

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Linda Yates

Case No.: FEC 16-362

TO: Linda Yates
6475 Munsing Avenue
North Port, FL 34286

Kathy Schure
3720 West Price Blvd.
North Port, FL 34286

**AMENDED NOTICE OF HEARING TO CONSIDER RECOMMENDED ORDER
AND TO ENTER A FINAL ORDER**

A hearing will be held in this case before the Florida Elections Commission on, **November 28, 2017 at 1:00 pm, 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 106.265, Florida Statutes, and Rule 2B-1.0045, Florida Administrative Code.

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As party to 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 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.

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

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Linda Yates

Case No.: FEC 16-362

**TO: Linda Yates
6475 Munsing Avenue
North Port, FL 34286**

**Kathy Schure
3720 West Price Blvd.
North Port, FL 34286**

NOTICE OF HEARING (PETITION FOR ATTORNEYS FEES)

A hearing will be held in this case before the Florida Elections Commission on **February 28, 2017 at 11:00 a.m. or as soon thereafter as the parties can be heard**, at the following location: **Senate Office Building, Room S-110, 404 South Monroe Street, Tallahassee, FL 32399.**

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

This hearing will be conducted pursuant to Section 106.25, Florida Statutes.

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As party to 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 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.

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



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783**

February 8, 2017

VIA CERTIFIED MAIL: 92148969009997901612983863

Kathy Schure
3720 West Price Blvd.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Schure:

The Florida Elections Commission received a Petition for Costs and Attorney's Fees in this case. For your convenience, a copy of the Petition is enclosed.

The case will be presented to the members of the Commission, for their review, at its next available meeting, which is scheduled for **February 28, 2017 in Tallahassee**. A notice of hearing will be mailed approximately 14 days prior to the hearing.

If you have any questions concerning the Petition, please contact the Florida Elections Commission at fec@myfloridalegal.com or at the number listed above.

Sincerely,

Donna Ann Malphurs

Agency Clerk

/dam

Enclosure: Petition for Costs and Attorney's Fees

cc: Linda Yates, Respondent

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

RECEIVED

2017 FEB -6 A 10: 47

STATE OF FLORIDA
ELECTIONS COMMISSION

February 1, 2017

Re: Petition For Costs and Attorney's Fees

Case No. FEC 16-362; Respondent: Linda Yates

Dear Donna Ann Malphurs,

I, Linda M Yates as Respondent in Case NO. FEC 16-362, submitted my "Petition For Costs and Attorney's Fees" on January 27, 2017. I am submitting for attachment to my Petition the Exhibits referenced in my Petition. Please include with my Petition the Exhibits listed below and enclosed herein.

- EXHIBIT A – FEC 16-362
- EXHIBIT B – FEC 16-362 Oct. 20 Letter
- EXHIBIT C – Copy of Complaint Submitted As A Public Record
- EXHIBIT D – Cheryl Cook Email
- EXHIBIT E – October – 25 -2016 Agenda Item
- EXHIBIT F – Articles
- EXHIBIT G – 12-30-16 FEC Letter Close FEC 16-362
- EXHIBIT H – Attorney Fees
- EXHIBIT I – Katheryn Lanza Affidavit

Sincerely,



Linda M. Yates
6475 Munsing Avenue
North Port, FL 34291
941-423-0444

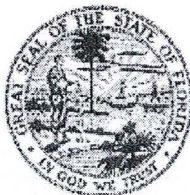


EXHIBIT A

FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783

August 25, 2016

CERTIFIED MAIL 9214 8969 0099 9790 1609 9376 02

Linda M. Yates
6475 Munsing Ave.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda M. Yates

Dear Ms. Yates:

On August 22, 2016, the Florida Elections Commission received the enclosed complaint alleging that you violated Florida's election laws. Section 106.25(2), Florida Statutes states:

The respondent shall have 14 days *after receipt* of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the complaint, please send it to my attention at the address listed above. To ensure that I receive your response in a timely manner, you may also want to send it via e-mail to my attention, at fec@myfloridalegal.com. You will be notified by letter whether the complaint is determined legally sufficient.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

Under section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing.

The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

Sincerely,

Erin Riley

Deputy Agency Clerk

ip/enr

Enclosure: Complaint w/attachments -*

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1060
Telephone Number: (850) 922-4539
www.fec.state.fl.us

2015 AUG 22 P 1:34

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: ()
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- The facts and actions that you believe support the violations you allege,
- The names and telephone numbers of persons you believe may be witnesses to the facts,
- A copy or picture of the political advertisements you mention in your statement,
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

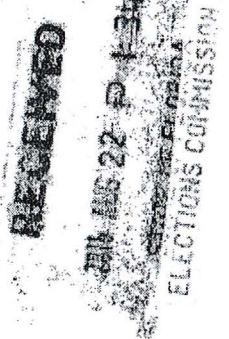
SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF _____

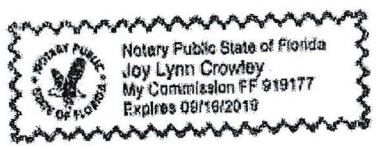
I swear or affirm, that the above information is true and correct to the best of my knowledge.



Kathy Schure
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17 day of August, 2016

Joy Lynn Crowley
Signature of Officer Authorized to Administer Oaths or Notary public



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification
Type of Identification Produced _____

Any person who files a complaint while **knowing** that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH POET County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: JACQUELINE MOORE
Address: 1921 SCARLETT AVE Phone: (941) 223-1609
City: NORTH POET County: SARASOTA State: FL Zip Code: 34289
If individual is a candidate, list the office or position sought: COMMISSIONER (CITY)
Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- ✓ The facts and actions that you believe support the violations you allege;
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts;
- ✓ A copy or picture of the political advertisements you mention in your statement;
- ✓ A copy of the documents you mention in your statement; and
- ✓ Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

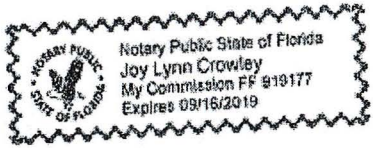
STATE OF FLORIDA
COUNTY OF Sarasota

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

[Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17 day of
August, 2016

[Signature]
Signature of Officer Authorized to Administer Oaths or Notary public



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)
Personally known Or Produced Identification _____
Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

**IN RE: Sunshine Law and Ethics Violations by City of North Port Commissioner
Linda M. Yates covering the period June 1, 2012 to July 20, 2016.**

**Sunshine Sunshine Law and Ethics Violations by City of North Port Commissioner
Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.**

August 1, 2016

This writing is to bring a formal complaint and a request for investigation into illegal and unethical activity of Commissioner Linda M. Yates through the use personal email servers, Tor Browsers, relay internet list servers, and intermediaries to knowingly violate FL 286 – Open Meetings Law and FL 119 – Florida Public Records Law. Additionally, Commissioner Jacqueline Moore appears to have participated in “secret meetings and communication” with Commissioner Yates as recipient of emails and texts directly and through intermediaries.

This complaint relies on the AGO statement that “A public record is defined broadly in the statute to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in the connection with the transaction of official business by any agency” This would include mobile text messages, emails, “tweets”, and Face Book postings.

The complaint also relies on a significant body of Florida case law that has firmly established that “The clear policy the legislature has established for Florida is simple to understand: to have the public's business carried out in public.” City of Fort Myers v News-Press Publishing Co. Inc. 514 So. 2nd 408 (Fla. 2nd DCA 1987). The case law also establishes that “The sunshine law is to be construed liberally in favor of open government to assure openness in and access to government. Krause v. Reno 366 So.2nd 1244, 1250 (Fl 1979) see also Zorc v City of Vero Beach 722 So. 2nd 891 (Fla 4th DCA 1998); and the law is directed to: “frustrate all evasive devices Toen of Palm Beach v. Gradison 296 So. 2nd 473, 477 (Fla. 1974). And in part, “Remedial measures taken after lawsuit seeking declaratory judgment is filed do not moot a claim”. Gangloff v. Taylor 758 So. 2nd 1159 (Fla. 4th DCA 2000)

Sometime in 2012 and possibly before, City of North Port Commissioner Linda M. Yates began an email campaign based on email addresses gathered from her election campaign to distribute from her private email server “mail.lindayates.com” a continuing series of city business discussions under the banner of “K.Y.I. (Keeping You Informed). These email documents were not recorded or archived within the control of the City of North Port or accessible to the general public. However, the documents contained what would be considered upcoming agenda items, Yate's position on those items, and her exhortations to come to the commission meetings and speak based on the talking points.

At some point, the City Clerk began receiving public record requests for the KYI publication and was unable to fulfill those requests since the clerk had no record of them in any format. This process continued unabated through 2015 when the City Attorney advised Commissioner Yates of the problematic emails and their relation to Sunshine Law violations. It appears that Commissioner yates then provided what appears to be a partial list of recipients and a partial archive of the emails. It also appears that Yates then continued to send the publication in what appeared to be through her city email address lyates@cityofnorthport.com However an analysis of the full email headers shows that the emails are being routed through the private server via listserver software through mail.lindayates.com.

In January of 2016, the ICANN registrar noted that the domain registrar GoDaddy.com had terminated the domain and denied renewal for "legal disputes" (*clientRenewProhibited* <https://icann.org/epp#clientRenewProhibited>) This use of the personal email server both prior to legal counsel and then afterward with a continuing disregard for that advice effectively frustrates any attempt by the general public to see both the content of the emails and the full list of recipients of the emails and to be confident that the full record is being provided .

The scope of this complaint goes further. Not only had Yates used her personal email server to distribute "talking points" to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

At some point, Yates, under duress, provided the City Clerk with archived copies of the emails in PDF format (which prevents viewing the full email header) and a list of recipients. However, a simple survey of the email list and the archived emails shows numerous discrepancies in the number of recipients and the sequence of KYI emails. In other words, the lists and archives provided by Yates are not complete, accurate, or responsive to numerous requests for production.

A further review of the *TraceRoute* data obtained from direct emails shows that the private server through its listserver software receives and sends data in excess of the known number of KYI emails. That excess can either be due to the existence of more KYI emails not archived in control of the City Clerk or evidence of additional communications sent to the listserver software that sends emails to the known and unknown recipient list, or both. A full examination of the server, the software and the contents of the emails will likely require discovery which is not in the scope of this complaint. However, there is enough information at hand to warrant further examination by state law enforcement.

The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as is required. But more troubling is the clear potential that that information, that contains positions and political strategy germane to the conduct of City of North Port business and has created a regular, ad hoc "secret meeting" between at least two commissioners and other government officials.

This complaint quotes:

A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings, officials mentioned in FL 286.011 F.S.A, transact or agree to transact public business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal. City of Miami Beach v. Burns 179 So. 2nd 380 (1965)

This complaint further alleges that Commissioner Yates was well aware of the violations, continued to violate the law even after advisement by legal counsel, and continues to hide and obstruct the public's lawful ability to obtain public documents.

Commissioner Moore was also complicit in participating in discussions outside of the public view and in violation of the Sunshine Laws through her receipt of the KYI and other documents from Yates. While this complaint has no means or authority to obtain hidden records from Moore, it is suspected by the evidence at hand that additional communication between Yates and Moore, and her supporters will likely be revealed.

This complaint was researched and produced to stop a continuing violation of Florida law and make hidden records available to the public as is provided by those laws.



EXHIBIT B

FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783

October 20, 2016

Kathy Schure
3720 West Price Blvd.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Schure:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws. I have reviewed your complaint and find it to be legally insufficient.

This complaint was received by the Florida Elections Commission on August 22, 2016. The cover page, which was an FEC complaint form, named Linda Yates as the Respondent. Attached to the complaint form was second complaint form indicating a different Respondent (Jacqueline Moore), as well as a narrative of the allegations against Ms. Yates. You did not indicate anywhere in the documents that you intended to file two complaints, so the Commission accepted the entire document as a complaint against Respondent Linda Yates.

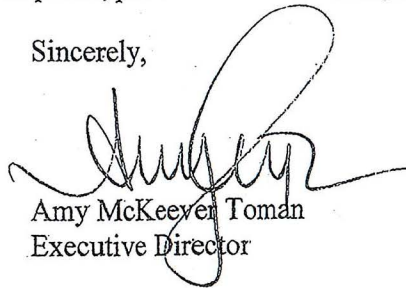
The essential allegations of your complaint are that Respondent violated Florida's open meetings and public records laws, Chapter 286 and 119, Florida Statutes, respectively. The jurisdiction of the Florida Elections Commission is limited to alleged violations of Chapter 104 and 106, Florida Statutes. As such, I find your complaint to be legally insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McKeever Toman". The signature is fluid and cursive, with a large loop at the top.

Amy McKeever Toman
Executive Director

AMT/enr

Enclosure: Additional Information Form

cc: Linda Yates, Respondent w/out Enclosure

Hand Delivered by Citizen
as a public Record

EXHIBIT C

CITY CLERK

SEP 03 2016

CITY of NORTH PORT

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: ()
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- ✓ The facts and actions that you believe support the violations you allege,
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts,
- ✓ A copy or picture of the political advertisements you mention in your statement,
- ✓ A copy of the documents you mention in your statement, and
- ✓ Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

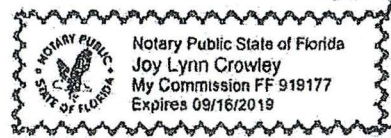
STATE OF FLORIDA
COUNTY OF Sarasota

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

[Handwritten Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22 day of
July, 20 16

[Handwritten Signature]
Signature of Officer Authorized to Administer Oaths or Notary public.



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification
Type of Identification Produced

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

CITY CLERK
SEP 01 2016
CITY OF NORTH PORT

Hand Delivered by citizen
as a public Record

CITY CLERK

SEP 11 2016

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CITY OF NORTH PORT

CONFIDENTIAL COMPLAINT FORM

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1. PERSON BRINGING COMPLAINT:

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Name of individual or entity: JACQUELINE MOORE
Address: 1921 SCARLETT AVE Phone: (941) 223-1609
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34289

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Have you filed this complaint with the State Attorney's Office? (check one) Yes No

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SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA

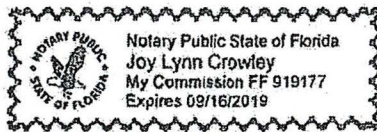
COUNTY OF Sarasota

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

Kathy Sekure
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22 day of
July, 2016

Joy Lynn Crowley
Signature of Officer Authorized to Administer Oaths or Notary public.



Joy Lynn Crowley
(Print, Type, & Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification

Type of Identification Produced

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CITY CLERK
SEP 17 2016
CITY of NORTH PORT

SEP 07 2016

IN RE: **Sunshine Law and Ethics Violations by City of North Port Commissioner Linda M. Yates covering the period June 1, 2012 to July 20, 2016.**

Sunshine Law and Ethics Violations by City of North Port Commissioner Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.

This writing is to bring a formal complaint and a request for investigation into illegal and unethical activity of Commissioner Linda M. Yates through the use personal email servers, Tor Browsers, relay internet list servers, and intermediaries to knowingly violate FL 286 – Open Meetings Law and FL 119 – Florida Public Records Law. Additionally, Commissioner Jacqueline Moore appears to have participated in “secret meetings and communication” with Commissioner Yates as recipient of emails and texts directly and through intermediaries.

