

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**In Re: Wakulla County Republican Executive
Committee**

Case No.: FEC 16-356

TO: Benjamin J. Gibson, Esquire
Benjamin J. Gibson PA
517 East 9th Avenue
Tallahassee, FL 32303

Hugh Taylor
1357 Martin Luther King Jr. Road
Crawfordville, FL 32327

NOTICE OF HEARING (PROBABLE CAUSE DETERMINATION)

A hearing will be held in this case before the Florida Elections Commission on, **August 16, 2017 at 8:30 am, or as soon thereafter as the parties can be heard**, at the following location: **Senate Office Building, 404 South Monroe Street, Room 110-S, Tallahassee, Florida 32399**

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

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

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

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

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

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

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

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

See further instructions on the reverse side.

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

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

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

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

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

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

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

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



Response to FEC 16-356 Staff Recommendation

Ben Gibson

to:

Florida Elections Commission

07/28/2017 01:04 PM

Cc:

Cole Kekelis

Hide Details

From: Ben Gibson <ben@gibsonpa.com>

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

Cc: Cole Kekelis <Cole.Kekelis@myfloridalegal.com>

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images

1 Attachment



Response FEC 16-356 (In re Wakulla County Republican Exec. Comm.).pdf

Donna,

Please find attached Respondent's Response to Staff Recommendation for FEC 16-356.

Thank you,
-Ben

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**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

IN RE: WAKULLA COUNTY REPUBLICAN
EXECUTIVE COMMITTEE,

Case No.: FEC 16-356

Respondent.

RESPONSE TO STAFF RECOMMENDATION

COMES NOW the Respondent, Wakulla County Republican Executive Committee (“WCREC”) through Chris Russell, its Chairman, by undersigned counsel and pursuant to section 106.25(4)(c), Florida Statutes, files this response to the Staff Recommendation and shows that the recommended finding of probable cause must be rejected.

PRELIMINARY STATEMENT

This Complaint alleges that Respondent, the Wakulla County Republican Executive Committee (“WCREC”), through its Chairman, Chris Russell, “aided, abetted, or advised” the violation of the Election Code by organizing a candidate forum and inviting candidates for the nonpartisan offices of Wakulla County Commission to attend. The candidates running for county commission who accepted the invitation to attend and speak at the candidate forum organized by Respondent are alleged to have been “campaigning based on party affiliation” in violation of the Election Code. This is despite the fact that none of the candidates mentioned their party affiliation in their speech at the forum or in any political advertisement.

The Commission is being asked to hold that political parties and its officers are categorically prevented from meaningfully participating in nonpartisan elections by organizing a candidate forum for its members and voicing preferences for certain nonpartisan candidates. The

Complainant¹ asks this Commission to ignore the actions and words of the nonpartisan candidates, who never stated their party affiliation, and instead to focus on the party affiliation of the Respondent and voters to whom the candidates spoke. The Complaint presumes that when a candidate for nonpartisan office accepts an invitation to speak to a partisan group he adopts that group's partisan identity and is "campaigning based on party affiliation." In turn, the political party organizers of the event are then liable for "aiding, abetting, or advising" the candidates to violate the Election Code. Such a restrictive reading of 106.143(3), Florida Statutes, limits the ability of political parties and their members to engage in these local elections, and unnecessarily prevents a candidate for nonpartisan office from reaching key parts of the electorate.

The Division of Elections ("Division") has interpreted section 106.143(3), Florida Statutes, to allow nonpartisan candidates to be endorsed by political parties,² to accept contributions from political parties,³ to publicly promote their past experience with a political party,⁴ and to publicly support a political party nominee for President.⁵ It would be a major policy shift and a misreading of section 106.143(3), Florida Statutes, by this Commission to hold that the Election Code categorically prevents a candidate running for nonpartisan office from attending and speaking at a candidate forum organized by a political party, even if the candidate does not mention his party affiliation. And a further shift to hold that political parties, such as Respondent, and their officers that host a candidate forum with candidates for a nonpartisan office are "aiding, abetting, and advising" in a violation of the Election Code.

Under the Code, candidates for nonpartisan office are free to accept invitations to speak to all types of groups- both partisan and non-partisan as long as their message does not involve

¹ Complainant is Hugh Taylor, a resident of Wakulla County involved with a local group of residents known as "Concerned

² See DE 03-02 (February 21, 2003).

³ See *id.*

⁴ See DE 10-02, (March 3, 2010) citing *id.*

⁵ See DE 16-17 (January 17, 2017).

campaigning based on party affiliation.⁶ It appears that the Staff Recommendation reads section 106.143(3) to either:

- 1) Categorically prevent nonpartisan candidates from participating in a candidate forum organized by a political party; or
- 2) Allow political parties to hold candidate forums with nonpartisan candidates but place a condition on the party that it must invite all nonpartisan candidates.

Either option is a misreading of section 106.143(3), Florida Statutes. Option 1 reads the Code to prevent candidates running for nonpartisan offices from being able to get their message out to key parts of the electorate. Option 2 reads the Code to mandate an “equal time” requirement not found in statute that would cause political party officers to violate their loyalty oaths and transform political parties into nonpartisan organizations, which they are not.

The correct reading of section 106.143(3) is that a candidate for a nonpartisan office may attend a candidate forum organized by a political party, however they are prevented from distributing materials that state their political affiliation and they are prevented from campaigning on the basis of their political affiliation (i.e. stating their party affiliation). This reading is in line with the statute, Division of Elections opinions, the common practice throughout the State, and most importantly, does not unconstitutionally interfere with the first amendment rights of candidates or political parties in regards to nonpartisan elections.

STATEMENT OF FACTS

On August 11, 2016, the Respondent, WCREC, whose Chairman is Chris Russell, held a candidate forum where nonpartisan candidates were invited to speak to members of the WCREC

⁶ Section 106.143(3) states in part, “A political advertisement of a candidate running for nonpartisan office may not state the candidate’s political party affiliation. This section does not prohibit a political advertisement from stating the candidate’s partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.”

and the general public in attendance. The following nonpartisan candidates for county commission were invited to speak: Richard Harden, Ralph Thomas, Michael Stewart, John Shuff, and Gordon Millender. (SR 10).⁷ All candidates and the general public were invited to attend the event. Not surprisingly, at this WCREC meeting there were indications, as one would expect, that the WCREC supports Republican candidates. There was a generic sign on the podium at the front that clearly read "Vote Republican" and there was another sign that stated "Republicans" with a large elephant graphic. (ROI 7, Exh 6-7). None of these signs mentioned any of the candidates for nonpartisan offices.

The WCREC is a political organization that supports Republicans. Mr. Russell, as Chairman of the WCREC, is a registered Republican who also supports Republican causes. In fact, Mr. Russell, as Chairman of the Wakulla REC was required to complete a Republican Party Loyalty Oath where he pledged not to support any candidate that is not a registered Republican (See Exh. E). Mr. Russell made this clear by saying, "We did invite all the registered Republican candidates to come up." This was important to emphasize because there were multiple registered Republicans who were running for county commission, and Mr. Russell's loyalty oath prohibits him from supporting one Republican over another Republican.

At the beginning of the forum, Mr. Russell addressed the WCREC and emphatically said, "Let me clear something up real quick. This is not a problem, what we're doing." (SR 8). Chairman Russell based this statement on the firm belief that holding the forum or participating in it was not a violation. (SR 23). He went on to say that many partisan groups have hosted non-partisan candidate forums including nearby Leon County and Franklin County.⁸ (SR 8).

⁷ The Staff Recommendation shall be referred herein as "SR" and the Report of Investigation as "ROI."

⁸ It is common for Republican and Democrat county executive committees to hold local candidate forums for nonpartisan races and invite only candidates who are registered members of their respective party to participate in the forum. (See Exh. H, advertisement for Leon County Democratic Party Candidate Forum held on February 22, 2016, for Tallahassee City Commission

Chairman Russell discussed the candidate forum with Wakulla County Supervisor of Elections, Henry Wells. (SR 17). Supervisor Wells had received similar inquiries and was not sure whether or not a partisan organization holding a forum for nonpartisan candidates would violate the Election Code. So, he contacted the Department of State's legal office and spoke to an attorney on staff who reportedly stated that the candidates would be "skating on thin ice" by attending and speaking at the forum (SR 17). It is not clear from the record if Supervisor Wells mentioned to the attorney that the nonpartisan candidates would be attending and speaking but would not be stating their party affiliation.

