) requires you to file by the dates set out also in law, either a campaign finance report or if applicable, a notification that no reportable activity occurred for the reporting period. Failure to do may constitute a violation of sections 106.07(1) and 106.19(1)(c), Fla. Stat. The Division is required to notify the Florida Elections Commission of any apparent violation of chapter 106, Fla. Stat., or any failure to file a report or information required by chapter 106, Fla. Stat. If a matter is referred to the Florida Elections Commission, the Commission may assess a civil penalty of up to \$1,000 per violation.

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

Sincerely,

Kristi Reid Bronson, Chief
Bureau of Election Records

 Treasurer Report Status

ID: **68224** Name: **Richard Allen Swilley**

Report: 2016 - G3 - 11

Print Date: **4/18/2017 9:58:13 AM**

Election: 2016 General Election

Covers: 9/17/2016-9/30/2016

Due: 10/7/2016

Amended Waiver

Filed: **10/24/2016 12:51:41 PM**

File Status: **Filed Report**

Reviewed: **10/24/2016**

Review Status: **Reviewed**

Detail Complete: **No Detail Records Found**

File Method: Web Filed

Entry Method: Web Data Entry

Pending Queued Items: **0**

Number of Detail Records


Contributions: 0

Expenditures: 0

Fund Transfers: 0

Distributions: 0

To Print Report: Right Click Mouse and Select 'Print'

 Treasurer Report Status

ID: **68224** Name: **Richard Allen Swilley**

Report: 2016 - G4 - 12

Print Date: **4/18/2017 9:58:39 AM**

Election: 2016 General Election

Covers: 10/1/2016-10/7/2016

Due: 10/14/2016

Amended Waiver

Filed: **10/24/2016 12:52:18 PM**

File Status: **Filed Report**

Reviewed: **10/24/2016**

Review Status: **Reviewed**

Detail Complete: **No Detail Records Found**

File Method: Web Filed

Entry Method: Web Data Entry

Pending Queued Items: **0**

Number of Detail Records

Contributions: 0

Expenditures: 0

Fund Transfers: 0

Distributions: 0

To Print Report: Right Click Mouse and Select 'Print'

 Treasurer Report Status

ID: **68224** Name: **Richard Allen Swilley**

Report: 2016 - G5 - 13

Print Date: **4/18/2017 9:59:00 AM**

Election: 2016 General Election

Covers: 10/8/2016-10/14/2016

Amended Waiver

Due: 10/21/2016

Filed: **10/24/2016 12:52:38 PM**

File Status: **Filed Report**

Reviewed: **10/24/2016**

Review Status: **Reviewed**

Detail Complete: **No Detail Records Found**

File Method: Web Filed

Entry Method: Web Data Entry

Pending Queued Items: **0**

Number of Detail Records

Contributions: 0

Expenditures: 0

Fund Transfers: 0

Distributions: 0

To Print Report: Right Click Mouse and Select 'Print'

HISTORY NOTES
Richard Allen Swilley - 68224

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
50857	10/24/2016 12:54:00 PM		dsbrown
RE: Candidate called			
For assistance filing the outstanding reports. All were waivers because he had not collected contributions or made expenditures throughout the campaign. All outstanding reports were filed. Mr. Swilley was very apologetic for not realizing the reports needed to be filed.			
50856	10/24/2016 11:58:00 AM		dsbrown
RE: Termination Report			
Assisted candidate in filing his termination report. The TR went back to 9/17/16. Spoke to KRB. She said he will need to file all of the outstanding reports. Called Mr. Swilley back and explained. He will call me back this afternoon to file th outstanding reports.			
50849	10/24/2016 8:35:00 AM		dsbrown
RE: Call from Candidate			
Mr. Swilley called in a panic because he received letters saying he had outstanding reports. He said he sent a letter on Sept. 9, 2016, withdrawing his campaign. He thought he was done and didn't realize he had more reports to file. I checked imaging, but no withdrawal was received. He said he has never run for office before; did not collect any contributions or make any expenditures; has filed only waivers (done by an accountant friend). I advised him to send a letter to ElecRecords email withdrawing and explaining. He will call back at lunch for me to assist him in filing his reports to current.			
48351	6/30/2016 2:03:00 PM		zjsantos
RE : Credentials			
I spoke with the candidate and released his credentials to him over the phone as he instructed me that he hadn't received them yet.			
48255	6/29/2016 11:29:00 AM		Ejrowlette
Re: PW, PIN #, ACCOUNT #			
I attempted to reach Mr. Swilley in order to give credentials, but I got a voice mail. I left a message saying that I was calling to remind of the 2016 P1 campaign treasurer report due Friday and to give pin #, pw, and account #. I said I could not give this information to a voice mail, but if he would call the division of elections, we would provide the credentials needed. Ejr			