This complaint relies on the AGO statement that “A public record is defined broadly in the statute to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in the connection with the transaction of official business by any agency” This would include mobile text messages, emails, “tweets”, and Face Book postings.

The complaint also relies on a significant body of Florida case law that has firmly established that “The clear policy the legislature has established for Florida is simple to understand: to have the public's business carried out in public.” City of Fort Myers v News-Press Publishing Co. Inc. 514 So. 2nd 408 (Fla. 2nd DCA 1987). The case law also establishes that “The sunshine law is to be construed liberally in favor of open government to assure openness in and access to government. Krause v. Reno 366 So.2nd 1244, 1250 (Fl 1979) see also Zorc v City of Vero Beach 722 So. 2nd 891 (Fla 4th DCA 1998); and the law is directed to: “frustrate all evasive devices Toen of Palm Beach v. Gradison 296 So. 2nd 473, 477 (Fla. 1974). And in part, “Remedial measures taken after lawsuit seeking declaratory judgment is filed do not moot a claim”. Gangloff v. Taylor 758 So. 2nd 1159 (Fla. 4th DCA 2000)

Sometime in 2012 and possibly before, City of North Port Commissioner Linda M. Yates began an email campaign based on email addresses gathered from her election campaign to distribute from her private email server “mail.lindayates.com” a continuing series of city business discussions under the banner of “K. Y.I. (Keeping You Informed). These email documents were not recorded or archived within the control of the City of North Port or accessible to the general public. However, the documents contained what would be considered upcoming agenda items, Yate's position on those items, and her exhortations to come to the commission meetings and speak based on the talking points.

At some point, the City Clerk began receiving public record requests for the KYI publication and was unable to fulfill those requests since the clerk had no record of them in any format. This process continued unabated through 2015 when the City Attorney advised Commissioner Yates of the problematic emails and their relation to Sunshine Law violations. It appears that Commissioner yates then provided what appears to be a partial list of recipients and a partial archive of the emails. It also appears that Yates then continued to send the publication in what appeared to be through her city email address lyates@cityofnorthport.com However an analysis of the full email headers shows that the emails are being routed through the private server via listserver software through mail.lindayates.com.

CITY CLERK

SEP 11 2016

CITY OF NORTH PORT

In January of 2016, the ICANN registrar noted that the domain registrar GoDaddy.com had terminated the domain and denied renewal for "legal disputes" (*clientRenewProhibited* <https://icann.org/epp#clientRenewProhibited>) This use of the personal email server both prior to legal counsel and then afterward with a continuing disregard for that advice effectively frustrates any attempt by the general public to see both the content of the emails and the full list of recipients of the emails and to be confident that the full record is being provided .

The scope of this complaint goes further. Not only had Yates used her personal email server to distribute "talking points" to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

At some point, Yates, under duress, provided the City Clerk with archived copies of the emails in PDF format (which prevents viewing the full email header) and a list of recipients. However, a simple survey of the email list and the archived emails shows numerous discrepancies in the number of recipients and the sequence of KYI emails. In other words, the lists and archives provided by Yates are not complete, accurate, or responsive to numerous requests for production.

A further review of the *TraceRoute* data obtained from direct emails shows that the private server through its listserver software receives and sends data in excess of the known number of KYI emails. That excess can either be due to the existence of more KYI emails not archived in control of the City Clerk or evidence of additional communications sent to the listserver software that sends emails to the known and unknown recipient list, or both. A full examination of the server, the software and the contents of the emails will likely require discovery which is not in the scope of this complaint. However, there is enough information at hand to warrant further examination by state law enforcement.

The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as is required. But more troubling is the clear potential that that information, that contains positions and political strategy germane to the conduct of City of North Port business and has created a regular, ad hoc "secret meeting" between at least two commissioners and other government officials.

This complaint quotes:

A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings, officials mentioned in FL 286.011 F.S.A, transact or agree to transact public business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal. City of Miami Beach v. Burns 179 So. 2nd 380 (1965)

This complaint further alleges that Commissioner Yates was well aware of the violations, continued to violate the law even after advisement by legal counsel, and continues to hide and obstruct the public's lawful ability to obtain public documents.

Commissioner Moore was also complicit in participating in discussions outside of the public view and in violation of the Sunshine Laws through her receipt of the KYI and other documents from Yates. While this complaint has no means or authority to obtain hidden records from Moore, it is suspected by the evidence at hand that additional communication between Yates and Moore, and her supporters will likely be revealed.

This complaint was researched and produced to stop a continuing violation of Florida law and make hidden records available to the public as is provided by those laws.

CITY CLERK
SEP 04 2018
CITY of NORTH PORT

Linda Yates

From: Cheryl Cook
Sent: Monday, October 17, 2016 3:09 PM
To: Patsy Adkins
Subject: Agenda item

Discussion and possible action regarding contents of Complaint filed with State of Florida, Florida Elections Commission, against Linda M. Yates and Jacqueline Moore copy filed with the clerk September 16, 2016.

This is an agenda item seeking to attempt to protect the City of North Port from potential liability as discussed in ethics workshop of December 2, 2014, deriving from commissioners using private email to communicate city related matters and failure to forward the communications to the clerk's office for public records custodial purposes. It is the request herein that a complete and comprehensive list of all email addresses that Linda Yates and Jacqueline Moore have used since in office and a copy of all emails therefrom be submitted to the clerk's office so that the city can determine what is public record.

Precedence for pro-active action regarding potential liability against the city can be found in the November 26, 2012 regular commission meeting discussions, item 6C, wherein the City Attorney was directed by the commission to seek injunctive relief for election advertisement issues, especially in light of public comment.

Clerk Adkins: Please include a copy of the Complaint previously provided to commissioners as backup document.

Best Regards,

Cheryl Cook
North Port City Commissioner

Sent from my iPad

E-mail messages sent or received by City of North Port officials and employees in connection with official City business are public records subject to disclosure under the Florida Public Records Act.



City of North Port

EXHIBIT E

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Legislation Text

File #: 16-0605, **Version:** 1

TO: Honorable Mayor & Members of the North Port Commission

FROM: Jonathan R. Lewis, ICMA-CM, City Manager

TITLE: Discussion and possible action regarding contents of Complaint filed with State of Florida, Florida Elections Commission, against Linda M. Yates and Jacqueline Moore copy filed with the clerk September 09, 2016.

Recommended Action

It is the request herein that a complete and comprehensive list of all email addresses that Linda Yates and Jacqueline Moore have used since in office and a copy of all emails therefrom be submitted to the clerk's office so that the city can determine what is public record.

Background Information

This is an agenda item seeking to attempt to protect the City of North Port from potential liability as discussed in ethics workshop of December 2, 2014, deriving from commissioners using private email to communicate city related matters and failure to forward the communications to the clerk's office for public records custodial purposes. It is the request herein that a complete and comprehensive list of all email addresses that Linda Yates and Jacqueline Moore have used since in office and a copy of all emails therefrom be submitted to the clerk's office so that the city can determine what is public record.

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Strategic Plan

N/A

Financial Impact

N/A

Procurement

N/A

Attachments:

1. Copy of Complaint

Prepared by: Patsy Adkins for Commissioner Cook

Hand Delivered by citizen
as a public record

CITY CLERK
SEP 05 2015
CITY of NORTH PORT

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: ()
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigation the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- The facts and actions that you believe support the violations you allege,
- The names and telephone numbers of persons you believe may be witnesses to the facts,
- A copy or picture of the political advertisements you mention in your statement,
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

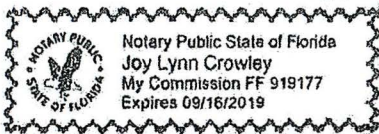
STATE OF FLORIDA
COUNTY OF Sarasota

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

[Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22 day of
July, 20 16

[Signature]
Signature of Officer Authorized to Administer Oaths or Notary public.



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification
Type of Identification Produced

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

CITY CLERK
SEP 01 2016
CITY of NORTH PORT

Hand Delivered by citizen
as a public Record

CITY CLERK

SEP 11 2016

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
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CITY of NORTH PORT

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1. PERSON BRINGING COMPLAINT:

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Name of individual or entity: JACQUELINE MOORE
Address: 1921 SCARLETT AVE Phone: (941) 223-1609
City: North Port County: SARASOTA State: FL Zip Code: 34289

If individual is a candidate, list the office or position sought: COMMISSIONER (CITY)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

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4. **OATH**

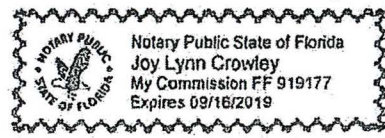
STATE OF FLORIDA
COUNTY OF Sarasota

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July, 20 16

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(Print, Type, or Stamp Commissioned Name of Notary Public)

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Type of Identification Produced

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CITY CLERK
23 JUL 2016
CITY of NORTH PORT

IN RE: **Sunshine Law and Ethics Violations by City of North Port Commissioner
Linda M. Yates covering the period June 1, 2012 to July 20, 2016.**

**Sunshine Sunshine Law and Ethics Violations by City of North Port Commissioner
Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.**

This writing is to bring a formal complaint and a request for investigation into illegal and unethical activity of Commissioner Linda M. Yates through the use personal email servers, Tor Browsers, relay internet list servers, and intermediaries to knowingly violate FL 286 – Open Meetings Law and FL 119 – Florida Public Records Law. Additionally, Commissioner Jacqueline Moore appears to have participated in “secret meetings and communication” with Commissioner Yates as recipient of emails and texts directly and through intermediaries.

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CITY CLERK

SEP 01 2016

CITY OF NORTH PORT

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The scope of this complaint goes further. Not only had Yates used her personal email server to distribute "talking points" to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

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CITY CLERK
SEP 01 2015
CITY of NORTH PORT

EXHIBIT F

Thursday Posted at 5:44 PM
Updated at 5:44 PM



Herald Tribune

Commission to discuss alleged Sunshine Law violation

By Earle Kimel
Staff Writer

Follow

NORTH PORT — An ethics complaint alleging a possible Sunshine Law violation tied to a commissioner's email blast is scheduled to be discussed by the North Port City Commission Tuesday.

A city spokesman said he is not aware of a similar complaint coming before the commission in recent memory. Meanwhile, a local paralegal well versed in Sunshine Law violations said the complaint is likely not valid.

The complaint stems from an email update City Commissioner Linda Yates used to send out from her personal email — later moved to her city email account — and covers the period of June 1, 2012, to July 20, 2016, the date it was filed with the Florida Elections Commission by North Port resident Kathy Schure.

It also involves North Port Mayor Jacqueline Moore as a potential recipient of the email blast, either on her own, through her husband or members of her staff, for the period of Jan. 16, 2015, to July 20, 2016.

At first, Yates sent the email blast, KYI — or Keeping You Informed — from her private email to addresses gathered through her election campaign. In 2015, she started sending out the blast from her city email, following advice from the city attorney.

North Port is the only government in Sarasota County that does not provide either online access or email mirroring to the emails of elected officials. The city clerk must search email ~~Thursday~~ ~~Print out items~~ and charge a fee to any party seeking to monitor them.

Updated at 5:44 PM

Because Yates frequently indicated her position on issues that would come before the City Commission, Schure alleges violations of both public records and open meetings laws.

Schure was not available to elaborate on her allegations. A man who answered a phone listed for her on the complaint said she was on a trip and he did not know when she would return.

The complaint cites case law ranging from 1965 to 2000.

Though dated July 22, it was ultimately filed with the North Port City clerk in September and placed on Tuesday's commission agenda for discussion and possible action by outgoing City Commissioner Cheryl Cook, who lost the Aug. 30 District 2 primary race, finishing fourth, behind Moore, Chris Hanks and Samuel Cohen.

Cook did not respond to three messages left on her city cell phone.

Michael Barfield, a paralegal who works on Sunshine Law cases with Sarasota-based attorney Andrea Mogensen, said the email, even if Moore read it, likely does not constitute a Sunshine Law violation.

He cited a September 2011 decision by the Fourth District Court of Appeal in *Butler vs. City of Hallendale Beach* that upheld a lower court ruling that an email sent by the mayor of Hallendale Beach that contained three articles she wrote as a contributor to a local newspaper was not a public record.

"The issue there was whether it was a public record that was required to be made available, retained and archived," Barfield said.

"While I disagree with that case," he later added, "that is the closest on point at least in some contextual analysis."

Further, Moore's mere receipt of Yates' email would not constitute a violation, Barfield said. For a violation to occur, Moore would have had to respond.

"It sounds like she was communicating with her constituents," Barfield said of Yates' email.
"But facts matter. If it's just a one-way communication, that does not violate the Sunshine

Thursday Posted at 5:44 PM

Updated at 5:44 PM

Commission to discuss thrown-out elections complaint

By LAUREN COFFEY
STAFF WRITER

NORTH PORT — Two commissioners will find themselves defending email actions at the City Commission meeting.

The meeting, set for 10 a.m. today at City Hall, will cover a slew of topics including a complaint from a resident against Commissioner Linda Yates and Mayor Jacqueline Moore.

The complaint, filed by North Port resident Kathy Schure, was made on Sept. 16 to the State of Florida, Florida Elections Commission. It is an elections complaint and alleges a violation of the Sunshine Law was made.

In the complaint, Schure alleged Yates had a private email server from June 2012 to July 2016 where she sent several emails to members of the community under the banner "Keeping You Informed (KYI)." The

complaint said the emails contained potential agenda items, Yates' positions on those items and also alleged Yates urged email recipients to speak on the topics at commission meetings.

The complaint further alleges Moore was a recipient of the emails, which is a violation of the Sunshine Law by directly communicating on city business behind closed doors.

The Florida Elections Commission reviewed the complaint and found it to be legally insufficient.

"It's a personal matter, it has nothing to do with the city," Yates said. "It's nothing more than Commissioner Cook having a personal vendetta against me. All my emails are with the City Clerk, she has them all."

Moore stated the complaint was confidential so she had no comment.

Commissioners will

also give further direction to the City Manager Jonathan Lewis about allowing election signs on public property.

At the last meeting commissioners advised Lewis and City Attorney Mark Moriarty to suspend the Unified Land Development Code for Election Day to allow election signs at polling places that are also government buildings. The guideline was originally put in place in 2014 after commissioners thought there were too many signs placed outside the buildings.

New topics will be proposed at the commission meeting as well, including graffiti-proofing the Myakkahatchee Creek Environmental Park Connector Bridge, expanding parking at the North Port Public Library and procuring 25 new vehicles for the North Port Police Department.

Email: lcoffey@sun-herald.com



EXHIBIT G

FLORIDA ELECTIONS COMMISSION

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

December 30, 2016

Linda Yates
6475 Munsing Ave
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Yates:

On October 20, 2016, the Florida Elections Commission notified Kathy Schure that the complaint she filed on August 22, 2016 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of insufficiency, this case is closed.

Please let me know if you have any questions.