Supervisor Wells stated in testimony that he relayed the "skating on thin ice" advice he received from the attorney at the Department of State to Mr. Russell, but that he did not tell Respondent whether or not he could hold the forum (SR 17). Mr. Russell attested that Supervisor Wells told him that the attorney from the Division of Elections stated he "could not validate that the forum itself, nor the attendance by any candidates, *partisan* or nonpartisan, would be a violation of Florida Statutes." (SR 21).

As the Staff Recommendation at paragraph 21 points out, "Mr. Russell further stated that he and [Supervisor] Wells 'jointly reviewed' Section 106.143, Florida Statutes, to determine if the forum or attendance by candidates would lead to a violation of the Election Code, **but they could not find where it would do so.**" (SR 21, emphasis added). Further the Staff Recommendation at paragraph 22 points out, "Mr. Russell asserted that he asked [Supervisor] Wells directly if the forum or attendance by local candidates would violate Florida Statutes, and [Supervisor] Wells, '. . . could not say that it would be,' and stated **he** (Supervisor Wells) **had**

and Leon County Commission with only registered Democrats invited. *available at:* <https://www.facebook.com/events/1684797161778692/>). Both Leon County and the City of Tallahassee have nonpartisan elections for their commissions.

not advised any candidate that they would be in violation of the Election Code if they attended the event. (SR 22, quoting ROI Exhibit 9, emphasis added).

Following the candidate forum, Hugh Taylor filed this Complaint as well as several other complaints against the nonpartisan candidates that participated in the forum. The Complaint alleges that Respondent, through its Chairman, violated section 104.091(1), and knowingly aided, abetted, or advised nonpartisan candidates to violate section 106.143, Florida Statutes, by attending and speaking at a forum held by the WCREC, thereby causing the nonpartisan candidates to campaign based on party affiliation. (SR 3, 4).

LEGAL ARGUMENT

I. Probable cause does not exist to believe that Respondent knowingly aided, abetted or advised violation of the Florida Election Code because no violation occurred

The Staff Recommendation correctly points out section 104.091(1), Florida Statutes, which prohibits a person from knowingly aiding, abetting, or advising the violation of the Election Code (SR 11).

Section 104.091(1), states:

- 1) Any person who knowingly aids, abets, or advises the violation of this code shall be punished in like manner as the principal offender.

However, in order for Respondent to violate section 104.091(1), the candidates for nonpartisan office must have violated section 106.143(3), Florida Statutes, which they did not.

Respondent did not "aid" any candidate in violating section 106.143(3), Florida Statutes

Violation of section 106.143(3) is considered a minor violation under Rule 2B-1.003(2)(h), F.A.C. The video evidence cited in the investigative report makes it clear that none of the nonpartisan candidates stated their party affiliation when speaking to the WCREC. The Staff Recommendation correctly points out that the Election Code does not define the word

“campaigning.” However, the Division of Elections in a 2010 advisory opinion has defined the word by stating that it includes all acts to bring about a candidate’s election.

The Staff Recommendation states that “it was an act of campaigning when each nonpartisan candidate [spoke at a candidate forum to encourage or solicit votes].” And goes on to say that “Due to the particular circumstances of this forum, the nonpartisan candidates affiliated themselves very closely with the Republican party by presenting themselves to the public as obvious Republican candidates for nonpartisan offices and choosing to speak behind and among signs encouraging observers to, “Vote Republican.” (SR 29). The particular circumstances were as follows:

- 1) A sign stating “Vote Republican” located at the podium and a sign stating “Republicans” with a large elephant graphic on display behind the speakers (SR 7);
- 2) Newspaper articles, taken together, suggesting that two candidates for nonpartisan office who were registered Democrats were not invited to participate in the forum (SR 5); and
- 3) The WCREC Chairman’s statement that all the registered Republicans were invited (SR 9).

Section 106.143(3) prevents candidates in nonpartisan elections from campaigning based on party affiliation. It does not, as the Staff Recommendation asserts, mandate that candidates in nonpartisan elections completely avoid partisan voters, groups, or venues. Section 106.143(3) regulates the *candidate’s* message. It does not require the candidate to regulate and control the message of the organizations and voters it chooses to speak to.⁹ Neither does it regulate the

⁹ The absurdity of this rationale if taken to its logical conclusion would prevent a nonpartisan candidate who was registered as a Republican from accepting an invitation to speak to a Democratic group. It also would likely prevent the nonpartisan candidate

message or the behavior of partisan political organizations and their officers. If a candidate for a nonpartisan office were invited to participate in a Democrat, Libertarian, Constitution, or Green Party forum there surely would be partisan signs and statements made in support of those political parties as well. What is relevant under section 106.143(3) is the speech of the candidate not of the individuals and groups organizing an event.

A candidate running for a nonpartisan office is free to bring his nonpartisan message to any group of voters- whether partisan or nonpartisan. Just because a candidate speaks to a group of voters does not mean that the candidate endorses everything that group stands for. The Staff Recommendation seems to assert that when a candidate simply shows up and speaks to a group of partisan political voters, that candidate is now affiliating himself with the partisan group and thus “campaigning based on political affiliation.” When in fact, nonpartisan candidates in an effort to campaign should be free to speak to all voters- those aligned with partisan organizations and those not. A candidate running for a nonpartisan office that speaks at a candidate forum organized by a political party without stating their political affiliation is not “campaigning based on party affiliation.” Because there was no violation of the Election Code by the nonpartisan candidates, the Respondent did not “aid” anyone in a violation of the Code.

Respondent did not “abet”¹⁰ any candidate into violating the Election Code

The record reflects that at no point did the Respondent command, advise, instigate, or encourage the non-partisan candidates to campaign based on party affiliation. To reach this result, the Commission must conclude that political parties are categorically not allowed to hold nonpartisan candidate forums or that political parties can hold nonpartisan candidate forums but

from speaking to “partisan” groups closely aligned and supportive of candidates from one political party (e.g. NRA, Planned Parenthood, TEA Party, EMILY’s List).

¹⁰ Abet is a French word which combines “a” with “beter”-to bait or excite an animal. Abettor means a person who commands, advises, instigates, or encourages another to commit a violation of the code. Black’s Law Dictionary, 5 (6th ed.1990).

that the Election Code dictates whom they must invite even if inviting certain candidates would cause the political party officers to violate their party loyalty oaths. Even if Respondent were to take down the sign "Vote Republican" and the elephant graphic, the Respondent's very name invokes a partisan message.

Respondent did not "advise" any candidate to violate the Election Code

Respondent did not suggest to any candidate that they violate the Election Code. To the extent that Respondent, through its Chairman, reassured attendees at the meeting that what they were doing was "ok," Respondent's belief was based on the fact that neither the Supervisor of Elections nor the Division of Elections could point to any statute or advisory opinion that prevented a political party from holding a candidate forum with nonpartisan candidates.

Respondent did not have knowledge

Even if Respondent, through its Chairman, was found to have "aided, abetted, or advised", which it did not, the record clearly reflects that it did not have any knowledge of such actions. In fact, the record reflects the exact opposite. To hold that Mr. Russell had knowledge based on a comment by an attorney at the Department of State relayed second-hand by the Supervisor of Elections that did not say one way or the other whether participation was allowed is difficult. After consultation, neither the Division of Elections nor the Supervisor of Elections could point to any statute or advisory opinion that prohibited non-partisan candidates from attending and speaking at a candidate forum hosted by a partisan organization. Supervisor Wells did not tell Respondent whether or not he could hold the forum (SR 17); Supervisor Wells said the Department of State attorney "could not validate that the forum itself, nor the attendance by any candidates, *partisan* or nonpartisan, would be a violation of Florida Statutes" (SR 21); Mr. Russell and Supervisor Wells "jointly reviewed" section 106.143 and could not find where it was

a violation for nonpartisan candidates to attend the forum (SR 21); Supervisor Wells told Mr. Russell that he could not say emphatically that attendance by the candidates at the forum would be a violation (SR 22); and Supervisor Wells stated he had not advised *any* candidate that they would be in violation of the Election Code if they attended the event. (SR 22). For all these reasons, the Commission should find no probable cause and dismiss the Complaint.

II. Probable cause does not exist because previous Division of Election advisory opinions show that nonpartisan candidates can interact with political parties without being in violation of section 106.143(3)

The Division of Elections in multiple advisory opinions has made it clear that candidates in a nonpartisan election are allowed to interact with political parties as long as they do not publicly advertise their political party affiliation. Candidates for nonpartisan office can accept contributions from political parties, can be endorsed by political parties, can state and publicly promote their past experience with a particular political party, and can publicly support a Republican or Democrat nominee for President of the United States.¹¹ Section 106.26(13), Florida Statutes, requires the Commission to “in all its deliberations and decisions, adhere to statutory law and advisory opinions of the division.”