Sincerely,
Amy McKeever Toman
Executive Director
Florida Elections Commission

AMT/enr

Douglas Daniels, P.A.
444 Seabreeze Blvd., Ste. 645
Daytona Beach, FL 32118

EXHIBIT H

Linda Yates
6475 Munsing Avenue
North Port, FL 34286

December 01, 2016

Invoice #10153

Professional Services

	<u>Amount</u>
11/11/2016 Review of file and client's email; respond to same.	90.00
For professional services rendered	<u>\$90.00</u>
For professional services rendered	<u>\$90.00</u>
Previous balance	\$2,720.00
Balance due	<u><u>\$2,810.00</u></u>

Douglas Daniels, P.A.
444 Seabreeze Blvd., Ste. 645
Daytona Beach, FL 32118

Linda Yates
6475 Munsing Avenue
North Port, FL 34286

November 01, 2016

Invoice #10128

Professional Services

	<u>Amount</u>
8/28/2016 Review of complaint and related documents; conference with client re same; review of statutes and case law re election violation; email to client re opinions of complaint; drafting response to the Elections Commission.	1,200.00
10/21/2016 Conference with client re disclosure of complaint and how to handle upcoming city commission meeting.	400.00
10/22/2016 Research various issues regarding records and ethics questions.	240.00
10/24/2016 Review of file; conference with client re strategy for Tuesday nights hearing.	400.00
10/25/2016 Review of insurance policy; drafting email re same.	300.00
10/28/2016 Conference with client re results of meeting.	180.00
For professional services rendered	<u>\$2,720.00</u>
For professional services rendered	<u>\$2,720.00</u>
Balance due	<u><u>\$2,720.00</u></u>

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF SARASOTA

The undersigned, Kathryn L. Lanza, being duly sworn, deposes and says:

1. I am over the age of 18 and am a resident of the State of Florida. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. In 2014 Commissioner Linda Yates was running for reelection to the North Port City Commission.
4. During the period between September and November 2014, prior to the election, I made visits to homes in various North Port neighborhoods in support of Commissioner Yates.
5. On one of those days, during said period of time, I and another of Commissioner Yates' supporters, traveling together in one vehicle, had occasion to visit homes on a section of West Price Boulevard, North Port, Florida.
6. While going door to door we would park our car and walk to several homes and then return to our vehicle and drive on to our next section.
7. Upon arriving at the address of 3720 West Price Boulevard, I was greeted by a female, who I have come to recognize as Kathy Schure, who indicated she was not interested in supporting Commissioner Yates, and so I moved on to other homes in that area.
8. A short time later, we returned to our vehicle, and as we were about to pass the home at 3720 West Price Boulevard, Kathy Schure came out, carrying papers in her hand, flagging us down.
9. We stopped, at which time, she showed us financial papers of a personal nature of Commissioner Linda Yates, and stated that she, Kathy Schure, was only supporting Commissioner Cheryl Cook.
10. Commissioner Cheryl Cook was not up for reelection until 2016.

11. Commissioner Linda Yates was successful in her reelection in 2014.

I declare that, to the best of my knowledge and belief, the information herein is true, correct and complete.

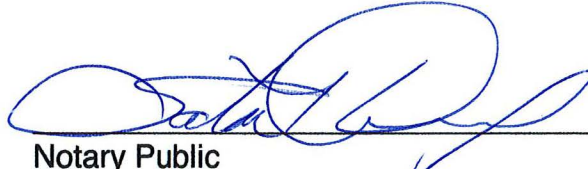
Executed this 16th day of January, 2017.

Kathryn L. Lanza

Kathryn L. Lanza

NOTARY ACKNOWLEDGMENT

STATE OF FLORIDA, COUNTY OF SARASOTA. ss:


Notary Public





Exhibits for Petition for Attorney Fees and Costs in FEC 16-362

yates
to:
fec
02/01/2017 10:14 PM
Hide Details
From: <yates@lindayates.com>
To: fec@myfloridalegal.com

10 Attachments



Letter to FEC Attaching Exhibits to Petition.pdf EXHIBIT A - FEC 16-362.pdf



EXHIBIT B - FEC 16-362 Oct 20 letter.pdf EXHIBIT C -Copy of Complaint Submitted As A Public Record.pdf



EXHIBIT D - Cheryl Cook Email.pdf EXHIBIT E - October - 25 - 2016 Agenda Item.pdf EXHIBIT F - Articles.pdf



EXHIBIT G - 12-30-16 FEC Letter Close FEC 16-362.pdf EXHIBIT H Attorney Fees.pdf



EXHIBIT I - Kathryn Lanza Affidavit.pdf

Dear Ms. Malphurs, attached you will find Exhibit documents to supplement my Petition For Attorney Fees and Costs which I submitted on Friday January 27 for Case NO. FEC 16-362. Also you will find my letter stating to attach these Exhibits to my Petition. I will also send a hard copy by mail since one of these documents was a notarized affidavit.

Thank you.

Sincerely,
Linda M. Yates
941-423-0444

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

February 1, 2017

Re: Petition For Costs and Attorney's Fees

Case No. FEC 16-362; Respondent: Linda Yates

Dear Donna Ann Malphurs,

I, Linda M Yates as Respondent in Case NO. FEC 16-362, submitted my "Petition For Costs and Attorney's Fees" on January 27, 2017. I am submitting for attachment to my Petition the Exhibits referenced in my Petition. Please include with my Petition the Exhibits listed below and enclosed herein.

- EXHIBIT A – FEC 16-362
- EXHIBIT B – FEC 16-362 Oct. 20 Letter
- EXHIBIT C – Copy of Complaint Submitted As A Public Record
- EXHIBIT D – Cheryl Cook Email
- EXHIBIT E – October – 25 -2016 Agenda Item
- EXHIBIT F – Articles
- EXHIBIT G – 12-30-16 FEC Letter Close FEC 16-362
- EXHIBIT H – Attorney Fees
- EXHIBIT I – Katheryn Lanza Affidavit

Sincerely,



Linda M. Yates
6475 Munsing Avenue
North Port, FL 34291
941-423-0444



EXHIBIT A

FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783

August 25, 2016

CERTIFIED MAIL 9214 8969 0099 9790 1609 9376 02

Linda M. Yates
6475 Munsing Ave.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda M. Yates

Dear Ms. Yates:

On August 22, 2016, the Florida Elections Commission received the enclosed complaint alleging that you violated Florida's election laws. Section 106.25(2), Florida Statutes states:

The respondent shall have 14 days *after receipt* of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the complaint, please send it to my attention at the address listed above. To ensure that I receive your response in a timely manner, you may also want to send it via e-mail to my attention, at fec@myfloridalegal.com. You will be notified by letter whether the complaint is determined legally sufficient.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

Under section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing.

The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

Sincerely,

Eria Riley

Deputy Agency Clerk

ip/enr

Enclosure: Complaint w/attachments

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-7050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

2015 AUG 22 P 1:34

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: ()
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)
Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigation the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- ✓ The facts and actions that you believe support the violations you allege,
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts,
- ✓ A copy or picture of the political advertisements you mention in your statement,
- ✓ A copy of the documents you mention in your statement, and
- ✓ Other evidence that supports your allegations.

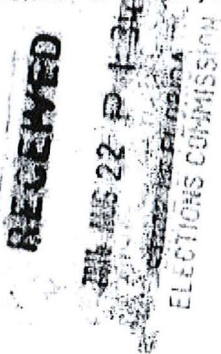
SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF _____

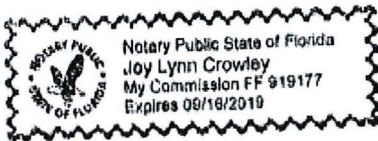
I swear or affirm, that the above information is true and correct to the best of my knowledge.



Kathy Schure
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17 day of August, 2016

Joy Lynn Crowley
Signature of Officer Authorized to Administer Oaths or Notary public



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)
Personally known Or Produced Identification _____
Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

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Name of individual or entity: JACQUELINE MOORE
Address: 1921 SCARLET AVE Phone: (941) 223-1609
City: NORTHPORT County: SARASOTA State: FL Zip Code: 34289

If individual is a candidate, list the office or position sought: COMMISSIONER (CITY)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

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SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA

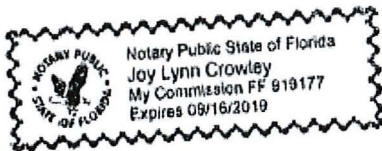
COUNTY OF Sarasota

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

[Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17 day of
August, 20 18

[Signature]
Signature of Officer Authorized to Administer Oaths or Notary public



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)
Personally known Or Produced Identification
Type of Identification Produced _____

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IN RE: Sunshine Law and Ethics Violations by City of North Port Commissioner Linda M. Yates covering the period June 1, 2012 to July 20, 2016.

Sunshine Sunshine Law and Ethics Violations by City of North Port Commissioner Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.

August 1, 2016

This writing is to bring a formal complaint and a request for investigation into illegal and unethical activity of Commissioner Linda M. Yates through the use personal email servers, Tor Browsers, relay internet list servers, and intermediaries to knowingly violate FL 286 – Open Meetings Law and FL 119 – Florida Public Records Law. Additionally, Commissioner Jacqueline Moore appears to have participated in “secret meetings and communication” with Commissioner Yates as recipient of emails and texts directly and through intermediaries.

This complaint relies on the AGO statement that “A public record is defined broadly in the statute to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in the connection with the transaction of official business by any agency” This would include mobile text messages, emails, “tweets”, and Face Book postings.

The complaint also relies on a significant body of Florida case law that has firmly established that “The clear policy the legislature has established for Florida is simple to understand: to have the public’s business carried out in public.” City of Fort Myers v News-Press Publishing Co. Inc. 514 So. 2nd 408 (Fla. 2nd DCA 1987). The case law also establishes that “The sunshine law is to be construed liberally in favor of open government to assure openness in and access to government. Krause v. Reno 366 So.2nd 1244, 1250 (Fl 1979) see also Zorcy City of Vero Beach 722 So. 2nd 891 (Fla 4th DCA 1998); and the law is directed to: “frustrate all evasive devices Toen of Palm Beach v. Gradison 296 So. 2nd 473, 477 (Fla. 1974). And in part, “Remedial measures taken after lawsuit seeking declaratory judgment is filed do not moot a claim”. Gangloff v. Taylor 758 So. 2nd 1159 (Fla. 4th DCA 2000)

Sometime in 2012 and possibly before, City of North Port Commissioner Linda M. Yates began an email campaign based on email addresses gathered from her election campaign to distribute from her private email server “mail.lindayates.com” a continuing series of city business discussions under the banner of “K.Y.I. (Keeping You Informed). These email documents were not recorded or archived within the control of the City of North Port or accessible to the general public. However, the documents contained what would be considered upcoming agenda items, Yate’s position on those items, and her exhortations to come to the commission meetings and speak based on the talking points.

At some point, the City Clerk began receiving public record requests for the KYI publication and was unable to fulfill those requests since the clerk had no record of them in any format. This process continued unabated through 2015 when the City Attorney advised Commissioner Yates of the problematic emails and their relation to Sunshine Law violations. It appears that Commissioner yates then provided what appears to be a partial list of recipients and a partial archive of the emails. It also appears that Yates then continued to send the publication in what appeared to be through her city email address lyates@cityofnorthport.com However an analysis of the full email headers shows that the emails are being routed through the private server via listserver software through mail.lindayates.com.

In January of 2016, the ICANN registrar noted that the domain registrar GoDaddy.com had terminated the domain and denied renewal for "legal disputes" (*clientRenewProhibited* <https://icann.org/epp#clientRenewProhibited>) This use of the personal email server both prior to legal counsel and then afterward with a continuing disregard for that advice effectively frustrates any attempt by the general public to see both the content of the emails and the full list of recipients of the emails and to be confident that the full record is being provided .

The scope of this complaint goes further. Not only had Yates used her personal email server to distribute "talking points" to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

At some point, Yates, under duress, provided the City Clerk with archived copies of the emails in PDF format (which prevents viewing the full email header) and a list of recipients. However, a simple survey of the email list and the archived emails shows numerous discrepancies in the number of recipients and the sequence of KYI emails. In other words, the lists and archives provided by Yates are not complete, accurate, or responsive to numerous requests for production.

A further review of the *TraceRoute* data obtained from direct emails shows that the private server through its listserver software receives and sends data in excess of the known number of KYI emails. That excess can either be due to the existence of more KYI emails not archived in control of the City Clerk or evidence of additional communications sent to the listserver software that sends emails to the known and unknown recipient list, or both. A full examination of the server, the software and the contents of the emails will likely require discovery which is not in the scope of this complaint. However, there is enough information at hand to warrant further examination by state law enforcement.

The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as is required. But more troubling is the clear potential that that information, that contains positions and political strategy germane to the conduct of City of North Port business and has created a regular, ad hoc "secret meeting" between at least two commissioners and other government officials.

This complaint quotes:

A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings, officials mentioned in FL 286.011 F.S.A, transact or agree to transact public business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal. City of Miami Beach v. Burns 179 So. 2nd 380 (1965)

This complaint further alleges that Commissioner Yates was well aware of the violations, continued to violate the law even after advisement by legal counsel, and continues to hide and obstruct the public's lawful ability to obtain public documents.

Commissioner Moore was also complicit in participating in discussions outside of the public view and in violation of the Sunshine Laws through her receipt of the KYI and other documents from Yates. While this complaint has no means or authority to obtain hidden records from Moore, it is suspected by the evidence at hand that additional communication between Yates and Moore, and her supporters will likely be revealed.

This complaint was researched and produced to stop a continuing violation of Florida law and make hidden records available to the public as is provided by those laws.



EXHIBIT B

FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783

October 20, 2016

Kathy Schure
3720 West Price Blvd.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Schure:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws. I have reviewed your complaint and find it to be legally insufficient.

This complaint was received by the Florida Elections Commission on August 22, 2016. The cover page, which was an FEC complaint form, named Linda Yates as the Respondent. Attached to the complaint form was second complaint form indicating a different Respondent (Jacqueline Moore), as well as a narrative of the allegations against Ms. Yates. You did not indicate anywhere in the documents that you intended to file two complaints, so the Commission accepted the entire document as a complaint against Respondent Linda Yates.

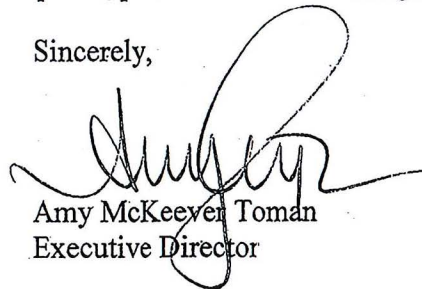
The essential allegations of your complaint are that Respondent violated Florida's open meetings and public records laws, Chapter 286 and 119, Florida Statutes, respectively. The jurisdiction of the Florida Elections Commission is limited to alleged violations of Chapter 104 and 106, Florida Statutes. As such, I find your complaint to be legally insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McKeever Toman", written in a cursive style.

Amy McKeever Toman
Executive Director

AMT/enr

Enclosure: Additional Information Form

cc: Linda Yates, Respondent w/out Enclosure

Hand Delivered by Citizen
as a public Record



CITY CLERK

SEP 01 2016

CITY of NORTH PORT

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: ()
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- The facts and actions that you believe support the violations you allege,
- The names and telephone numbers of persons you believe may be witnesses to the facts,
- A copy or picture of the political advertisements you mention in your statement,
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF Sarasota

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

[Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22 day of
July, 20 16

[Signature]
Signature of Officer Authorized to Administer Oaths or Notary public.



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification
Type of Identification Produced

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

CITY CLERK
SEP 10 2016
CITY of NORTH PORT

Hand Delivered by citizen
as a public Record

CITY CLERK
SEP 0 2016
CITY of NORTH PORT

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
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Name of individual or entity: JACQUELINE MOORE
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City: NORTH PORT County: SARASOTA State: FL Zip Code: 34289

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Have you filed this complaint with the State Attorney's Office? (check one) Yes No

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COUNTY OF Sarasota

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[Handwritten Signature]
Original Signature of Person Bringing Complaint

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Joy Lynn Crowley
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Personally known Or Produced Identification
Type of Identification Produced

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CITY CLERK
SEP 01 2016
CITY of NORTH PORT

IN RE: Sunshine Law and Ethics Violations by City of North Port Commissioner Linda M. Yates covering the period June 1, 2012 to July 20, 2016.

Sunshine Sunshine Law and Ethics Violations by City of North Port Commissioner Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.

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The scope of this complaint goes further. Not only had Yates used her personal email server to distribute “talking points” to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

At some point, Yates, under duress, provided the City Clerk with archived copies of the emails in PDF format (which prevents viewing the full email header) and a list of recipients. However, a simple survey of the email list and the archived emails shows numerous discrepancies in the number of recipients and the sequence of KYI emails. In other words, the lists and archives provided by Yates are not complete, accurate, or responsive to numerous requests for production.

A further review of the *TraceRoute* data obtained from direct emails shows that the private server through its listserver software receives and sends data in excess of the known number of KYI emails. That excess can either be due to the existence of more KYI emails not archived in control of the City Clerk or evidence of additional communications sent to the listserver software that sends emails to the known and unknown recipient list, or both. A full examination of the server, the software and the contents of the emails will likely require discovery which is not in the scope of this complaint. However, there is enough information at hand to warrant further examination by state law enforcement.

The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as is required. But more troubling is the clear potential that that information, that contains positions and political strategy germane to the conduct of City of North Port business and has created a regular, ad hoc “secret meeting” between at least two commissioners and other government officials.

This complaint quotes:

A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings, officials mentioned in FL 286.011 F.S.A, transact or agree to transact public business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal. City of Miami Beach v. Burns 179 So. 2nd 380 (1965)

This complaint further alleges that Commissioner Yates was well aware of the violations, continued to violate the law even after advisement by legal counsel, and continues to hide and obstruct the public's lawful ability to obtain public documents.

Commissioner Moore was also complicit in participating in discussions outside of the public view and in violation of the Sunshine Laws through her receipt of the KYI and other documents from Yates. While this complaint has no means or authority to obtain hidden records from Moore, it is suspected by the evidence at hand that additional communication between Yates and Moore, and her supporters will likely be revealed.

This complaint was researched and produced to stop a continuing violation of Florida law and make hidden records available to the public as is provided by those laws.

CITY CLERK
SEP 01 2016
CITY of NORTH PORT

Linda Yates

From: Cheryl Cook
Sent: Monday, October 17, 2016 3:09 PM
To: Patsy Adkins
Subject: Agenda item

Discussion and possible action regarding contents of Complaint filed with State of Florida, Florida Elections Commission, against Linda M. Yates and Jacqueline Moore copy filed with the clerk September 16, 2016.

This is an agenda item seeking to attempt to protect the City of North Port from potential liability as discussed in ethics workshop of December 2, 2014, deriving from commissioners using private email to communicate city related matters and failure to forward the communications to the clerk's office for public records custodial purposes. It is the request herein that a complete and comprehensive list of all email addresses that Linda Yates and Jacqueline Moore have used since in office and a copy of all emails therefrom be submitted to the clerk's office so that the city can determine what is public record.

Precedence for pro-active action regarding potential liability against the city can be found in the November 26, 2012 regular commission meeting discussions, item 6C, wherein the City Attorney was directed by the commission to seek injunctive relief for election advertisement issues, especially in light of public comment.

Clerk Adkins: Please include a copy of the Complaint previously provided to commissioners as backup document.

Best Regards,

Cheryl Cook
North Port City Commissioner

Sent from my iPad

E-mail messages sent or received by City of North Port officials and employees in connection with official City business are public records subject to disclosure under the Florida Public Records Act.



Legislation Text

File #: 16-0605, **Version:** 1

TO: Honorable Mayor & Members of the North Port Commission

FROM: Jonathan R. Lewis, ICMA-CM, City Manager

TITLE: Discussion and possible action regarding contents of Complaint filed with State of Florida, Florida Elections Commission, against Linda M. Yates and Jacqueline Moore copy filed with the clerk September 09, 2016.

Recommended Action

It is the request herein that a complete and comprehensive list of all email addresses that Linda Yates and Jacqueline Moore have used since in office and a copy of all emails therefrom be submitted to the clerk's office so that the city can determine what is public record.

Background Information

This is an agenda item seeking to attempt to protect the City of North Port from potential liability as discussed in ethics workshop of December 2, 2014, deriving from commissioners using private email to communicate city related matters and failure to forward the communications to the clerk's office for public records custodial purposes. It is the request herein that a complete and comprehensive list of all email addresses that Linda Yates and Jacqueline Moore have used since in office and a copy of all emails therefrom be submitted to the clerk's office so that the city can determine what is public record.

Precedence for pro-active action regarding potential liability against the city can be found in the November 26, 2012 regular commission meeting discussions, item 6C, wherein the City Attorney was directed by the commission to seek injunctive relief for election advertisement issues, especially in light of public comment.

Strategic Plan

N/A

Financial Impact

N/A

Procurement

N/A

Attachments:

1. Copy of Complaint

Prepared by: Patsy Adkins for Commissioner Cook

File #: 16-0605, **Version:** 1

Department Director: Patsy Adkins

Hand Delivered by Citizen
as a public Record

CITY CLERK

SEP 01 2016

CITY of NORTH PORT

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: () _____
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

- The facts and actions that you believe support the violations you allege,
- The names and telephone numbers of persons you believe may be witnesses to the facts,
- A copy or picture of the political advertisements you mention in your statement,
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

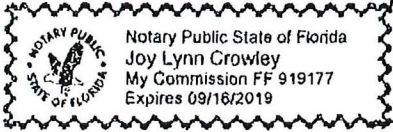
STATE OF FLORIDA
COUNTY OF Sarasota

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

[Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22 day of
July, 20 16

[Signature]
Signature of Officer Authorized to Administer Oaths or Notary public.



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification
Type of Identification Produced

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

CITY CLERK
SEP 01 2016
CITY of NORTH PORT

Hand Delivered by citizen
as a public Record

CITY CLERK

SEP 0 2008

CITY of NORTH PORT

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

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1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

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A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: JACQUELINE MOORE
Address: 1921 SCARLETT AVE Phone: (941) 223-1609
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34289

If individual is a candidate, list the office or position sought: COMMISSIONER (CITY)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigation the following provisions: Chapter 104, Chapter 106, and Section 105.071, Florida Statutes. Also, please include:

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SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

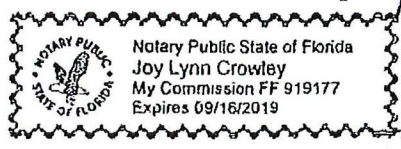
STATE OF FLORIDA
COUNTY OF Sarasota

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

[Handwritten Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 22 day of
July, 20 16

[Handwritten Signature]
Signature of Officer Authorized to Administer Oaths or Notary public.



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification
Type of Identification Produced

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CITY CLERK
SEP 01 2016
CITY of NORTH PORT

IN RE: **Sunshine Law and Ethics Violations by City of North Port Commissioner Linda M. Yates covering the period June 1, 2012 to July 20, 2016.**

Sunshine Sunshine Law and Ethics Violations by City of North Port Commissioner Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.

This writing is to bring a formal complaint and a request for investigation into illegal and unethical activity of Commissioner Linda M. Yates through the use personal email servers, Tor Browsers, relay internet list servers, and intermediaries to knowingly violate FL 286 – Open Meetings Law and FL 119 – Florida Public Records Law. Additionally, Commissioner Jacqueline Moore appears to have participated in “secret meetings and communication” with Commissioner Yates as recipient of emails and texts directly and through intermediaries.

This complaint relies on the AGO statement that “A public record is defined broadly in the statute to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in the connection with the transaction of official business by any agency” This would include mobile text messages, emails, “tweets”, and Face Book postings.

The complaint also relies on a significant body of Florida case law that has firmly established that “The clear policy the legislature has established for Florida is simple to understand: to have the public's business carried out in public.” City of Fort Myers v News-Press Publishing Co. Inc. 514 So. 2nd 408 (Fla. 2nd DCA 1987). The case law also establishes that “The sunshine law is to be construed liberally in favor of open government to assure openness in and access to government. Krause v. Reno 366 So.2nd 1244, 1250 (Fl 1979) see also Zorcv City of Vero Beach 722 So. 2nd 891 (Fla 4th DCA 1998); and the law is directed to: “frustrate all evasive devices Toen of Palm Beach v. Gradison 296 So. 2nd 473, 477 (Fla. 1974). And in part, “Remedial measures taken after lawsuit seeking declaratory judgment is filed do not moot a claim”. Gangloff v. Taylor 758 So. 2nd 1159 (Fla. 4th DCA 2000)

Sometime in 2012 and possibly before, City of North Port Commissioner Linda M. Yates began an email campaign based on email addresses gathered from her election campaign to distribute from her private email server “mail.lindayates.com” a continuing series of city business discussions under the banner of “K.Y.I. (Keeping You Informed). These email documents were not recorded or archived within the control of the City of North Port or accessible to the general public. However, the documents contained what would be considered upcoming agenda items, Yate's position on those items, and her exhortations to come to the commission meetings and speak based on the talking points.

At some point, the City Clerk began receiving public record requests for the KYI publication and was unable to fulfill those requests since the clerk had no record of them in any format. This process continued unabated through 2015 when the City Attorney advised Commissioner Yates of the problematic emails and their relation to Sunshine Law violations. It appears that Commissioner yates then provided what appears to be a partial list of recipients and a partial archive of the emails. It also appears that Yates then continued to send the publication in what appeared to be through her city email address lyates@cityofnorthport.com However an analysis of the full email headers shows that the emails are being routed through the private server via listserver software through mail.lindayates.com.

In January of 2016, the ICANN registrar noted that the domain registrar GoDaddy.com had terminated the domain and denied renewal for “legal disputes” (*clientRenewProhibited* <https://icann.org/epp#clientRenewProhibited>) This use of the personal email server both prior to legal counsel and then afterward with a continuing disregard for that advice effectively frustrates any attempt by the general public to see both the content of the emails and the full list of recipients of the emails and to be confident that the full record is being provided .

The scope of this complaint goes further. Not only had Yates used her personal email server to distribute “talking points” to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

At some point, Yates, under duress, provided the City Clerk with archived copies of the emails in PDF format (which prevents viewing the full email header) and a list of recipients. However, a simple survey of the email list and the archived emails shows numerous discrepancies in the number of recipients and the sequence of KYI emails. In other words, the lists and archives provided by Yates are not complete, accurate, or responsive to numerous requests for production.

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The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as is required. But more troubling is the clear potential that that information, that contains positions and political strategy germane to the conduct of City of North Port business and has created a regular, ad hoc “secret meeting” between at least two commissioners and other government officials.

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A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings, officials mentioned in FL 286.011 F.S.A, transact or agree to transact public business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal. City of Miami Beach v. Burns 179 So. 2nd 380 (1965)

This complaint further alleges that Commissioner Yates was well aware of the violations, continued to violate the law even after advisement by legal counsel, and continues to hide and obstruct the public's lawful ability to obtain public documents.

Commissioner Moore was also complicit in participating in discussions outside of the public view and in violation of the Sunshine Laws through her receipt of the KYI and other documents from Yates. While this complaint has no means or authority to obtain hidden records from Moore, it is suspected by the evidence at hand that additional communication between Yates and Moore, and her supporters will likely be revealed.

This complaint was researched and produced to stop a continuing violation of Florida law and make hidden records available to the public as is provided by those laws.

CITY CLERK
SEP 11 2013
CITY of NORTH PORT

Thursday Posted at 5:44 PM
Updated at 5:44 PM



Herald Tribune

Commission to discuss alleged Sunshine Law violation

By Earle Kimel
Staff Writer

Follow

NORTH PORT — An ethics complaint alleging a possible Sunshine Law violation tied to a commissioner's email blast is scheduled to be discussed by the North Port City Commission Tuesday.

A city spokesman said he is not aware of a similar complaint coming before the commission in recent memory. Meanwhile, a local paralegal well versed in Sunshine Law violations said the complaint is likely not valid.

The complaint stems from an email update City Commissioner Linda Yates used to send out from her personal email — later moved to her city email account — and covers the period of June 1, 2012, to July 20, 2016, the date it was filed with the Florida Elections Commission by North Port resident Kathy Schure.

It also involves North Port Mayor Jacqueline Moore as a potential recipient of the email blast, either on her own, through her husband or members of her staff, for the period of Jan. 16, 2015, to July 20, 2016.

At first, Yates sent the email blast, KYI — or Keeping You Informed — from her private email to addresses gathered through her election campaign. In 2015, she started sending out the blast from her city email, following advice from the city attorney.

North Port is the only government in Sarasota County that does not provide either online access or email mirroring to the emails of elected officials. The city clerk must search email archives, print out items and charge a fee to any party seeking to monitor them.

Thursday, October 20, 2016
Updated at 5:44 PM

Because Yates frequently indicated her position on issues that would come before the City Commission, Schure alleges violations of both public records and open meetings laws.

Schure was not available to elaborate on her allegations. A man who answered a phone listed for her on the complaint said she was on a trip and he did not know when she would return.

The complaint cites case law ranging from 1965 to 2000.

Though dated July 22, it was ultimately filed with the North Port City clerk in September and placed on Tuesday's commission agenda for discussion and possible action by outgoing City Commissioner Cheryl Cook, who lost the Aug. 30 District 2 primary race, finishing fourth, behind Moore, Chris Hanks and Samuel Cohen.

Cook did not respond to three messages left on her city cell phone.

Michael Barfield, a paralegal who works on Sunshine Law cases with Sarasota-based attorney Andrea Mogensen, said the email, even if Moore read it, likely does not constitute a Sunshine Law violation.

He cited a September 2011 decision by the Fourth District Court of Appeal in *Butler vs. City of Hallendale Beach* that upheld a lower court ruling that an email sent by the mayor of Hallendale Beach that contained three articles she wrote as a contributor to a local newspaper was not a public record.

"The issue there was whether it was a public record that was required to be made available, retained and archived," Barfield said.

"While I disagree with that case," he later added, "that is the closest on point at least in some contextual analysis."

Further, Moore's mere receipt of Yates' email would not constitute a violation, Barfield said. For a violation to occur, Moore would have had to respond.

"It sounds like she was communicating with her constituents," Barfield said of Yates' email.

"But facts matter. If it's just a one-way communication, that does not violate the Sunshine

Thursday Posted at 5:44 PM

Updated at 5:44 PM

Commission to discuss thrown-out elections complaint

By LAUREN COFFEY
STAFF WRITER

NORTH PORT — Two commissioners will find themselves defending email actions at the City Commission meeting.