In *Division of Elections Opinion* 03-02 (February 21, 2003) (Exh. C), adhered to in *Division of Elections Opinion* 10-02 (March 3, 2010), and cited in the Staff Recommendation, the Division advised then Senator Buddy Dyer who was a candidate for the nonpartisan office of Orlando Mayor. Answering a series of questions about the extent a nonpartisan candidate could be involved with a political party, the Division emphasized section 106.143(3) by stating that political advertisement must not be construed as “campaigning based on party affiliation” and “**information stating your political affiliation** may not appear in your political advertising.”

¹¹ See DE 03-02 (February 21, 2003).

(See Exh. C). However, the Division did not go so far as to preclude all interaction or involvement with a political party, specifically stating:

- 1) Nonpartisan candidates are allowed to list partisan related experience such as “executive committee of [Republican/Democrat] party” in campaign advertisements;
- 2) Nonpartisan candidates are allowed to accept contributions from political parties;
- 3) Political parties may endorse nonpartisan candidates; and
- 4) Political parties are allowed to make independent expenditures regarding a nonpartisan candidate.

In other words, the only thing the Division specifically has prohibited under section 106.143(3), Florida Statutes, is “stating your political affiliation.” A nonpartisan candidate who speaks at a partisan event without stating their party affiliation is no more “campaigning based on party affiliation” than a nonpartisan candidate who receives contributions, endorsements, and states past experience with a particular political party—all actions specifically authorized by the Division.

Earlier this year, in *Division of Elections Opinion 16-17* (January 17, 2017), (Exh. D) the Division interpreted section 106.143(3) and advised that a candidate for a nonpartisan municipal office was not prohibited from publicly stating that they support a particular candidate for President of the United States. In its analysis, the Division opined that nothing prevents a nonpartisan candidate from stating their opinion or preference for a candidate in other races whether partisan or nonpartisan.

In sum, the Complaint wants this Commission to find that section 106.143(3) allows a candidate for nonpartisan office to publicly state that they support Donald Trump the Republican

nominee for President,¹² to advertise that they formerly held a position with the Republican Party,¹³ to be endorsed by the Republican Party,¹⁴ and to accept contributions from the Republican Party, but at the same time find that section 106.143(3) prevents nonpartisan candidates from participating in a candidate forum organized by a political party, even if the candidate never once mentions his party affiliation. Clearly this reading of the statute goes against the Division of Elections previous advisory opinions of which this Commission is bound by, and therefore the Commission should find no probable cause and dismiss the Complaint.

III. Probable cause does not exist because section 106.143(3) should not be read to require political parties participating in nonpartisan elections to provide platforms for candidates not of their choosing and to require violation of political party loyalty oaths

The Staff Recommendation relies partly on an article by *The Wakulla News* reporting that two candidates for nonpartisan offices were not invited to attend and speak at the candidate event because they were registered Democrats (SR 5) and a statement by Chairman Russell that, “We did invite all the registered Republicans to come up.” (SR 9). The Staff Recommendation implies that if all the candidates had been invited (both registered Republicans and Democrats) then there may not have been a violation.

But this “equal time” requirement can be found nowhere in statute or Division of Election advisory opinions, and presumably that is because the Legislature knows that including such a requirement would potentially cause political party officers, to violate their own party loyalty oaths. Both major political parties in Florida require their political officers to file loyalty oaths (*See Exhs. F & G*) which is their right. “Political parties are not governmental entities, and there is no fundamental right on the part of a citizen to run for the executive committee of a

¹² DE 16-17 (January 17, 2017).

¹³ DE 10-02 (March 3, 2010); DE 03-02 (February 21, 2003).

¹⁴ DE 03-02.

political party without obeying the party's rules.” Republican Party of Miami-Dade Cty. v. Davis, 18 So. 3d 1112, 1118 (Fla. 1st DCA 2009).

Chris Russell, as Respondent’s Chairman, and organizer of the candidate forum was required as a condition of membership on the County and State Republican Executive Committees to file an oath of party loyalty stating in part:¹⁵

I swear or affirm that during my term of party office I will not actively, publicly, or financially support the election of any candidate seeking election against:

- (1) The Republican Party’s nominee in a partisan unitary, general, or special election that includes a Republican nominee; or*
- (2) A registered Republican in a non-partisan election, except that this provision does not apply to judicial races under Chapter 105, Florida Statutes. (Exh. E).*

If Mr. Russell as Respondent’s Chairman were to give a registered Democrat running in a nonpartisan election against a registered Republican a platform to speak at a Republican Executive Committee meeting, he would likely violate his sworn party loyalty oath.

The Staff Recommendation relies on a statement by Chairman Russell taken out of context. During the introduction of the first nonpartisan candidate Chairman Russell stated, “We did invite all the registered Republican candidates to come up.” There were multiple registered Republicans running for the same nonpartisan County Commission seat and not all chose to attend. Chairman Russell in order to make it clear that he was not violating Republican Party of Florida rules and his party loyalty oath stated that all Republicans running were invited.

The Party loyalty oath also states:

I further swear or affirm that, in a contested Republican primary election, I will not support the nomination of one Republican candidate over another in my

¹⁵ Each Republican Executive Committee member required by Republican Party of Florida Rule 9 (Exh. F) to sign a party loyalty oath must file the oath with the Chairman of his or her respective State or County Republican Executive Committee (or the Chairman’s designee) no later than 30 days after election to party office. The party loyalty oath must be witnessed, verified, or notarized. The Republican Party loyalty oath is made part of the Republican Party of Florida Rules of Procedure and is filed with the Department of State pursuant to section 103.091(3), F.S. (available at: <http://dos.elections.myflorida.com/campaign-docs/?account=4700>).

capacity as a Republican Executive Committee member unless the Executive Committee has voted to endorse that candidate in accordance with RPOF Rule 8.

Similarly, the Florida Democratic Party also has a party loyalty oath for its members. [Exh G. and on file with the Department of State]¹⁶ that states:

[D]uring my term of office, I will not support the election of the opponent of any Democratic nominee, I will not oppose the election of any Democratic nominee, nor will I support any non-Democrat against a Democrat in any election other than in judicial races. . . .

Members of political parties are required by their respective bylaws and rules of procedure to take loyalty oaths that prevent them from doing anything that supports someone running against a member of their party, even in a nonpartisan race. The Legislature is presumed to know about party loyalty oaths, especially since many Legislators have filed such oaths themselves. And surely, the Legislature did not intend for members of political parties to be forced to choose between violating their own loyalty oaths or engaging in nonpartisan elections. The Commission should not newly interpret an existing statute to interfere with a political party's rules (*See Republican Party of Miami-Dade Cty.* at 1119, stating, "Florida's Election Code has therefore recognized that a state may not interfere in the internal governance and operations of political parties").

IV. Probable cause does not exist because section 106.143(3) should not be read to unconstitutionally infringe on the First Amendment rights of political parties and candidates in nonpartisan elections

An agency must enforce its rules in a constitutional manner. See Fla. Pub. Emps. Council 79, AFSCME v. Dep't of Children & Families, 745 So. 2d 487, 491 (Fla. 1st DCA 1999). The Commission should reject the Staff Recommendation and dismiss the Complaint because to do otherwise would be to interpret an otherwise constitutional statute (section 106.143(3), Florida

¹⁶ The Democratic Party Loyalty Oath is made part of the Florida Democratic Party Rules and pursuant to section 103.091(3), F.S., is filed with the Department of State. (available at: <http://dos.elections.myflorida.com/campaign-docs/?account=1539>).

Statutes) in an unconstitutional manner. In order to find probable cause against the Respondent for “aiding, abetting, or advising” the violation of the Election Code (under section 104.091(1), Florida Statutes), the Commission must at the same time conclude that a violation of section 106.143(3), Florida Statutes occurred and that candidates in nonpartisan elections are not allowed to attend and speak at any political party event without violating section 106.143(3). This reading infringes on the constitutional rights of candidates running for nonpartisan offices and the rights of political parties wishing to engage in nonpartisan elections.

Categorically prohibiting candidates in a nonpartisan election from speaking to political parties would violate the First Amendment

In Republican Party of Minnesota v. White, 416 F. 3d 738 (8th Cir. 2005) (en banc), the Eighth Circuit determined that the Minnesota partisan activities clause, which prohibited judges and judicial candidates from identifying themselves as members of political organizations, attending political gatherings, or seeking, accepting, or using endorsements from political organizations, violated the First Amendment. Id. at 754–63. If a law restricting the First Amendment rights of judges to attend political gatherings could not survive strict scrutiny, then certainly such a law applied to nonpartisan candidates for county commission could not survive strict scrutiny. See Republican Party of Minnesota v. White, 536 U.S. 765, 793 (2002) (Kennedy, J. concurring) (“Judicial Integrity is . . . a state interest of the highest order.”).

Political parties have a constitutional right to associate with candidates of their choosing

In addition to the party loyalty oaths, political parties have a constitutional right to associate with the candidates of their choosing. The right to associate for the advancement of political beliefs is a right protected by the First and Fourteenth Amendments. Ray v. Mortham, 742 So. 2d 1276, 1285 (Fla. 1999). A corresponding provision of the Florida Constitution, likewise, protects the rights of individuals to associate with whom they please and to assemble

with others for political or for social purposes. State v. J.P., 907 So. 2d 1101, 1111 (Fla. 2004). Because individuals exercise their free speech rights by participating in political parties, political parties also possess First Amendment rights. San Francisco County Democratic Cent. Comm. v. Eu, 826 F.2d 814, 818 (9th Cir.1987), *aff'd*, 489 U.S. 214, 109 S.Ct. 1013, 103 L.Ed.2d 271 (1989). Indeed, “[a]ny interference with the freedom of a party is simultaneously an interference with the freedom of its adherents.” Sweezy v. State of N.H. by Wyman, 354 U.S. 234, 250 (1957).

Political parties have a constitutional right not to associate with certain candidates

Included within this constitutional protection is the right of political party members "not to associate" with those who do not share their party platforms or rules, so long as they do not engage in prohibited acts of discrimination. Republican Party of Miami-Dade County v. Davis, 18 So. 3d 1112, 1118 (Fla. 3d DCA 2009); *see also* Roberts v. U.S. Jaycees, 468 U.S. 609, 623 (1984) (“There can be no clearer example of an intrusion into the internal structure or affairs of an association than a regulation that forces the group to accept members it does not desire. Such a regulation may impair the ability of the original members to express only those views that brought them together. Freedom of association therefore plainly presupposes a freedom not to associate.”). Election regulations that impose a severe burden on those rights are subject to strict scrutiny, and courts should uphold them only if they are narrowly tailored to serve a compelling state interest. Libertarian Party of Florida v. Smith, 687 So. 2d 1292, 1294 (Fla. 1996).

The Division of Elections in DE 03-02 made it clear that political parties can endorse one nonpartisan candidate over another. If so, then surely a political party can choose which nonpartisan candidates they would like to come and speak at their meeting. The Commission

should not read section 106.143(3) in a way that places an unconstitutional requirement on political parties to give a platform to all candidates even those not of their choosing.

V. Probable cause does not exist when weighing all of the factors

Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Dep't of Hwy Safety and Motor Vehicles v. Favino*, 667 So. 2d 305, 309 (Fla. 1st DCA 1995) (SR 26).

Section 106.25(4)(f) states that the Commission in making its probable cause determination, may consider:

1. The sufficiency of the evidence against the respondent, as contained in the investigator's report;
2. The admissions and other stipulations of the respondent, if any;
3. The nature and circumstances of the respondent's actions;
4. The expense of further proceedings; and
5. Such other factors as it deems material to its decision.

The Respondent, through its Chairman, Mr. Russell, has cooperated throughout this investigation and sought out advice from the local Supervisor of Elections who (even after consulting with the Division of Elections) could not point Respondent to any statute or advisory opinion that prohibited the type of violation alleged in this complaint. Given the expense of further investigation and proceedings and the lack of evidence of a violation and lack of knowledge on the part of Respondent, the Commission should reject the staff recommendation and find no probable cause that Respondent violated section 104.091(1), Florida Statutes.

VI. Probable cause does not exist because the complaint is legally insufficient

No evidence in the record supports that the nonpartisan candidates are even affiliated with the Republican Party beyond statements made by people other than the candidates themselves. This is telling since section 106.143(3) applies to *candidates* running in nonpartisan races. It prevents the *candidate* from stating a party affiliation or campaigning based on party affiliation. The nonpartisan candidates did nothing of the sort.

Section 106.143(3) prevents the *candidate* from mentioning party affiliation or campaigning based on party affiliation. It does not prevent a nonpartisan candidate from being associated at all with a political party (*See* DE 10-02; DE 03-02 stating that non-partisan candidates can list partisan related experience such as “executive committee of ____ party” in campaign advertisements).

Nothing within chapters 104 or 106 prohibits a candidate for nonpartisan office from speaking at a political party event if that candidate does not state their party affiliation or distribute political advertisements stating their party affiliation. Therefore, the Respondent did not violate section 104.091(1), which prohibits a person from knowingly aiding, abetting, or advising the violation of the Election Code.

VII. Probable cause does not exist because the Commission lacks jurisdiction

Despite the initial finding of legal sufficiency for this Complaint, the Commission lacks jurisdiction under section 106.25(2), Florida Statutes, and the complaint must be dismissed.¹⁷

Elections Commission Rule 2B-1.0025(3), F.A.C. states:

¹⁷ Section 106.25, Florida Statutes, states in part, “. . . If any complainant fails to allege all violations that arise from the facts or allegations alleged in a complaint, the commission shall be barred from investigating a subsequent complaint from such complainant that is based upon such facts or allegations that were raised or could have been raised in the first complaint. . . .” (emphasis added).

“If a person files a second complaint against the same person, the executive director shall determine that the second complaint is legally insufficient, if the second complaint alleges violations that are based upon the same facts or allegations that were raised or could have been raised in the first complaint.”

FEC 16-355 named the Respondent as Chris Russell, individually. FEC 16-356, names the Wakulla County Republican Executive Committee, acting through its Chairman, Chris Russell. Both complaints are targeted at the behavior of Chris Russell as Chairman of the Wakulla County Republican Executive Committee and both are based upon the same facts and allegations that were raised in the other complaint. Chris Russell acted as Chairman of the WCREC at all times and the WCREC acted at all times through Chris Russell. The two were one in the same. Therefore, under the statute and the rule, the complaint should be deemed legally insufficient and dismissed by the Commission. In the alternative, the complaint filed against Chris Russell (FEC 16-355) should be dismissed. The Commission lacks jurisdiction over both complaints.

CONCLUSION

Respondent respectfully requests that the Commission reject the Staff Recommendation and find no probable cause that the Respondent violated section 104.091(1), Florida Statutes, and dismiss this complaint.

Dated: July 28, 2017

Respectfully submitted,

/s/ Benjamin J. Gibson
Benjamin J. Gibson
Florida Bar No.: 58661
BENJAMIN J. GIBSON, P.A.
517 E. 9th Ave.
Tallahassee, FL 32303
Phone: (850) 792-5060

Primary Email: ben@gibsonpa.com
Secondary Email: service@gibsonpa.com

*Counsel for Respondent, Wakulla County
Republican Executive Committee*

EXHIBITS

7/27/2017

Detail by Entity Name

DIVISION OF CORPORATIONS



Department of State / Division of Corporations / Search Records / Detail by Document Number /

Detail by Entity Name

Florida Not For Profit Corporation
CONCERNED CITIZENS OF WAKULLA, INC

Filing Information

Document Number N03000006211
FEI/EIN Number 90-0110416
Date Filed 07/21/2003
State FL
Status ACTIVE

Principal Address

14 EGRET ST N
CRAWFORDVILLE, FL 32327

Changed: 04/24/2013

Mailing Address

PO BOX 713
CRAWFORDVILLE, FL 32326

Changed: 04/25/2017

Registered Agent Name & Address

HANSON, CHAD W
14 EGRET STREET NORTH
CRAWFORDVILLE, FL 32327

Officer/Director Detail

Name & Address

Title CH

HESS, CHUCK
112 LAKE ELLEN CIR
CRAWFORDVILLE, FL 32327

Title TR

HICKMAN, GAIL B.
528 HICKORYWOOD DR.
CRAWFORDVILLE, FL 32327

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?InquiryType=EntityName&directionType=Initial&searchNameOrder=CONCERNEDCITIZEN...> 1/2

EXHIBIT A

7/27/2017

Detail by Entity Name

Annual Reports

Report Year	Filed Date
2015	04/17/2015
2016	03/30/2016
2017	04/25/2017

Document Images

04/25/2017 - ANNUAL REPORT	View image in PDF format
03/30/2016 - ANNUAL REPORT	View image in PDF format
04/17/2015 - ANNUAL REPORT	View image in PDF format
04/28/2014 - ANNUAL REPORT	View image in PDF format
04/24/2013 - ANNUAL REPORT	View image in PDF format
03/12/2012 - ANNUAL REPORT	View image in PDF format
01/16/2011 - ANNUAL REPORT	View image in PDF format
01/02/2010 - ANNUAL REPORT	View image in PDF format
04/29/2009 - ANNUAL REPORT	View image in PDF format
01/30/2008 - ANNUAL REPORT	View image in PDF format
04/20/2007 - ANNUAL REPORT	View image in PDF format
04/17/2006 - ANNUAL REPORT	View image in PDF format
04/29/2005 - ANNUAL REPORT	View image in PDF format
04/28/2004 - ANNUAL REPORT	View image in PDF format
07/21/2003 - Domestic Non-Profit	View image in PDF format