The meeting, set for 10 a.m. today at City Hall, will cover a slew of topics including a complaint from a resident against Commissioner Linda Yates and Mayor Jacqueline Moore.

The complaint, filed by North Port resident Kathy Schure, was made on Sept. 16 to the State of Florida, Florida Elections Commission. It is an elections complaint and alleges a violation of the Sunshine Law was made.

In the complaint, Schure alleged Yates had a private email server from June 2012 to July 2016 where she sent several emails to members of the community under the banner "Keeping You Informed (KYI)." The

complaint said the emails contained potential agenda items, Yates' positions on those items and also alleged Yates urged email recipients to speak on the topics at commission meetings.

The complaint further alleges Moore was a recipient of the emails, which is a violation of the Sunshine Law by directly communicating on city business behind closed doors.

The Florida Elections Commission reviewed the complaint and found it to be legally insufficient.

"It's a personal matter, it has nothing to do with the city," Yates said. "It's nothing more than Commissioner Cook having a personal vendetta against me. All my emails are with the City Clerk, she has them all."

Moore stated the complaint was confidential so she had no comment.

Commissioners will

also give further direction to the City Manager Jonathan Lewis about allowing election signs on public property. At the last meeting commissioners advised Lewis and City Attorney Mark Moriarty to suspend the Unified Land Development Code for Election Day to allow election signs at polling places that are also government buildings. The guideline was originally put in place in 2014 after commissioners thought there were too many signs placed outside the buildings.

New topics will be proposed at the commission meeting as well, including graffiti-proofing the Myakkahatchee Creek Environmental Park Connector Bridge, expanding parking at the North Port Public Library and procuring 25 new vehicles for the North Port Police Department.

Email: lcoffey@sun-herald.com



EXHIBIT G

FLORIDA ELECTIONS COMMISSION

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

December 30, 2016

Linda Yates
6475 Munsing Ave
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Yates:

On October 20, 2016, the Florida Elections Commission notified Kathy Schure that the complaint she filed on August 22, 2016 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of insufficiency, this case is closed.

Please let me know if you have any questions.

Sincerely,
Amy McKeever Toman
Executive Director
Florida Elections Commission

AMT/enr

Douglas Daniels, P.A.
444 Seabreeze Blvd., Ste. 645
Daytona Beach, FL 32118

EXHIBIT H

Linda Yates
6475 Munsing Avenue
North Port, FL 34286

December 01, 2016

Invoice #10153

Professional Services

	<u>Amount</u>
11/11/2016 Review of file and client's email; respond to same.	90.00
For professional services rendered	<u>\$90.00</u>
For professional services rendered	<u>\$90.00</u>
Previous balance	<u>\$2,720.00</u>
Balance due	<u><u>\$2,810.00</u></u>

Douglas Daniels, P.A.
444 Seabreeze Blvd., Ste. 645
Daytona Beach, FL 32118

Linda Yates
6475 Munsing Avenue
North Port, FL 34286

November 01, 2016

Invoice #10128

Professional Services

	<u>Amount</u>
8/28/2016 Review of complaint and related documents; conference with client re same; review of statutes and case law re election violation; email to client re opinions of complaint; drafting response to the Elections Commission.	1,200.00
10/21/2016 Conference with client re disclosure of complaint and how to handle upcoming city commission meeting.	400.00
10/22/2016 Research various issues regarding records and ethics questions.	240.00
10/24/2016 Review of file; conference with client re strategy for Tuesday nights hearing.	400.00
10/25/2016 Review of insurance policy; drafting email re same.	300.00
10/28/2016 Conference with client re results of meeting.	180.00
For professional services rendered	<u>\$2,720.00</u>
For professional services rendered	<u>\$2,720.00</u>
Balance due	<u><u>\$2,720.00</u></u>

AFFIDAVIT

STATE OF FLORIDA

COUNTY OF SARASOTA

The undersigned, Kathryn L. Lanza, being duly sworn, deposes and says:

1. I am over the age of 18 and am a resident of the State of Florida. I have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. In 2014 Commissioner Linda Yates was running for reelection to the North Port City Commission.
4. During the period between September and November 2014, prior to the election, I made visits to homes in various North Port neighborhoods in support of Commissioner Yates.
5. On one of those days, during said period of time, I and another of Commissioner Yates' supporters, traveling together in one vehicle, had occasion to visit homes on a section of West Price Boulevard, North Port, Florida.
6. While going door to door we would park our car and walk to several homes and then return to our vehicle and drive on to our next section.
7. Upon arriving at the address of 3720 West Price Boulevard, I was greeted by a female, who I have come to recognize as Kathy Schure, who indicated she was not interested in supporting Commissioner Yates, and so I moved on to other homes in that area.
8. A short time later, we returned to our vehicle, and as we were about to pass the home at 3720 West Price Boulevard, Kathy Schure came out, carrying papers in her hand, flagging us down.
9. We stopped, at which time, she showed us financial papers of a personal nature of Commissioner Linda Yates, and stated that she, Kathy Schure, was only supporting Commissioner Cheryl Cook.
10. Commissioner Cheryl Cook was not up for reelection until 2016.

11. Commissioner Linda Yates was successful in her reelection in 2014.

I declare that, to the best of my knowledge and belief, the information herein is true, correct and complete.

Executed this 16th day of January, 2017.

Kathryn L. Lanza

Kathryn L. Lanza

NOTARY ACKNOWLEDGMENT

STATE OF FLORIDA, COUNTY OF SARASOTA. ss:


Notary Public



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

RECEIVED

2017 JAN 30 A 10:58

STATE OF FLORIDA
ELECTIONS COMMISSION

January 27, 2017

Re: Case No. FEC 16-362; Respondent: Linda Yates

NOTICE OF RELEASE OF LEGAL COUNSEL

Dear Donna Ann Malphurs,

I Linda M. Yates do hereby give notice that as of today, January 27, 2017 Mr. Douglas A. Daniels is no longer representing me in Case No. FEC 16-362.

Please send any correspondence pertaining to FEC 16-362 to me at my current address of 6475 Munsing Ave. North Port, FL 34291 or when applicable you may also send to my email address on file.

Sincerely,


Linda M. Yates

State of Florida
Florida Elections Commission

RECEIVED

In Re: Linda M. Yates
Respondent

2017 JAN 30 A 10:58
Case NO.: FEC 16-362
STATE OF FLORIDA
ELECTIONS COMMISSION

Petition For Costs and Attorney's Fees

I Linda M. Yates, Respondent Pro Se, do hereby file this Petition for Attorneys' Fees and Costs pursuant to Florida Statute §106.265, Florida Administrative Code Rule 2B-1.0045 and any other applicable laws, against complainant Kathy Schure and state as basis and grounds therefore the following:

1. Ms. Kathy Schure knowingly and recklessly submitted a sworn Complaint to the Florida Elections Commission to declare that I, a Commissioner duly elected in 2014 and another Commissioner whom was an incumbent candidate in the 2016 election, had violated Election Laws regardless of whether such declaration was false and Ms. Schure did so with malicious intent of using the FEC agency process available to the public at no cost to injure my reputation as well as aid Cheryl Cook an incumbent candidate, whom she supported, in making false statements about Ms. Cook's opponent.
2. I am currently a City Commissioner and will be termed out in 2018. I was initially elected in 2010 and re-elected in 2014 and was not a candidate in the 2016 election. Jacqueline Moore was a Commissioner also elected in 2014 and at the time Ms. Schure filed her complaint Mrs. Moore had resigned from her seat mid-term due to the impact of the implementation of residency District Seats in 2016 and she filed to run for her District seat which was the same District seat Ms Cook, who was running for re-election, also resided in and was a candidate. A City of North Port General Election was to be held on November 8, 2016 with a Primary Election taking place on August 30, 2016.
3. On or about August 22, 2016, Ms. Kathy Schure filed a sworn Florida Elections Commission Complaint against me and attested under oath that the information contained in her Complaint was "true and correct". A copy of the Complaint with her two page narrative is attached hereto as **Exhibit A**. The North Port City Commissioners at that time were: me (term expiring in 2018), Tom Jones (termed out in November 2016), Jacqueline Moore (a 2016 Candidate and current term expiring in November 2016), Rhonda DiFranco (a 2016 Candidate and current term expiring in November 2016) and Cheryl Cook (a 2016 Candidate and current term expiring in November 2016).
4. As the named Respondent I received the Complaint from FEC by certified mail on August 27, 2016. Due to the nature of the Complaint not only alleging violation of Election Law, but also asserting I was a candidate as well as a Commissioner that allegedly violated other laws, I retained an attorney for handling the matter.
5. Ms. Schure's Complaint against me included one copy of her narrative and an additional FEC Complaint form alleging City Commissioner Jacqueline Moore also violated election laws.

6. Ms. Schure's submission of the sworn FEC Confidential Complaint Form was prima facie allegation of violation of Election Laws by myself and Mrs. Moore.
7. Ms. Schure's swore that the information contained in her Complaint was true and correct however she knowingly asserted false fact stating on page 1 of the official Complaint Form in section 2 affirmation that I was a candidate seeking the office or position of Commissioner when in fact I was not, I have first-hand knowledge and witnesses that she knew my election was in 2014 and did not support my candidacy and by her own admission throughout her Complaint she acknowledged I was not a candidate. Particularly on page 6 of 7 in Exhibit A she states *"The concerns in this complaint are not trivial or caused by any inadvertent technical error. **A sitting commissioner** has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as required."* Also Ms. Schure file her Complaint with reckless disregard for whether her complaint contained false allegations of fact material to a violation of elections laws as Ms. Schure falsely asserted on page 1 in section 3 of her complaint that the specific provisions of the Florida Election Code violated by me were provided in her attachment but she did not do so. In fact the contents on pages 5 through 7 of her sworn Complaint is without merit and contradictory to the truth and correctness of the contents she attested to on pages 1 and 2.
8. On October 20, 2016 Ms. Schure was notified by letter from the Executive Director of FEC that her Complaint alleging violation of Florida's Election laws was received and upon review was found to be legally insufficient (attached as Exhibit B). In the letter Ms. Schure was also informed that she had submitted a complaint form naming me as Respondent with an attachment of a second complaint form indicating Jacqueline Moore as a Respondent as well as an attached narrative of allegations against me and therefore without any indication she intended to file two complaints the entire document was accepted by FEC as one complaint against me. In addition she was informed that essentially her allegations were pertaining to Florida Statute Chapters 286 and 119 of which were outside the FEC's jurisdiction that is limited to Chapters 104 and 106. Of significant note is that Ms. Schure already had knowledge of the FEC's limited jurisdiction as that was clearly stated in section 3 of the Complaint Form alleging Election law violation that Ms. Schure swore to and submitted. Even if Ms. Schure inadvertently forgot to submit the portion of a narrative pertaining to the sections of the election law she believed was violated she had 14 days to provide that information and if her Complaint submitted under oath were not a sham she would have submitted additional information to correct the stated grounds of insufficiency of her Complaint. However no evidence of any kind was provided with her initial complaint of alleged violation of election law nor did she provide any additional information subsequent to the October 20th letter from FEC nor did she submit any correspondence to FEC that her original documents submitted was intended to be two separate complaints against two separate Respondents.

9. In the City of North Port's Primary Election held on August 30, 2016 Cheryl Cook and Rhonda DiFranco lost their re-election while Cheryl Cook's opponent Jacqueline Moore prevailed and she moved on to the November 8, 2016 General Election.
10. On Friday September 9, 2016 Ms. Schure's FEC Confidential Complaint Form as submitted to FEC was hand delivered to the City of North Port's City Clerk's office with a request to make it a Public Record and make copies of it and distribute it to each of the North Port City Commissioners (attached as Exhibit C).
11. The FEC had not yet completed its review processes of Ms. Schure's Complaint. The City of North Port has no local jurisdiction over elections or ethics violations. Seeing Ms. Schure's document was labeled Florida Elections Commission Confidential Complaint Form, the City Clerk did not immediately distribute the document and instead she sought consult with the City Attorney whom advised her to contact the FEC as to confidentiality and distribution. The week of September 12, 2016 the City Clerk received clarification from FEC that the Confidentiality applied to FEC and unless the document was received directly from FEC the Confidentiality did not pertain to the City Clerk.
12. On or about September 16, 2016 Ms. Schure contacted the City Clerk asking her why her FEC Complaint had not yet been distributed to the Commissioners because Ms. Schure had spoken with a Commissioner who told her she hadn't received it yet.
13. On September 16, 2016 after having consulted with the FEC and North Port City Attorney, the City Clerk made copies of Ms. Schure's FEC Complaint and distributed it to all the City Commissioners.
14. On October 17, 2016, Commissioner Cheryl Cook who had lost her re-election in the August 30, 2016 Primary Election to her opponent Commissioner Jacqueline Moore, sent an email to the City Clerk (attached as Exhibit D) requesting to place on the October 25, 2016 City Commission meeting an agenda item for *"Discussion and Possible action regarding the contents of Complaint filed with the State of Florida, Florida Elections Commission, against Linda M. Yates and Jaqueline Moore copy filed with the Clerk September 09, 2016"*. The requested item was approved by the City Manager and placed on the October 25th meeting agenda. On October 18th the agenda item with a copy of Ms. Schure's Complaint was publicly posted and published (attached as Exhibit E). The October 25th City Commission Meeting was the last City Commission meeting prior to the November 8th Election.
15. On October 20th and October 25th articles were published in newspapers (see Exhibit F) regarding Ms. Schure's Complaint to be discussed by the City Commission. When a reporter tried to reach Ms. Schure for comment, a family member told the reporter she was on vacation and he had no idea when she would return. The City Commission agenda item also generated local news exposure and social media attention to Ms. Schure's Complaint alleging violations of election laws, sunshine laws and public records laws by both myself, a sitting Commissioner in mid-term and Jacqueline Moore a sitting Commissioner and candidate for re-election in the election taking place within 2 weeks.

16. After Ms. Schure accomplished getting a high level and widespread publicity of her FEC Complaint Form prior to the day of the City Commission meeting and prior to the November 8th election, on October 25th at the City Commission meeting Commissioner Cheryl Cook moved to remove the item from the agenda without any explanation or comment. Ultimately the City Commission did vote to remove the item from discussion at the dais however the meeting materials with Ms. Schure's FEC Complaint will remain publically accessible on the internet, on the City's website and through other public record mediums. Of note, 14 days later Commissioner Jacqueline Moore lost her re-election.
17. Ms. Schure's actions of submitting an FEC Complaint which on its face was a false allegation that I had violated election law and by her using the FEC Complaint form with reckless disregard of whether her allegations were false and then shortly after pushing the issue to get a Commissioner to use a City Commission meeting to bring widespread publicity to her Complaint, demonstrates a malicious intent to badger me and injure my reputation and by such action caused me to incur significantly more attorney fees for my defense. In addition Ms. Schure's actions also served to aid in disseminating statements of purported violation of laws by Ms. Cook's opponent Jacqueline Moore.
18. A reasonable person would see that Ms. Schure's strategically orchestrated filing of an FEC Complaint was with the underlining motive to inflict shame on my name and reputation, put in jeopardy my service as a duly elected Commissioner and inflict financial harm and as such I am entitled to her paying my attorney fees and costs. Not only does the content within Ms. Schure's entire 7 page Complaint support that she knew her allegation that I had violated Election Law was false but she knew better than to use the FEC Complaint process to submit allegations of Florida Statutes Chapters 286 Sunshine laws and Chapter 119 Public Records Laws.
19. On December 30, 2016 the FEC sent notice that since they had not received any additional information that corrected the stated grounds of insufficiency the case was closed (see Exhibit G).
20. Since receipt of Ms. Schure's Complaint on August 27, 2016 through January 3, 2017, due to Ms. Schure's filing of a false Complaint with FEC and her subsequent actions, I had incurred attorney fees in the amount of \$2810 (see attached Exhibit H). Additional attorney fees apply through today. Due to my limited financial means, I can no longer afford to be represented by counsel and as of today I had to release my attorney from this case and I am pursuing this Petition pro se.
21. I know that Mrs. Schure has held a longstanding loathing of me. She did not want me to prevail in my previous elections, but I did and by a significant majority. In fact, this is not the first time Ms. Shure has tried to injure my reputation. In the summer 2014, when I was running for re-election, she chased down my volunteers who were in her neighborhood walking door-to-door advocating support of me. Ms. Schure charged at two of my supporters with a handful of papers and expressing to them what a horrible person I was and showed them personal financial documents regarding my home that Schure had gathered. Ms. Schure also explicitly stated the only Commissioner she supports is Ms. Cheryl Cook (see attached affidavit Exhibit I).