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquiryType=EntityName&directionType=Initial&searchNameOrder=CONCERNEDCITIZEN...> 2/2

EXHIBIT A



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Vice Chairman, District 3](#)

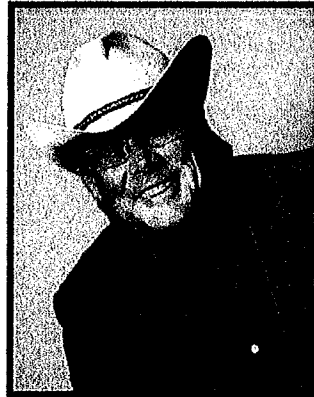
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Commissioner Chuck Hess

[E-mail](#) [Print](#)



Democrat

Cell Phone #: (850) 570-8786

Email Address: chess@mywakulla.com

Term Ends: 2020

EXHIBIT B

February 21, 2003

The Honorable Buddy Dyer
c/o Mark Herron, Esquire
Messer, Caparello & Self
Post Office Box 1876
Tallahassee, Florida 32302-1876

RE: DE 03-02
Activities of Political Parties Relating to Candidates for
Nonpartisan Municipal Office §97.021(18), §106.08(2),
§106.021(3), Florida Statutes

Dear Senator Dyer:

This is in response to your request for an advisory opinion. As a candidate for Mayor of the City of Orlando, the division has the authority to issue an opinion to you pursuant to section 106.23(2), Florida Statutes.

You ask essentially the following questions:

1. Can political advertising for or on behalf of a candidate for a nonpartisan mayoral office refer to the political party affiliation of the candidate?
2. To what extent may a political party make a contribution to or on behalf of a candidate for a nonpartisan mayoral office, and conversely, to what extent may a candidate for a nonpartisan mayoral office accept a contribution of a political party made to or on behalf of such candidate?
3. May a political party make a 3-pack expenditure pursuant to section 106.021(3), Florida Statutes; and, if so, what are the respective reporting responsibilities of the political party and the candidate for nonpartisan mayoral office regarding such an expenditure?
4. May a political party make an independent expenditure for or on behalf of a candidate for a nonpartisan mayoral office?

EXHIBIT C

The Honorable Buddy Dyer
February 21, 2003
Page Two

You represent in your letter that the municipal office of Mayor is a nonpartisan office pursuant to the Orlando City Charter. Please note that Chapter 106, Florida Statutes, is specifically applicable to municipal offices.

In order to answer your questions, we must first look to the statutory definition of "nonpartisan office." Section 97.021(18), Florida Statutes, defines a "nonpartisan office" to mean, "an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation." This definition applies to all nonpartisan offices.

As to Question 1, as a candidate for a nonpartisan municipal office you are prohibited from campaigning based upon party affiliation. Therefore, you must be very careful that your political advertising cannot be construed as such. Each advertisement would have to be reviewed independently to determine whether it meets this test. However, pursuant to section 97.021(18), Florida Statutes, as a nonpartisan municipal candidate, you may not publicly represent or advertise yourself as a member of any political party. Thus, information stating your political affiliation may not appear in your political advertising. It is permissible, however, for you to list partisan related experience such as "executive committee of _____ party" in campaign advertisements. In doing so you would simply be providing information on past experiences as opposed to "campaigning based on party affiliation." Political advertisements done by others in consultation with you would have to meet the same requirements.

As to Question 2, a political party may make a contribution to a candidate for a nonpartisan mayoral office and a candidate for a nonpartisan mayoral office may accept a contribution from a political party. Such contributions would be subject to the limitations contained in section 106.08(2), Florida Statutes.

As to Question 3, pursuant to section 106.021(3), Florida Statutes, a political party may make direct expenditures for "obtaining time, space, or services in or by any communications medium for the purpose of jointly endorsing three or more candidates." Further, pursuant to that section any such expenditures shall not be considered a contribution or expenditure to or on behalf of any such candidate for the purposes of Chapter 106. A nonpartisan mayoral candidate may be endorsed by any or all political parties. Therefore, a political party may make a 3-pack expenditure that would include a candidate for a nonpartisan mayoral office. A political party would report it as an expenditure, but not as a contribution. The candidate would have no responsibility to report it.

As to Question 4, a political party may make an independent expenditure regarding a candidate for a nonpartisan mayoral office.

EXHIBIT C

The Honorable Buddy Dyer
February 21, 2003
Page Three

SUMMARY

A candidate for a nonpartisan mayoral office may not state their political affiliation in their campaign advertising. They may, however, list partisan related experience such as "executive committee of _____ party" in campaign advertisements. A political party may make a contribution to a candidate for a nonpartisan mayoral office and a candidate for a nonpartisan mayoral office may accept a contribution from a political party. Such contributions would be subject to the limitations contained in section 106.08(2), Florida Statutes. A political party may make a 3-pack expenditure that would include a candidate for a nonpartisan mayoral office. A political party may make an independent expenditure regarding a candidate for a nonpartisan mayoral office.

Sincerely,

Edward C. Kast
Director, Division of Elections

Prepared by:
Sharon D. Larson
Assistant General Counsel

EK/SDL/ccm

EXHIBIT C



FYI

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 17, 2017

Mr. John J. Mannion, Jr.
P.O. Box 620721
Oviedo, Florida 32762

Re: DE 16-17 Advertising; Nonpartisan
Candidate; §§ 97.021(22), 106.143(3),
Florida Statutes.

Dear Mr. Mannion:

As a nonpartisan candidate for municipal office, you have requested an advisory opinion regarding whether, under the Florida Election Code, you may make it known which candidate you support in the Presidential election. Because you are a candidate proposing to take certain actions with respect to the Florida Election Code, the Division is authorized to issue an opinion pursuant to section 106.23(2), Florida Statutes.¹

FACTS

You state that you are a candidate for Oviedo city councilmember, which is a nonpartisan office. You also state that you have been asked whom you support for President of the United States, and you indicate that if you give a response, it may be published. You ask whether stating your preferred candidate would violate the prohibition in section 106.143(3), Florida Statutes, against a nonpartisan candidate "campaigning based on party affiliation."

ANALYSIS

Under Florida law, a "nonpartisan office" is defined as "an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party

¹ The Division has authority to interpret provisions of the Florida Election Code, but has no authority to interpret local provisions such as a city ordinance or a city charter. See § 106.23(2), Fla. Stat. Therefore, this opinion limits itself to interpreting the Florida Election Code.

Division of Elections
R.A. Gray Building, Suite 316 • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6200 • 850.245.6217 (Fax) DOS.MyFlorida.com/elections



EXHIBIT D

Mr. John J. Mannion, Jr.
January 17, 2017
Page 2 of 2

affiliation." § 97.021(22), Fla. Stat. A candidate for nonpartisan office is restricted on how he or she campaigns, as follows:

A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation. This section does not prohibit a political advertisement from stating the candidate's partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

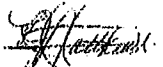
§ 106.143(3), Fla. Stat.

While this provision prohibits a candidate for nonpartisan office from "campaigning based on party affiliation," it does not prohibit such candidate from "stating the candidate's partisan-related experience." *Id.* Nor is there anything in the provision that expressly prohibits the candidate from stating opinions about other races, whether partisan or nonpartisan. Therefore, it is the opinion of the Division that section 106.143(3), Florida Statutes, does not prohibit you as a candidate for the nonpartisan office of city councilmember from stating that you support a particular candidate for President as long as you are not "campaigning based on party affiliation."²

SUMMARY

Section 106.143(3), Florida Statutes, does not prohibit a candidate for the nonpartisan office of city councilmember from expressing an opinion about another candidate for partisan office as long as the candidate is not "campaigning based on party affiliation."

Respectfully,


Maria I. Matthews, Esq.
Director, Division of Elections

² Of course, candidates seeking a nonpartisan *judicial* office are prohibited outright from endorsing *any* candidate. See § 105.071(4), Fla. Stat.

EXHIBIT D



Republican Party of Florida Party Loyalty Oath

I, Frank Charles Russell, swear and/or affirm that during my term of
(Name of Member - Please write clearly)

office I will not actively, publicly, or financially support the election of any candidate other than the
Republican Candidate in a partisan unitary, general or special election, or a registered Republican in
non-partisan elections, other than Judicial races governed under chapter 105, Florida Statutes, if
there is a registered Republican running for the same office.

Further, in a contested Republican primary election, I will not support the nomination of one
Republican candidate over another in my capacity as a Republican County Executive Committee member
unless the Party has voted to endorse under RPOF Rule 8. This rule does not preclude me from
supporting in any manner my personal Republican candidate of choice, provided I do not express
such support with public reference to my title or office within the Republican Party of Florida.

Chris Russell
Signature of Member

[Signature]
Signature of Witness

2
County/Precinct #

1/6/15
Date

Office: BEC Chairman
(State Committeeman, State Committeewoman; Precinct Committeeman, Precinct Committeewoman;
Alt. Precinct Committeeman, Alt. Precinct Committeewoman)

[Redacted]
Address, as it appears on voter registration
[Redacted]
City, State, Zip

[Redacted]
Email
[Redacted]
Phone Number

EXHIBIT E

RULE 9 – Oath of Party Loyalty

A. Form of Party Loyalty Oath

As a condition of membership on a Republican Executive Committee, each County Republican Executive Committee and State Republican Executive Committee member must sign and file an oath of party loyalty in the following form:

I swear or affirm that during my term of party office I will not actively, publicly, or financially support the election of any candidate seeking election against:

(1) The Republican Party's nominee in a partisan unitary, general, or special election that includes a Republican nominee; or

(2) A registered Republican in a non-partisan election, except that this provision does not apply to judicial races under Chapter 105, Florida Statutes.

I further swear or affirm that, in a contested Republican primary election, I will not support the nomination of one Republican candidate over another in my capacity as a Republican Executive Committee member unless the Executive Committee has voted to endorse that candidate in accordance with RPOF Rule 8. This provision does not preclude me from supporting in any manner my personal Republican candidate of choice in a contested Republican primary election, provided I do not express such support with public reference to my title or office within the Republican Party of Florida.

B. Filing Instructions for Party Loyalty Oath

Each Republican Executive Committee member required by this Rule to sign a party loyalty oath must file the oath with the Chairman of his or her respective State or County Republican Executive Committee (or the Chairman's designee) no later than 30 days after election to party office. The party loyalty oath shall be witnessed, verified, or notarized.

RULE 10 – Selection of Delegates and Alternate Delegates to the Republican National Convention

A. Exclusive Method for Selection of Delegates and Alternate Delegates to Republican National Convention

All delegates and alternate delegates to the Republican National Convention shall be elected as prescribed by this Rule following the Florida Presidential Preference Primary.

EXHIBIT F

Attachment 2 -- Loyalty Oath

**Florida Democratic Party
LOYALTY OATH**

County of _____, Florida

I, _____, having been duly sworn, say that I am a member of the Democratic Party,

that I am a qualified elector of _____ County, Florida; that during my term of office, I will not support the election of the opponent of any Democratic nominee, I will not oppose the election of any Democratic nominee, nor will I support any non-Democrat against a Democrat in any election other than in judicial races; that I am qualified under the Constitution and Laws of the State of Florida and the Charter and Bylaws of the Florida Democratic Party to hold the office I am seeking, or to which I have been elected; that I have not violated any of the laws of the State of Florida relating to election or the Charter and Bylaws of the Florida Democratic Party.

Print Name

Signature

OPTION 1. SIGNED BY A NOTARY PUBLIC
(Use either Option 1 OR Option 2.)

STATE OF FLORIDA COUNTY OF _____	
Sworn to and subscribed before me this _____ day of _____, 20____, by (name of person making statement) _____.	
_____ Signature of Notary Public – State of Florida	
_____ Name of Notary typed, printed or stamped	
<input type="checkbox"/> Personally Known	OR <input type="checkbox"/> Produced Identification
Type of ID Produced: _____	

OPTION 2. SIGNED BY TWO WITNESSES
(Use either Option 1 OR Option 2.)

WITNESS #1	
_____ Date	_____ County
_____ WITNESS #1: Print Name	
_____ Signature	
_____ Address	
_____ City	
_____ State	_____ Zip Code

WITNESS #2	
_____ Date	_____ County
_____ WITNESS #2: Print Name	
_____ Signature	
_____ Address	
_____ City	
_____ State	_____ Zip Code

EXHIBIT G

Democratic CANDIDATE FORUM

FEB
22

Democratic Candidate Forum: Leon County and Tallahassee City Commissions

Public · Hosted by Leon County Democratic Party

★ Interested ✓ Going

...

🕒 Monday, February 22, 2016 at 7 PM
More than a year ago

📍 Tallahassee City Hall - Commission Chamber
300 S Adams St, Tallahassee, Florida 32301

Show Map

About

Discussion

Details

The Leon County Democratic Party is proud to host a CANDIDATE FORUM for LEON COUNTY AND TALLAHASSEE CITY COMMISSIONS on Monday, February 22, 2016, at 7:00pm.

Confirmed Candidates:

Margaret Dobbins-Franklin (Leon, District 2)
Jimbo Jackson (Leon, District 2)
T.J. Lewis (Leon, District 2)
Mary Ann Lindley (Leon, At-Large, Group 1)
Luther Lee (Tallahassee, Seat 1)
Rick Minor (Tallahassee, Seat 1)
Curtis Richardson (Tallahassee, Seat 2)

Get engaged about this year's elections and come out to learn more about these Democratic candidates!

EXHIBIT H

CERTIFICATE OF FILING

I hereby certify that a true copy of this document has been filed with and delivered via electronic mail on this 28th day of July 2017, to:

Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

/s/ Benjamin J. Gibson
Benjamin J. Gibson

*Counsel for Respondent, Wakulla
County Republican Executive
Committee*



Notices of Withdrawal as Counsel - FEC Complaint numbers : 16-350; 16-351; 16-352; 16-354; 16-355 and 16-356

Marsha A. Poppell

to:

'Florida Elections Commission'

07/20/2017 11:33 AM

Cc:

"Marsha A. Poppell", 'Ben Gibson'

Hide Details

From: "Marsha A. Poppell" <MPoppell@shutts.com>

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

Cc: "Marsha A. Poppell" <MPoppell@shutts.com>, 'Ben Gibson' <ben@gibsonpa.com>

1 Attachment



Notices of Withdrawal as Counsel.pdf

Good morning:

Attached please find the Notices of Withdrawal as Counsel for Mr. Gonzalez and Ms. Francis.

Thanks and have a great day.

Shutts

Marsha A. Poppell

Legal Assistant

Shutts & Bowen LLP

215 South Monroe Street, Suite 804 | Tallahassee, FL 32301

Direct: (850) 521-0600 x6612 | Fax: (850) 521-0604

[E-Mail](#) | [Website](#)

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

IN RE: CHRIS RUSSELL, as
Chairman of the Wakulla County
REC,

Case No.: FEC 16-356

Respondent
_____ /

NOTICE OF WITHDRAWAL AS COUNSEL

PLEASE TAKE NOTICE that Jason Gonzalez and Renatha Francis of Shutts & Bowen, LLP file this Notice of Withdrawal as Counsel of record in the above proceeding for Respondent, Chris Russell as Chairman of the Wakulla County REC. The Respondent will be represented in this proceeding by attorney Ben Gibson.

Respectfully submitted,

/s/ Jason Gonzalez

Jason Gonzalez (FBN 146854)
SHUTTS & BOWEN LLP
215 South Monroe Street, Suite 804
Tallahassee, Florida 32301
Telephone: 850-521-0600
Email: jasongonzalez@shutts.com

Renatha Francis (FBN 84181)
SHUTTS & BOWEN LLP
200 South Biscayne Boulevard, Suite 4100
Miami, Florida 33131
Telephone: (305) 415-9022
Email: rfrancis@shutts.com

CERTIFICATE OF FILING

I hereby certify that a true copy of this document has been filed this 20th day of July, 2017,

with:

Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
fcc@myfloridalegal.com



NOTICE OF APPEARANCE FEC 16-356

Ben Gibson

to:

fec

07/06/2017 09:44 AM

Hide Details

From: Ben Gibson <ben@gibsonpa.com>

To: fec@myfloridalegal.com

1 Attachment



Notice of Appearance FEC 16-356.pdf

Donna,

Please find attached my notice of appearance on behalf of Respondent, Wakulla County Republican Executive Committee in FEC 16-356.

Thank you,

--

Ben Gibson, Esq.

BENJAMIN J. GIBSON, P.A.

Tallahassee, FL 32303

T: (850) 792-5060

M:(407) 625-7601

ben@gibsonpa.com

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**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Wakulla County
Republican Executive Committee,

Respondent.