22. Any reasonable person can clearly determine Ms. Schure fully knew her allegations in her FEC Complaint that I had violated Election Laws were false and that she didn't care that ultimately her FEC Complaint would be thrown out because while she asserts on page 1 in her Complaint I was a candidate and in section 3 that the alleged violations of Chapters 104, 106 and section 105.071 were attached, she included no supporting documents or information. A person who cites a lengthy litany of "case law" in her narrative on pages 5 through 7 clearly would have known what she was asserting did not pertain to Election laws nor to the agency she used to file a complaint. The Florida Bar Association does not show Ms. Schure among its members, yet she purports to possess considerable understanding of case law and legal proceedings. Furthermore, Schure's narrative demonstrates an intricate knowledge of information technology inner workings. Given these facts, it is inconceivable that she did not understand that Florida Statutes Chapters 286 and 119, the core of her improper allegations, are not within the stated purview of the Florida Elections Commission as the FEC's jurisdiction is plainly identified in her Complaint on page 1 which she read and swore to.
23. Ms. Schures actions reflect a reckless disregard for whether her complaint contained false allegations of fact material to violations of Chapter 106 or Chapter 104, FS. Her actions were a willful abuse of the FEC's process and taxpayer-funded resources for the malicious purpose to inflict harm to me politically, professionally and financially at no expense to herself. Simply by Ms. Schure's own narrative and citing of cases she knew she would incur fees to file a complaint in the appropriate forum as it pertains to sunshine law and or public records. Instead she wrongfully caused me to incur costs and attorney's fees in defending against malicious specious Complaint and as such her actions entitle me to an award of my attorney fees and costs to date and my pro se costs in pursuing this petition.
24. The Florida Elections Commission is charged with the responsibility of enforcing Florida's Election laws to ensure that those participating in Florida's electoral process comply with Florida law and those who do not are imposed with sanctions to ensure the reliability of the electoral process. Just as important to preserving the integrity of the FEC's processes is the Commission's responsibility to hold accountable persons who file a sham complaint against an individual or public official with malicious intent merely to injure the reputation of the person complained against by filing such complaint with knowledge that it contains false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of elections laws. By submission of a sworn Florida Elections Commission Confidential Complaint Form Ms. Schure alleged prima facie violation of election laws by me with knowledge such allegation was false and with reckless disregard whether such allegation of fact material to a violation of elections laws was false.
25. Now wherefore, I Linda M. Yates request that the Florida Elections Commission order the appropriate proceeding on this petition to award costs and attorney's fees to me from Kathy Schure pursuant to any and all statutes and rules that apply on the basis and grounds stated in this petition.

Respectfully submitted on this 27th day of January, 2017.

Linda M Yates

LINDA M. YATES
6475 Munsing Avenue
North Port, FL 34291

Sworn to and subscribed before me this 27th day of January, 2017.

[Signature]

Notary Public



Sandra K. Asbridge

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ or Produced Identification

My Commission expires: 5/19/2019



FEC 16-362 Petition for Costs and Attorney Fees

yates

to:

Florida Commission

01/27/2017 09:36 PM

Hide Details

From: <yates@lindayates.com>

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

1 Attachment



Petition for Attorney Fees and Costs 1-27-17.pdf

Dear Ms. Malphurs,

Attached is a Petition for Costs and Attorney Fees in the matter of FEC 16-362. A copy was also sent via fax. I am representing myself in this matter, as I can no longer afford an attorney. I will send a copy to you by mail as well.

Sincerely,

Linda M. Yates

941-423-0444

State of Florida
Florida Elections Commission

In Re: Linda M. Yates
Respondent

Case NO.: FEC 16-362

Petition For Costs and Attorney's Fees

I Linda M. Yates, Respondent Pro Se, do hereby file this Petition for Attorneys' Fees and Costs pursuant to Florida Statute §106.265, Florida Administrative Code Rule 2B-1.0045 and any other applicable laws, against complainant Kathy Schure and state as basis and grounds therefore the following:

1. Ms. Kathy Schure knowingly and recklessly submitted a sworn Complaint to the Florida Elections Commission to declare that I, a Commissioner duly elected in 2014 and another Commissioner whom was an incumbent candidate in the 2016 election, had violated Election Laws regardless of whether such declaration was false and Ms. Schure did so with malicious intent of using the FEC agency process available to the public at no cost to injure my reputation as well as aid Cheryl Cook an incumbent candidate, whom she supported, in making false statements about Ms. Cook's opponent.
2. I am currently a City Commissioner and will be termed out in 2018. I was initially elected in 2010 and re-elected in 2014 and was not a candidate in the 2016 election. Jacqueline Moore was a Commissioner also elected in 2014 and at the time Ms. Schure filed her complaint Mrs. Moore had resigned from her seat mid-term due to the impact of the implementation of residency District Seats in 2016 and she filed to run for her District seat which was the same District seat Ms Cook, who was running for re-election, also resided in and was a candidate. A City of North Port General Election was to be held on November 8, 2016 with a Primary Election taking place on August 30, 2016.
3. On or about August 22, 2016, Ms. Kathy Schure filed a sworn Florida Elections Commission Complaint against me and attested under oath that the information contained in her Complaint was "true and correct". A copy of the Complaint with her two page narrative is attached hereto as **Exhibit A**. The North Port City Commissioners at that time were: me (term expiring in 2018), Tom Jones (termed out in November 2016), Jacqueline Moore (a 2016 Candidate and current term expiring in November 2016), Rhonda DiFranco (a 2016 Candidate and current term expiring in November 2016) and Cheryl Cook (a 2016 Candidate and current term expiring in November 2016).
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CASE NO: *FEE 16-362*

Respectfully submitted on this 27th day of January, 2017.

Linda M Yates

LINDA M. YATES
6475 Munsing Avenue
North Port, FL 34291

Sworn to and subscribed before me this 27th day of January, 2017.

Sandra K Ashridge

Notary Public



Sandra K Ashridge

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ or Produced Identification

My Commission expires: *5/19/2019*

State of Florida
Florida Elections Commission

In Re: Linda M. Yates
Respondent

Case NO.: FEC 16-362

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8. On October 20, 2016 Ms. Schure was notified by letter from the Executive Director of FEC that her Complaint alleging violation of Florida's Election laws was received and upon review was found to be legally insufficient (attached as Exhibit B). In the letter Ms. Schure was also informed that she had submitted a complaint form naming me as Respondent with an attachment of a second complaint form indicating Jacqueline Moore as a Respondent as well as an attached narrative of allegations against me and therefore without any indication she intended to file two complaints the entire document was accepted by FEC as one complaint against me. In addition she was informed that essentially her allegations were pertaining to Florida Statute Chapters 286 and 119 of which were outside the FEC's jurisdiction that is limited to Chapters 104 and 106. Of significant note is that Ms. Schure already had knowledge of the FEC's limited jurisdiction as that was clearly stated in section 3 of the Complaint Form alleging Election law violation that Ms. Schure swore to and submitted. Even if Ms. Schure inadvertently forgot to submit the portion of a narrative pertaining to the sections of the election law she believed was violated she had 14 days to provide that information and if her Complaint submitted under oath were not a sham she would have submitted additional information to correct the stated grounds of insufficiency of her Complaint. However no evidence of any kind was provided with her initial complaint of alleged violation of election law nor did she provide any additional information subsequent to the October 20th letter from FEC nor did she submit any correspondence to FEC that her original documents submitted was intended to be two separate complaints against two separate Respondents.

9. In the City of North Port's Primary Election held on August 30, 2016 Cheryl Cook and Rhonda DiFranco lost their re-election while Cheryl Cook's opponent Jacqueline Moore prevailed and she moved on to the November 8, 2016 General Election.
10. On Friday September 9, 2016 Ms. Schure's FEC Confidential Complaint Form as submitted to FEC was hand delivered to the City of North Port's City Clerk's office with a request to make it a Public Record and make copies of it and distribute it to each of the North Port City Commissioners (attached as Exhibit C).
11. The FEC had not yet completed its review processes of Ms. Schure's Complaint. The City of North Port has no local jurisdiction over elections or ethics violations. Seeing Ms. Schure's document was labeled Florida Elections Commission Confidential Complaint Form, the City Clerk did not immediately distribute the document and instead she sought consult with the City Attorney whom advised her to contact the FEC as to confidentiality and distribution. The week of September 12, 2016 the City Clerk received clarification from FEC that the Confidentiality applied to FEC and unless the document was received directly from FEC the Confidentiality did not pertain to the City Clerk.
12. On or about September 16, 2016 Ms. Schure contacted the City Clerk asking her why her FEC Complaint had not yet been distributed to the Commissioners because Ms. Schure had spoken with a Commissioner who told her she hadn't received it yet.
13. On September 16, 2016 after having consulted with the FEC and North Port City Attorney, the City Clerk made copies of Ms. Schure's FEC Complaint and distributed it to all the City Commissioners.
14. On October 17, 2016, Commissioner Cheryl Cook who had lost her re-election in the August 30, 2016 Primary Election to her opponent Commissioner Jacqueline Moore, sent an email to the City Clerk (attached as Exhibit D) requesting to place on the October 25, 2016 City Commission meeting an agenda item for *"Discussion and Possible action regarding the contents of Complaint filed with the State of Florida, Florida Elections Commission, against Linda M. Yates and Jaqueline Moore copy filed with the Clerk September 09, 2016"*. The requested item was approved by the City Manager and placed on the October 25th meeting agenda. On October 18th the agenda item with a copy of Ms. Schure's Complaint was publicly posted and published (attached as Exhibit E). The October 25th City Commission Meeting was the last City Commission meeting prior to the November 8th Election.
15. On October 20th and October 25th articles were published in newspapers (see Exhibit F) regarding Ms. Schure's Complaint to be discussed by the City Commission. When a reporter tried to reach Ms. Schure for comment, a family member told the reporter she was on vacation and he had no idea when she would return. The City Commission agenda item also generated local news exposure and social media attention to Ms. Schure's Complaint alleging violations of election laws, sunshine laws and public records laws by both myself, a sitting Commissioner in mid-term and Jacqueline Moore a sitting Commissioner and candidate for re-election in the election taking place within 2 weeks.

16. After Ms. Schure accomplished getting a high level and widespread publicity of her FEC Complaint Form prior to the day of the City Commission meeting and prior to the November 8th election, on October 25th at the City Commission meeting Commissioner Cheryl Cook moved to remove the item from the agenda without any explanation or comment. Ultimately the City Commission did vote to remove the item from discussion at the dais however the meeting materials with Ms. Schure's FEC Complaint will remain publically accessible on the internet, on the City's website and through other public record mediums. Of note, 14 days later Commissioner Jacqueline Moore lost her re-election.
17. Ms. Schure's actions of submitting an FEC Complaint which on its face was a false allegation that I had violated election law and by her using the FEC Complaint form with reckless disregard of whether her allegations were false and then shortly after pushing the issue to get a Commissioner to use a City Commission meeting to bring widespread publicity to her Complaint, demonstrates a malicious intent to badger me and injure my reputation and by such action caused me to incur significantly more attorney fees for my defense. In addition Ms. Schure's actions also served to aid in disseminating statements of purported violation of laws by Ms. Cook's opponent Jacqueline Moore.
18. A reasonable person would see that Ms. Schure's strategically orchestrated filing of an FEC Complaint was with the underlining motive to inflict shame on my name and reputation, put in jeopardy my service as a duly elected Commissioner and inflict financial harm and as such I am entitled to her paying my attorney fees and costs. Not only does the content within Ms. Schure's entire 7 page Complaint support that she knew her allegation that I had violated Election Law was false but she knew better than to use the FEC Complaint process to submit allegations of Florida Statutes Chapters 286 Sunshine laws and Chapter 119 Public Records Laws.
19. On December 30, 2016 the FEC sent notice that since they had not received any additional information that corrected the stated grounds of insufficiency the case was closed (see Exhibit G).
20. Since receipt of Ms. Schure's Complaint on August 27, 2016 through January 3, 2017, due to Ms. Schure's filing of a false Complaint with FEC and her subsequent actions, I had incurred attorney fees in the amount of \$2810 (see attached Exhibit H). Additional attorney fees apply through today. Due to my limited financial means, I can no longer afford to be represented by counsel and as of today I had to release my attorney from this case and I am pursuing this Petition pro se.
21. I know that Mrs. Schure has held a longstanding loathing of me. She did not want me to prevail in my previous elections, but I did and by a significant majority. In fact, this is not the first time Ms. Shure has tried to injure my reputation. In the summer 2014, when I was running for re-election, she chased down my volunteers who were in her neighborhood walking door-to-door advocating support of me. Ms. Schure charged at two of my supporters with a handful of papers and expressing to them what a horrible person I was and showed them personal financial documents regarding my home that Schure had gathered. Ms. Schure also explicitly stated the only Commissioner she supports is Ms. Cheryl Cook (see attached affidavit Exhibit I).

22. Any reasonable person can clearly determine Ms. Schure fully knew her allegations in her FEC Complaint that I had violated Election Laws were false and that she didn't care that ultimately her FEC Complaint would be thrown out because while she asserts on page 1 in her Complaint I was a candidate and in section 3 that the alleged violations of Chapters 104, 106 and section 105.071 were attached, she included no supporting documents or information. A person who cites a lengthy litany of "case law" in her narrative on pages 5 through 7 clearly would have known what she was asserting did not pertain to Election laws nor to the agency she used to file a complaint. The Florida Bar Association does not show Ms. Schure among its members, yet she purports to possess considerable understanding of case law and legal proceedings. Furthermore, Schure's narrative demonstrates an intricate knowledge of information technology inner workings. Given these facts, it is inconceivable that she did not understand that Florida Statutes Chapters 286 and 119, the core of her improper allegations, are not within the stated purview of the Florida Elections Commission as the FEC's jurisdiction is plainly identified in her Complaint on page 1 which she read and swore to.
23. Ms. Schures actions reflect a reckless disregard for whether her complaint contained false allegations of fact material to violations of Chapter 106 or Chapter 104, FS. Her actions were a willful abuse of the FEC's process and taxpayer-funded resources for the malicious purpose to inflict harm to me politically, professionally and financially at no expense to herself. Simply by Ms. Schure's own narrative and citing of cases she knew she would incur fees to file a complaint in the appropriate forum as it pertains to sunshine law and or public records. Instead she wrongfully caused me to incur costs and attorney's fees in defending against malicious specious Complaint and as such her actions entitle me to an award of my attorney fees and costs to date and my pro se costs in pursuing this petition.
24. The Florida Elections Commission is charged with the responsibility of enforcing Florida's Election laws to ensure that those participating in Florida's electoral process comply with Florida law and those who do not are imposed with sanctions to ensure the reliability of the electoral process. Just as important to preserving the integrity of the FEC's processes is the Commission's responsibility to hold accountable persons who file a sham complaint against an individual or public official with malicious intent merely to injure the reputation of the person complained against by filing such complaint with knowledge that it contains false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of elections laws. By submission of a sworn Florida Elections Commission Confidential Complaint Form Ms. Schure alleged prima facie violation of election laws by me with knowledge such allegation was false and with reckless disregard whether such allegation of fact material to a violation of elections laws was false.
25. Now wherefore, I Linda M. Yates request that the Florida Elections Commission order the appropriate proceeding on this petition to award costs and attorney's fees to me from Kathy Schure pursuant to any and all statutes and rules that apply on the basis and grounds stated in this petition.

Respectfully submitted on this 27th day of January, 2017.

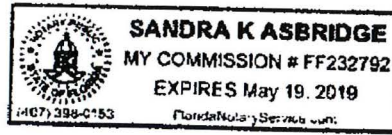
Linda M Yates

LINDA M. YATES
6475 Munsing Avenue
North Port, FL 34291

Sworn to and subscribed before me this 27th day of January, 2017.

[Signature]

Notary Public



Sandra K. Asbridge

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ or Produced Identification

My Commission expires: 5/19/2019

State of Florida
Florida Elections Commission

In Re: Linda M. Yates
Respondent

Case NO.: FEC 16-362

Petition For Costs and Attorney's Fees

I Linda M. Yates, Respondent Pro Se, do hereby file this Petition for Attorneys' Fees and Costs pursuant to Florida Statute §106.265, Florida Administrative Code Rule 2B-1.0045 and any other applicable laws, against complainant Kathy Schure and state as basis and grounds therefore the following:

1. Ms. Kathy Schure knowingly and recklessly submitted a sworn Complaint to the Florida Elections Commission to declare that I, a Commissioner duly elected in 2014 and another Commissioner whom was an incumbent candidate in the 2016 election, had violated Election Laws regardless of whether such declaration was false and Ms. Schure did so with malicious intent of using the FEC agency process available to the public at no cost to injure my reputation as well as aid Cheryl Cook an incumbent candidate, whom she supported, in making false statements about Ms. Cook's opponent.
2. I am currently a City Commissioner and will be termed out in 2018. I was initially elected in 2010 and re-elected in 2014 and was not a candidate in the 2016 election. Jacqueline Moore was a Commissioner also elected in 2014 and at the time Ms. Schure filed her complaint Mrs. Moore had resigned from her seat mid-term due to the impact of the implementation of residency District Seats in 2016 and she filed to run for her District seat which was the same District seat Ms Cook, who was running for re-election, also resided in and was a candidate. A City of North Port General Election was to be held on November 8, 2016 with a Primary Election taking place on August 30, 2016.
3. On or about August 22, 2016, Ms. Kathy Schure filed a sworn Florida Elections Commission Complaint against me and attested under oath that the information contained in her Complaint was "true and correct". A copy of the Complaint with her two page narrative is attached hereto as **Exhibit A**. The North Port City Commissioners at that time were: me (term expiring in 2018), Tom Jones (termed out in November 2016), Jacqueline Moore (a 2016 Candidate and current term expiring in November 2016), Rhonda DiFranco (a 2016 Candidate and current term expiring in November 2016) and Cheryl Cook (a 2016 Candidate and current term expiring in November 2016).
4. As the named Respondent I received the Complaint from FEC by certified mail on August 27, 2016. Due to the nature of the Complaint not only alleging violation of Election Law, but also asserting I was a candidate as well as a Commissioner that allegedly violated other laws, I retained an attorney for handling the matter.
5. Ms. Schure's Complaint against me included one copy of her narrative and an additional FEC Complaint form alleging City Commissioner Jacqueline Moore also violated election laws.

CASE NO: FEC 16-362

6. Ms. Schure's submission of the sworn FEC Confidential Complaint Form was prima facie allegation of violation of Election Laws by myself and Mrs. Moore.
7. Ms. Schure's swore that the information contained in her Complaint was true and correct however she knowingly asserted false fact stating on page 1 of the official Complaint Form in section 2 affirmation that I was a candidate seeking the office or position of Commissioner when in fact I was not, I have first-hand knowledge and witnesses that she knew my election was in 2014 and did not support my candidacy and by her own admission throughout her Complaint she acknowledged I was not a candidate. Particularly on page 6 of 7 in Exhibit A she states *"The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as required."* Also Ms. Schure file her Complaint with reckless disregard for whether her complaint contained false allegations of fact material to a violation of elections laws as Ms. Schure falsely asserted on page 1 in section 3 of her complaint that the specific provisions of the Florida Election Code violated by me were provided in her attachment but she did not do so. In fact the contents on pages 5 through 7 of her sworn Complaint is without merit and contradictory to the truth and correctness of the contents she attested to on pages 1 and 2.
8. On October 20, 2016 Ms. Schure was notified by letter from the Executive Director of FEC that her Complaint alleging violation of Florida's Election laws was received and upon review was found to be legally insufficient (attached as Exhibit B). In the letter Ms. Schure was also informed that she had submitted a complaint form naming me as Respondent with an attachment of a second complaint form indicating Jacqueline Moore as a Respondent as well as an attached narrative of allegations against me and therefore without any indication she intended to file two complaints the entire document was accepted by FEC as one complaint against me. In addition she was informed that essentially her allegations were pertaining to Florida Statute Chapters 286 and 119 of which were outside the FEC's jurisdiction that is limited to Chapters 104 and 106. Of significant note is that Ms. Schure already had knowledge of the FEC's limited jurisdiction as that was clearly stated in section 3 of the Complaint Form alleging Election law violation that Ms. Schure swore to and submitted. Even if Ms. Schure inadvertently forgot to submit the portion of a narrative pertaining to the sections of the election law she believed was violated she had 14 days to provide that information and if her Complaint submitted under oath were not a sham she would have submitted additional information to correct the stated grounds of insufficiency of her Complaint. However no evidence of any kind was provided with her initial complaint of alleged violation of election law nor did she provide any additional information subsequent to the October 20th letter from FEC nor did she submit any correspondence to FEC that her original documents submitted was intended to be two separate complaints against two separate Respondents.

CASE NO: FEC 16-362

9. In the City of North Port's Primary Election held on August 30, 2016 Cheryl Cook and Rhonda DiFranco lost their re-election while Cheryl Cook's opponent Jacqueline Moore prevailed and she moved on to the November 8, 2016 General Election.
10. On Friday September 9, 2016 Ms. Schure's FEC Confidential Complaint Form as submitted to FEC was hand delivered to the City of North Port's City Clerk's office with a request to make it a Public Record and make copies of it and distribute it to each of the North Port City Commissioners (attached as Exhibit C).
11. The FEC had not yet completed its review processes of Ms. Schure's Complaint. The City of North Port has no local jurisdiction over elections or ethics violations. Seeing Ms. Schure's document was labeled Florida Elections Commission Confidential Complaint Form, the City Clerk did not immediately distribute the document and instead she sought consult with the City Attorney whom advised her to contact the FEC as to confidentiality and distribution. The week of September 12, 2016 the City Clerk received clarification from FEC that the Confidentiality applied to FEC and unless the document was received directly from FEC the Confidentiality did not pertain to the City Clerk.
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CASE NO: FEC 16-362

16. After Ms. Schure accomplished getting a high level and widespread publicity of her FEC Complaint Form prior to the day of the City Commission meeting and prior to the November 8th election, on October 25th at the City Commission meeting Commissioner Cheryl Cook moved to remove the item from the agenda without any explanation or comment. Ultimately the City Commission did vote to remove the item from discussion at the dais however the meeting materials with Ms. Schure's FEC Complaint will remain publically accessible on the internet, on the City's website and through other public record mediums. Of note, 14 days later Commissioner Jacqueline Moore lost her re-election.
17. Ms. Schure's actions of submitting an FEC Complaint which on its face was a false allegation that I had violated election law and by her using the FEC Complaint form with reckless disregard of whether her allegations were false and then shortly after pushing the issue to get a Commissioner to use a City Commission meeting to bring widespread publicity to her Complaint, demonstrates a malicious intent to badger me and injure my reputation and by such action caused me to incur significantly more attorney fees for my defense. In addition Ms. Schure's actions also served to aid in disseminating statements of purported violation of laws by Ms. Cook's opponent Jacqueline Moore.
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21. I know that Mrs. Schure has held a longstanding loathing of me. She did not want me to prevail in my previous elections, but I did and by a significant majority. In fact, this is not the first time Ms. Shure has tried to injure my reputation. In the summer 2014, when I was running for re-election, she chased down my volunteers who were in her neighborhood walking door-to-door advocating support of me. Ms. Schure charged at two of my supporters with a handful of papers and expressing to them what a horrible person I was and showed them personal financial documents regarding my home that Schure had gathered. Ms. Schure also explicitly stated the only Commissioner she supports is Ms. Cheryl Cook (see attached affidavit Exhibit I).

CASE No: FEC 16-362

22. Any reasonable person can clearly determine Ms. Schure fully knew her allegations in her FEC Complaint that I had violated Election Laws were false and that she didn't care that ultimately her FEC Complaint would be thrown out because while she asserts on page 1 in her Complaint I was a candidate and in section 3 that the alleged violations of Chapters 104, 106 and section 105.071 were attached, she included no supporting documents or information. A person who cites a lengthy litany of "case law" in her narrative on pages 5 through 7 clearly would have known what she was asserting did not pertain to Election laws nor to the agency she used to file a complaint. The Florida Bar Association does not show Ms. Schure among its members, yet she purports to possess considerable understanding of case law and legal proceedings. Furthermore, Schure's narrative demonstrates an intricate knowledge of information technology inner workings. Given these facts, it is inconceivable that she did not understand that Florida Statutes Chapters 286 and 119, the core of her improper allegations, are not within the stated purview of the Florida Elections Commission as the FEC's jurisdiction is plainly identified in her Complaint on page 1 which she read and swore to.
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25. Now wherefore, I Linda M. Yates request that the Florida Elections Commission order the appropriate proceeding on this petition to award costs and attorney's fees to me from Kathy Schure pursuant to any and all statutes and rules that apply on the basis and grounds stated in this petition.

CASE NO: FEC 16-362

Respectfully submitted on this 27th day of January, 2017.

Linda M Yates

LINDA M. YATES
6475 Munsing Avenue
North Port, FL 34291

Sworn to and subscribed before me this 27th day of January, 2017.

[Signature]

Notary Public



Sandra K. Asbridge

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ or Produced Identification

My Commission expires: 5/19/2019



Re: FW: Case No.: FEC 16-362; Respondent Linda Yates 
Florida Elections Commission to: Doug Daniels
Sent by: **Donna Malphurs**

01/04/2017 10:15 AM

From: Florida Elections Commission/OAG
To: "Doug Daniels" <doug@danielslegal.com>

Dear Mr. Daniels,

You are correct. We did receive your email and letter dated August 28th. Attached is a copy of two letters that were inadvertently mailed to your client. This case was closed on December 30, 2016. If you have any questions, please let me know.

Sincerely,

Donna Ann Malphurs
Agency Clerk



2016-10-20_1st LI w add info form.docx



2016-12-30_Closing Ltr.docx

"Doug Daniels"

Ms Riley,

01/03/2017 04:43:03 PM

From: "Doug Daniels" <doug@danielslegal.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>
Date: 01/03/2017 04:43 PM
Subject: FW: Case No.: FEC 16-362; Respondent Linda Yates

Ms Riley,

I filed this answer on behalf of Linda Yates to an Elections Commission complaint.

Filing such an answer in any state or federal court would establish me has her attorney in the case, but the Elections Commission, Ms Yates says, needs something in addition. I am not sure what that thing in addition is. I've looked at the Commission's statute and rules and found nothing.

Please let me know what you need.

Thank you.

Doug

Douglas A. Daniels
Attorney at Law

444 Seabreeze Boulevard, Suite 645
Daytona Beach, Florida 32118
Telephone 386.255.8118
Cell 386.290.5358
Fax 386.255.8220

From: Doug Daniels [mailto:doug@danielslegal.com]
Sent: Sunday, August 28, 2016 10:37 AM
To: 'Florida Elections Commission'
Cc: Linda Yates
Subject: Case No.: FEC 16-362; Respondent Linda Yates

Ms Riley,

Enclosed is Ms Yates' response to the Florida Elections Commission complaint.

Please let me know if you need anything else.

Doug

Douglas A. Daniels
Attorney at Law
444 Seabreeze Boulevard, Suite 645
Daytona Beach, Florida 32118
Telephone 386.255.8118
Cell 386.290.5358
Fax 386.255.8220
[attachment "doc00863220160828091113.pdf" deleted by Donna Malphurs/OAG]



FLORIDA ELECTIONS COMMISSION

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

December 30, 2016

Linda Yates
6475 Munsing Ave
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Yates:

On October 20, 2016, the Florida Elections Commission notified Kathy Schure that the complaint she filed on August 22, 2016 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of insufficiency, this case is closed.

Please let me know if you have any questions.

Sincerely,
Amy McKeever Toman
Executive Director
Florida Elections Commission

AMT/enr

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

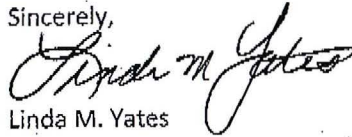
October 23, 2016

Re: Case No. FEC 16-362; Respondent: Linda Yates

Dear Donna Ann Malphurs,

I Linda M. Yates do hereby waive confidentiality in Case No. FEC 16-362.

Sincerely,



Linda M. Yates

RECEIVED
2016 OCT 24 / A 7:32
STATE OF FLORIDA
ELECTIONS COMMISSION



RE: FEC 16-362
yates
to:
Florida Elections Commission
10/23/2016 02:35 PM
Hide Details
From: <yates@lindayates.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>

1 Attachment



FECWC.jpg

Dear Ms. Malphurs, attached is my waiver of Confidentiality for FEC16-362.
I have also sent the same to you by fax.

Sincerely,
Linda M. Yates

----- Original Message -----

Subject: FEC 16-362
From: Florida Elections Commission <fec@myfloridalegal.com>
Date: Fri, October 21, 2016 5:14 pm
To: "Linda Yates" <yates@lindayates.com>

(See attached file: 16-362_1st LI.pdf)

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

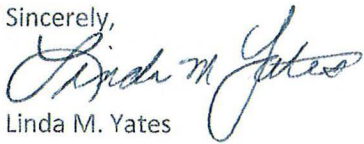
October 23, 2016

Re: Case No. FEC 16-362; Respondent: Linda Yates

Dear Donna Ann Malphurs,

I Linda M. Yates do hereby waive confidentiality in Case No. FEC 16-362.