Case No.: FEC 16-356

NOTICE OF APPEARANCE ON BEHALF OF RESPONDENT

Notice is given that attorney, Benjamin J. Gibson, of the law firm BENJAMIN J. GIBSON, P.A., hereby appears as counsel for Respondent, WAKULLA COUNTY REPUBLICAN EXECUTIVE COMMITTEE, in the above captioned matter. Please forward all copies and direct all future correspondence, pleadings, and papers to the undersigned.

Dated: July 6, 2017

Respectfully submitted,

/s/ Benjamin J. Gibson
Benjamin J. Gibson
Florida Bar No.: 58661
BENJAMIN J. GIBSON, P.A.
517 E. 9th Ave.
Tallahassee, FL 32303
Phone: (850) 792-5060
Primary Email: ben@gibsonpa.com
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Counsel for Respondent

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**In Re: Wakulla County Republican
Executive Committee**

Case No.: FEC 16-356

STAFF RECOMMENDATION FOLLOWING INVESTIGATION

Pursuant to Section 106.25(4)(c), Florida Statutes, undersigned counsel files this written recommendation for disposition of the complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 104.091(1), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on May 25, 2017, the following facts and law support this staff recommendation:

1. On August 19, 2016, the Florida Elections Commission (“Commission”) received a sworn complaint alleging the Wakulla County Republican Executive Committee (“Respondent”) violated Chapter 104, Florida Statutes.

2. Respondent is the Wakulla County Republican Executive Committee (“WCREC”). Chris Russell served as Respondent’s Chairman in 2016.

3. By letter dated December 23, 2016, the Executive Director notified Respondent that Commission staff would investigate the following statutory provision:

Section 104.091(1), Florida Statutes: Respondent knowingly aided, abetted, or advised the violation of Section 106.143, Florida Statutes, as alleged in the complaint.

4. Complainant essentially alleged that Respondent aided, abetted, or advised local candidates in Wakulla County to violate Section 106.143(3), Florida Statutes, by attending and speaking at a partisan forum held by the WCREC on August 11, 2016, thereby campaigning based on party affiliation while running for nonpartisan offices.¹

5. Complainant provided three newspaper articles from *The Wakulla News* which addressed the forum. Taken together, the articles suggest that only registered Republican candidates were invited to attend and speak at the forum, that the purpose of the forum was to

¹ Respondent’s Chairman, Chris Russell, as chairman of the Wakulla County Charter Review Commission, attended a meeting taking place on June 12, 2014, at which was discussed the issue of amending the Wakulla County Home Rule Charter to designate all locally elected offices, including county commissioners, as nonpartisan offices. Mr. Russell presented a PowerPoint to provide the public with a high-level summary of the proposed amendments. (Attachment A)

provide voters an opportunity to hear from Republican candidates, and that two candidates for nonpartisan offices were not invited to attend and speak at the event because they were registered Democrats. (ROI Exhibits 1-3)²

6. Complainant also provided a video recording of the candidate forum recorded by Carrie Hess. Ms. Hess attested in an affidavit that she attended the forum and made the recording. (ROI Exhibit 5)³

7. A review of the video recording revealed that Chris Russell, as Respondent's Chairman, introduced candidates when it was their turn to speak.⁴ Signs stating, "Vote Republican," were displayed in front of the podium behind which Mr. Russell and the candidates stood, and also nearby them. Mr. Russell and the candidates stood in front of a large sign stating, "Republicans," with a large elephant graphic. (ROI Exhibits 6-7)

8. Further review of the video recording revealed that at the beginning of the forum, Mr. Russell stated, "Let me clear something up real quick. This is not a problem, what we're doing. This has been done for years. School board races have been going on for years nonpartisan. This is nothing new. Ask Leon County. They did it earlier this year. Ask Franklin County. They did it in June. So, it's not a problem. We're all good to go."

9. During the introduction of the first nonpartisan candidate, Mr. Russell stated, "We did invite all the registered Republican candidates to come up." Mr. Russell also made it clear that, "This is a forum. This is a stump speech."

10. The investigation revealed that the following local candidates for nonpartisan offices were invited by Respondent to attend and speak at the Republican-only candidate forum: Richard Harden, Ralph Thomas, Michael Stewart, John Shuff, and Gordon Millender. All five of these nonpartisan candidates attended and spoke at the forum as part of their election campaigns. (ROI Exhibit 7)

11. Section 104.091(1), Florida Statutes, prohibits a person from knowingly aiding, abetting, or advising the violation of the Election Code.

12. Section 106.143(3), Florida Statutes, states, in pertinent part, "A candidate for nonpartisan office is prohibited from campaigning based on party affiliation."

13. Rule 2B-1.003(2)(h), F.A.C., designates violation of Section 106.143(3), Florida Statutes, as being a minor violation under certain circumstances. The rule describes Section 106.143(3), Florida Statutes, as including, "...stating a candidate's political party affiliation in a

² The Report of Investigation shall be referred to herein as "ROI."

³ A copy of the video recording is on file with the Florida Elections Commission.

⁴ Respondent's Chairman, Chris Russell, was described in a newspaper article from *The Wakulla News* as the "Master of Ceremonies" at the forum. (ROI Exhibit 3)

political advertisement in a nonpartisan race, or any other campaigning by a candidate running for nonpartisan office based on party affiliation [emphasis added].”

14. While the Florida Election Code does not specifically define “campaigning,” the Department of State, Division of Elections (“Division”) did so in the context of an advisory opinion issued by their office in 2010 and relating to nonpartisan candidate issues. In the opinion, the Division stated, “The Election Code does not define ‘campaigning.’ According to *Black’s Law Dictionary*, it includes all acts done to bring about a candidate’s election. Therefore, the Election Code precludes a nonpartisan candidate from doing **any act to bring about the candidate’s election based upon party affiliation** [emphasis added].” (Attachment B)

15. Pursuant to Section 106.26(13), Florida Statutes, the Commission, “...must, in all its deliberations and decisions, adhere to statutory law and advisory opinions of the division.”

16. Respondent stated in response to the complaint that Section 104.091, Florida Statutes, pertains to aiding, abetting, advising, or conspiring in violation of the Election Code. Respondent stated that there would have to be a violation of at least one additional section of the Election Code in order to make such an accusation. Respondent argued that since the complaint did not allege a violation of another section of the Election Code, there is no basis for the allegation that Respondent violated Section 104.091, Florida Statutes. Respondent further stated that Section 106.143(3), Florida Statutes, pertains to political advertisements of a candidate and does not pertain to holding a forum. (ROI Exhibit 8)

17. Henry F. Wells, Wakulla County Supervisor of Elections, stated in a telephonic interview that he had discussed the circumstances of the forum at issue with the legal department of the Division and was told that candidates would be “skating on thin ice” by attending and speaking at the forum. Mr. Wells further stated that he relayed what was told to him by the Division’s legal representative to Mr. Russell in a conversation prior to the forum being held. Mr. Wells indicated that he did not tell Mr. Russell whether or not he could hold the forum, but that he read Mr. Russell the statute concerning campaigning based on party affiliation. According to Mr. Wells, Mr. Russell told him that he was “wrong,” and that Mr. Russell had read the statutes himself. (Attachment C)

18. In an affidavit dated March 23, 2017, Mr. Wells elaborated on his conversation with Mr. Russell relative to the forum. Mr. Wells attested that he informed Mr. Russell that the Division had indicated candidates would be “skating on thin ice” by participating at the forum. Mr. Wells further attested that he informed Mr. Russell, “...they could do what they wanted to but be sure to check the FS listed above. **Candidates that are running in a Nonpartisan race should not campaign using party in any way** [emphasis added].” Mr. Wells further attested that Mr. Russell informed him that he was incorrect about candidates speaking at the forum. (ROI Exhibit 10)

19. In an affidavit April 17, 2017, Mr. Russell attested that he had not read Chapter 104, Florida Statutes, until having received a copy of the complaint against him. (ROI Exhibit 9)

20. Mr. Russell further attested that after he heard a complaint had been filed concerning the forum, he met with the Wakulla County Supervisor of Elections to discuss the matter. Mr. Russell admitted that he and Mr. Wells discussed whether the forum was prohibited by Florida Statutes, and if candidates would be in violation of election laws by attending it. *Id.*

21. Mr. Russell further attested that Mr. Wells told him that he had contacted the Division, which had indicated that they, "...could not validate that the forum itself, nor the attendance by any candidates, partisan or non-partisan, would be a violation of Florida Statutes." Mr. Russell further stated that he and Mr. Wells "jointly reviewed" Section 106.143, Florida Statutes, to determine if the forum or attendance by candidates would lead to a violation of the Election Code, but they could not find where it would do so. Mr. Russell indicated that this, "...joint conclusion was based on the fact that F.S. 106.143 deals with 'Political Advertisements' and that the forum was not an advertisement and that candidates are free to attend any venue they choose." *Id.*