Sincerely,

A handwritten signature in cursive script that reads "Linda M. Yates". The signature is written in black ink and is positioned above the printed name.

Linda M. Yates



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783

October 20, 2016

Kathy Schure
3720 West Price Blvd.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms. Schure:

The Florida Elections Commission has received your complaint alleging violations of Florida's election laws. I have reviewed your complaint and find it to be legally insufficient.

This complaint was received by the Florida Elections Commission on August 22, 2016. The cover page, which was an FEC complaint form, named Linda Yates as the Respondent. Attached to the complaint form was second complaint form indicating a different Respondent (Jacqueline Moore), as well as a narrative of the allegations against Ms. Yates. You did not indicate anywhere in the documents that you intended to file two complaints, so the Commission accepted the entire document as a complaint against Respondent Linda Yates.

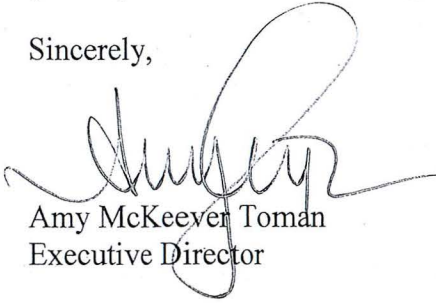
The essential allegations of your complaint are that Respondent violated Florida's open meetings and public records laws, Chapter 286 and 119, Florida Statutes, respectively. The jurisdiction of the Florida Elections Commission is limited to alleged violations of Chapter 104 and 106, Florida Statutes. As such, I find your complaint to be legally insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If we do not receive additional information that corrects the stated grounds of insufficiency, this case will be closed. For your convenience, enclosed is a form for your use in submitting additional information. If you submit an additional statement containing facts, you must sign the statement and have your signature notarized. In addition, any additional facts you submit to the Commission must be based on either personal information or information other than hearsay.

Until this case is closed, section 106.25(7), Florida Statutes, provides that the Respondent may not disclose this letter, the complaint, or any document related to this case, unless he or she waives confidentiality in writing. To waive confidentiality, the Respondent must mail or fax a written waiver of confidentiality to Donna Ann Malphurs at the address or fax number listed above.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McKeever Toman", written in a cursive style.

Amy McKeever Toman
Executive Director

AMT/enr

Enclosure: Additional Information Form

cc: Linda Yates, Respondent w/out Enclosure

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL ADDITIONAL INFORMATION FORM

Case Number: FEC <case #>

Pursuant to Rule 2B-1.0025, Florida Rules of Administrative Procedure, if you have additional information to correct the ground(s) of legal insufficiency stated in the attached letter, please explain below and attach any relevant documentation to this form:

OATH
STATE OF FLORIDA
COUNTY OF _____

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

Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this _____ day of

_____, 20 _____

Signature of Officer Authorized to Administer Oaths or Notary public.

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ Or Produced Identification _____

Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.



Case No.: FEC 16-362; Respondent Linda Yates

Doug Daniels

to:

'Florida Elections Commission'

08/28/2016 10:36 AM

Cc:

"Linda Yates"

Hide Details

From: "Doug Daniels" <doug@danielslegal.com>

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

Cc: "Linda Yates" <yates@lindayates.com>

History: This message has been replied to.

1 Attachment



doc00863220160828091113.pdf

Ms Riley,

Enclosed is Ms Yates' response to the Florida Elections Commission complaint.

Please let me know if you need anything else.

Doug

Douglas A. Daniels
Attorney at Law
444 Seabreeze Boulevard, Suite 645
Daytona Beach, Florida 32118
Telephone 386.255.8118
Cell 386.290.5358
Fax 386.255.8220

DOUGLAS A. DANIELS

Attorney At Law

Telephone (386)255-8118
Fax (386) 255-8220

Raymond James Building
Suite 645
444 Seabreeze Boulevard
Daytona Beach, Florida 32118

doug@danielslegal.com

August 28, 2016

Erin Riley
Deputy Agency Clerk
Florida Elections commission
107 West Gaines Street
Tallahassee, Fl 32399-1050

Re: Case No.: FEC 16-362; Respondent: Linda Yates

Dear Ms Riley:

I have read, reread, and read again Kathy Schure's complaint against Linda Yates and can find no alleged violation of Chapter 104, Chapter 106, or Section 105.071, Florida Statutes. Ms Schure seems more concerned with the public records and Sunshine Law, but I find no violation there either.

Please review the complaint and let me have your comments. If there is something I missed, please let me know.

Thank you.

Sincerely,


Douglas A. Daniels



Date Produced: 08/29/2016

Florida Elections Commission:

The following is the delivery information for Certified Mail™/RRE item number 9214 8969 0099 9790 1609 9376 02. Our records indicate that this item was delivered on 08/27/2016 at 11:01 a.m. in NORTH PORT, FL 34291. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink, appearing to read "Linda M. Ya".

Address of Recipient :

A handwritten address in black ink, appearing to read "6475 MUNSING".

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 16-362 14 Day Ltr-Linda M. Ya

A handwritten date in black ink, appearing to read "9/15/16".

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

9214 8969 0099 9790 1609 9376 02

Postage	\$ 0.465	Electronic Return Receipt Requested	Postmark Here
Certified Fee	\$3.30		
Return Receipt Fee (Endorsement Required)	\$1.35		
Restricted Delivery Fee (Endorsement Required)	\$0.00		
Total Postage & Fees	\$ 5.115		

Sent To Linda M. Yates
 6475 Munsing Ave
 North Port, FL 34286

*Street, Apt. No.;
 or PO Box No.*

City, State, Zip+4 8/25/2016 2:11:25PM

PS Form 3800, January 2013 See Reverse for Instructions

Code: 16-362; 14 Day Ltr



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783**

August 25, 2016

CERTIFIED MAIL 9214 8969 0099 9790 1609 9376 02

Linda M. Yates
6475 Munsing Ave.
North Port, FL 34286

RE: Case No.: FEC 16-362; Respondent: Linda M. Yates

Dear Ms. Yates:

On August 22, 2016, the Florida Elections Commission received the enclosed complaint alleging that you violated Florida's election laws. Section 106.25(2), Florida Statutes states:

The respondent shall have 14 days *after receipt* of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the complaint, please send it to my attention at the address listed above. To ensure that I receive your response in a timely manner, you may also want to send it via e-mail to my attention, at fec@myfloridalegal.com. You will be notified by letter whether the complaint is determined legally sufficient.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

Under section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing.

The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

Sincerely,

Erin Riley

Deputy Agency Clerk

ip/enr

Enclosure: Complaint w/attachments

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

RECEIVED
2016 AUG 22 P 1:34

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: LINDA M. YATES
Address: 6475 MUNSING AVE Phone: () _____
City: NORTH PORT County: SARASOTA State: FL Zip Code: 34286

If individual is a candidate, list the office or position sought: COMMISSIONER (City)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigation the following provisions: **Chapter 104, Chapter 106, and Section 105.071, Florida Statutes.** Also, please include:

- ✓ The facts and actions that you believe support the violations you allege,
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts,
- ✓ A copy or picture of the political advertisements you mention in your statement,
- ✓ A copy of the documents you mention in your statement, and
- ✓ Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF _____

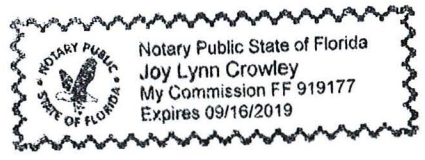
I swear or affirm, that the above information is true and correct to the best of my knowledge.



Kathy Schure
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17 day of
August, 20 16

Joy Lynn Crowley
Signature of Officer Authorized to Administer Oaths or Notary public



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification _____
Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050
Telephone Number: (850) 922-4539
www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: KATHY SCHURE Work Phone: () N/A
Address: 3720 W. PRICE BLVD Home Phone: (941) 426-2643
City: NORTHPORT County: SARASOTA State: FL Zip Code: 34286

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: JACQUELINE MOORE
Address: 1921 SCARLETT AVE Phone: (941) 223-1609
City: NORTHPORT County: SARASOTA State: FL Zip Code: 34289

If individual is a candidate, list the office or position sought: COMMISSIONER (CITY)

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: **Chapter 104, Chapter 106, and Section 105.071, Florida Statutes.** Also, please include:

- ✓ The facts and actions that you believe support the violations you alleged,
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts,
- ✓ A copy or picture of the political advertisements you mention in your statement,
- ✓ A copy of the documents you mention in your statement, and
- ✓ Other evidence that supports your allegations.

SEE ATTACHED

Additional materials attached (check one)? Yes No

4. **OATH**

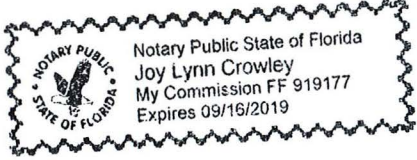
STATE OF FLORIDA
COUNTY OF Sarasota

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

[Handwritten Signature]
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 17 day of
August, 20 16

[Handwritten Signature]
Signature of Officer Authorized to Administer Oaths or Notary public



Joy Lynn Crowley
(Print, Type, or Stamp Commissioned Name of Notary Public)
Personally known Or Produced Identification
Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

**IN RE: Sunshine Law and Ethics Violations by City of North Port Commissioner
Linda M. Yates covering the period June 1, 2012 to July 20, 2016.**

**Sunshine Sunshine Law and Ethics Violations by City of North Port Commissioner
Jacqueline Moore covering the period January 16, 2015 to July 20, 2016.**

August 1, 2016

This writing is to bring a formal complaint and a request for investigation into illegal and unethical activity of Commissioner Linda M. Yates through the use personal email servers, Tor Browsers, relay internet list servers, and intermediaries to knowingly violate FL 286 – Open Meetings Law and FL 119 – Florida Public Records Law. Additionally, Commissioner Jacqueline Moore appears to have participated in “secret meetings and communication” with Commissioner Yates as recipient of emails and texts directly and through intermediaries.

This complaint relies on the AGO statement that “A public record is defined broadly in the statute to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in the connection with the transaction of official business by any agency” This would include mobile text messages, emails, “tweets”, and Face Book postings.

The complaint also relies on a significant body of Florida case law that has firmly established that “The clear policy the legislature has established for Florida is simple to understand: to have the public's business carried out in public.” City of Fort Myers v News-Press Publishing Co. Inc. 514 So. 2nd 408 (Fla. 2nd DCA 1987). The case law also establishes that “The sunshine law is to be construed liberally in favor of open government to assure openness in and access to government. Krause v. Reno 366 So.2nd 1244, 1250 (Fl 1979) see also Zorcv City of Vero Beach 722 So. 2nd 891 (Fla 4th DCA 1998); and the law is directed to: “frustrate all evasive devices Toen of Palm Beach v. Gradison 296 So. 2nd 473, 477 (Fla. 1974). And in part, “Remedial measures taken after lawsuit seeking declaratory judgment is filed do not moot a claim”. Gangloff v. Taylor 758 So. 2nd 1159 (Fla. 4th DCA 2000)

Sometime in 2012 and possibly before, City of North Port Commissioner Linda M. Yates began an email campaign based on email addresses gathered from her election campaign to distribute from her private email server “mail.lindayates.com” a continuing series of city business discussions under the banner of “K.Y.I. (Keeping You Informed). These email documents were not recorded or archived within the control of the City of North Port or accessible to the general public. However, the documents contained what would be considered upcoming agenda items, Yate's position on those items, and her exhortations to come to the commission meetings and speak based on the talking points.

At some point, the City Clerk began receiving public record requests for the KYI publication and was unable to fulfill those requests since the clerk had no record of them in any format. This process continued unabated through 2015 when the City Attorney advised Commissioner Yates of the problematic emails and their relation to Sunshine Law violations. It appears that Commissioner yates then provided what appears to be a partial list of recipients and a partial archive of the emails. It also appears that Yates then continued to send the publication in what appeared to be through her city email address lyates@cityofnorthport.com However an analysis of the full email headers shows that the emails are being routed through the private server via listserver software through mail.lindayates.com.

In January of 2016, the ICANN registrar noted that the domain registrar GoDaddy.com had terminated the domain and denied renewal for "legal disputes" (*clientRenewProhibited* <https://icann.org/epp#clientRenewProhibited>) This use of the personal email server both prior to legal counsel and then afterward with a continuing disregard for that advice effectively frustrates any attempt by the general public to see both the content of the emails and the full list of recipients of the emails and to be confident that the full record is being provided .

The scope of this complaint goes further. Not only had Yates used her personal email server to distribute "talking points" to her campaign list, a search through *TraceRoute* of the full email headers reveals that the emails were also being sent to North Port City Commissioner Jacqueline Moore via a private email address, to her husband, and to several of her personal staff including Cheri Lee who acts as personal liaison for Moore and to Peter Bartolotta a campaign advisor. Direct communication out of the public view and apparently deliberately hidden from public view between sitting commissioners is a clear violation of the law whether sent directly or passed through intermediaries . A review of the partial email list that this complaint has obtained shows additional communication with city board members, members of the North Port Area Chamber of Commerce government relations committee members, and individuals who conduct financial business with the City, all of which are conducted outside of the full public view required by law.

At some point, Yates, under duress, provided the City Clerk with archived copies of the emails in PDF format (which prevents viewing the full email header) and a list of recipients. However, a simple survey of the email list and the archived emails shows numerous discrepancies in the number of recipients and the sequence of KYI emails. In other words, the lists and archives provided by Yates are not complete, accurate, or responsive to numerous requests for production.

A further review of the *TraceRoute* data obtained from direct emails shows that the private server through its listserver software receives and sends data in excess of the known number of KYI emails. That excess can either be due to the existence of more KYI emails not archived in control of the City Clerk or evidence of additional communications sent to the listserver software that sends emails to the known and unknown recipient list, or both. A full examination of the server, the software and the contents of the emails will likely require discovery which is not in the scope of this complaint. However, there is enough information at hand to warrant further examination by state law enforcement.

The concerns in this complaint are not trivial or caused by any inadvertent technical error. A sitting commissioner has for an extended period of time produced documents on City business and transmitted the documents to a private list of email recipients, outside of the view of the general public as is required. But more troubling is the clear potential that that information, that contains positions and political strategy germane to the conduct of City of North Port business and has created a regular, ad hoc "secret meeting" between at least two commissioners and other government officials.

This complaint quotes:

A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings, officials mentioned in FL 286.011 F.S.A, transact or agree to transact public business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal. City of Miami Beach v. Burns 179 So. 2Nd 380 (1965)

This complaint further alleges that Commissioner Yates was well aware of the violations, continued to violate the law even after advisement by legal counsel, and continues to hide and obstruct the public's lawful ability to obtain public documents.

Commissioner Moore was also complicit in participating in discussions outside of the public view and in violation of the Sunshine Laws through her receipt of the KYI and other documents from Yates. While this complaint has no means or authority to obtain hidden records from Moore, it is suspected by the evidence at hand that additional communication between Yates and Moore, and her supporters will likely be revealed.

This complaint was researched and produced to stop a continuing violation of Florida law and make hidden records available to the public as is provided by those laws.