22. Mr. Russell asserted that he asked Mr. Wells directly if the forum or attendance by local candidates would violate Florida Statutes, and Mr. Wells, "...could not say that it would be," and stated he had not advised any candidate that they would be in violation of the Election Code if they attended the event. *Id.*

23. Mr. Russell further attested that his statements at the forum such as those referenced at paragraph 8 were based on the, "...firm belief that the holding of such a forum, as well as the attendance by candidates seeking election to non-partisan offices, would not violate election law by me personally, as the Chairman of the Wakulla County REC, or for those candidates attending themselves." *Id.*

24. Mr. Russell further asserted that the forum was not a political advertisement because it consisted of spoken word in direct conversation, which is excluded from the definition of political advertisement. Mr. Russell stated that nonpartisan candidates are not prohibited from attending forums, regardless of who hosts the events, and that, "...as long as they...do not discuss their party affiliation...they are not in fact campaigning in a partisan manner." *Id.*

25. Based upon the information above, it appears that Respondent aided, abetted, or advised violation of the Election Code by facilitating and encouraging candidates to campaign based on party affiliation even though the offices for which they were running were nonpartisan.

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

27. The above facts show that Chris Russell served as the chairman of the WCREC in 2016. Mr. Russell hosted and introduced candidates at a forum on August 11, 2016. Only registered Republicans were invited to attend and speak at the forum, which was organized by the WCREC.

28. The above facts also show that Mr. Russell introduced five local candidates running for nonpartisan offices. Each of the nonpartisan candidates delivered what Mr. Russell described as a, "stump speech," to the audience. Signs encouraging those listening to the candidates to, "Vote Republican," were on the podium in front of the candidates and were also nearby. The

candidates stood in front of a large sign stating, "Republicans," with a large elephant graphic. Due to Mr. Russell's statements at the forum referenced at paragraph 9, it was reasonably obvious to the audience that all the candidates were registered Republicans. Mr. Russell's statements referenced at paragraph 8 amounted to encouragement or advise to candidates in attendance to campaign by participating at the forum.

29. The above facts further show that speaking at a candidate forum to encourage or solicit votes is certainly an action taken by the candidate to bring about his election. It was thus an act of campaigning when each nonpartisan candidate did so. Due to the particular circumstances of this forum, the nonpartisan candidates affiliated themselves very closely with the Republican party by presenting themselves to the public as obvious Republican candidates for nonpartisan offices and choosing to speak from behind and among signs encouraging observers to, "Vote Republican." Therefore, the nonpartisan candidates' participation in the forum amounted to actions taken to bring about their election based on affiliation with a party. By extension, their participation at the forum amounted to campaigning based on party affiliation.

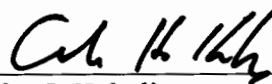
30. The above facts also show that since Respondent was ultimately responsible for organizing the forum and inviting the nonpartisan candidates to attend and speak at the event, and since Respondent's Chairman directly encouraged the nonpartisan candidates to participate and campaign during the event, Respondent's conduct amounted to aiding or advising violation of the Election Code because Respondent encouraged candidates for nonpartisan offices to campaign based on party affiliation. Moreover, Respondent's Chairman was cautioned by the Wakulla County Supervisor of Elections about the Division's opinion on the matter, yet Respondent proceeded anyway.

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

Count 1:

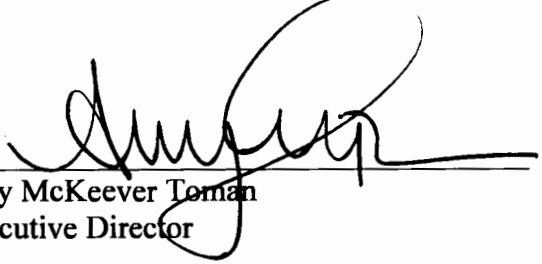
Respondent violated Section 104.091(1), Florida Statutes, when Respondent knowingly aided, abetted, or advised violation of the Election Code by facilitating and encouraging candidates to campaign based on party affiliation even though the offices for which they were running were nonpartisan.

Respectfully submitted on Jun 14, 2017,



Cole H. Kekelis
Assistant General Counsel

I reviewed this Staff Recommendation this 14th day of JUNE 2017.



Amy McKeever Toman
Executive Director

Wakulla County Charter Review Commission Public Hearing

Meeting Minutes

Thursday, June 12, 2014 at 6:00p.m.

The purpose of this meeting is to allow public comment relating to the Wakulla County Charter Review Commissions proposed amendments/revisions to the Home Rule Charter in accordance w/ Ordinance #08-14. No action and/or votes were taken at this meeting.

Item #1: Charter Review Commission (CRC) Presentation – Overview of the Commission and Proposed Amendments/Revisions: Chris Russell, CRC Chairman, presented a brief PowerPoint Presentation to provide the public with some background of the CRC, as well as a high level summary of each proposed amendment/revision.

Item #2: Citizens To Be Heard – Citizens were provided 3 minutes to speak on any “new” amendment proposal not included in the proposals below.

- Karen Wells –

Item #3: Proposed Amendments/Revisions – Citizens were provided 3 minutes to speak on each proposed amendment. The CRC did not provide comments during this time.

A. All locally elected offices shall be nonpartisan. Elections which have more than 2 candidates will take place in the Primary with the individual obtaining 50% plus 1 votes being declared the winner. Should no candidates receive 50% plus 1, the top 2 candidates shall go to the General Election for final decision. Should only 2 candidates qualify for an office, these candidates will have their election held during the General Election.

- Citizens Who Spoke: Hugh Taylor

B. There shall be five single member districts for County Commissioners.

- Citizens Who Spoke: Bob Myhre, Hugh Taylor

C. Mandatory residency requirement –At qualifying, a candidate must provide a declaration/oath stating the candidate has resided in the District they are seeking election in for a minimum of the previous 6 months. The candidate must also provide 3 out of the following 4 other categories providing proof of residency: (1) vehicle registration; (2) voter registration card; (3) Florida Driver’s License and/or Florida Identification Card; (4) a notarized statement of residency from home-owner, or homestead exemption card, or leasing/renting statement.

- Citizens Who Spoke: Hugh Taylor

- D. Add a new subsection regarding "Special Elections/Referendums" that reads all referendums shall take place at a general election.
- Citizens Who Spoke: Hugh Taylor, Karen Wells
- E. Add language that reads 60% of the electors' votes shall be required to pass charter amendments and ordinances initiated by Petition.
- Citizens Who Spoke: Eugene Watkins, Hugh Taylor
- F. All locally elected officers shall be subject to recall as prescribed in Florida Law.
- G. Each County Commissioner shall appoint 3 citizens to serve on the Charter Review Commission (totaling 15 members); 12 members shall make a quorum and at a minimum 2/3 of the 12 members are required to vote affirmatively in proposing new Charter amendments, revisions, or a repeal of the Charter; and the CRC shall be appointed no more than 8 years apart.
- H. The BOCC shall provide CRC a list of no less than 3 attorneys before the 1st CRC meeting to allow CRC to rank and provide recommendation to the BOCC for approval of the attorney assigned to the CRC.
- I. The BOCC shall adopt, and adhere to, a debt policy that regulates the acceptance, issuance, and management of debt. The BOCC shall also adhere to the fund balance policy.
- Citizens Who Spoke: Hugh Taylor

Item #4: Citizens To Be Heard – Citizens were provided 3 minutes to speak on any "new" amendment proposal not included in the proposals below.

- Ed Brimner
- Hugh Taylor

There being no further business to come before the Charter Review Commission, the meeting adjourned.



FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

**KURT S.
BROWNING**
Secretary of State

March 3, 2010

Honorable Scott J. Brock
Mayor, City of Coral Springs
9551 W. Sample Road
Coral Springs, Florida 33065

RE: DE 10-02
Advertising; Nonpartisan Candidate – posting party
affiliation on Internet social networking websites
§ 97.021(20), Florida Statutes.

Dear Mayor Brock:

This letter responds to a request for an advisory opinion submitted by your city attorney on behalf of the City Commission of the City of Coral Springs. Because the members of the City Commission are persons engaged in political activities, the Division of Elections has authority to issue the City Commission an opinion pursuant to section 106.23(2), Florida Statutes (2009).

Your city attorney asks:

May an elected nonpartisan City Commissioner or a candidate for such position post his or her party affiliation on [his or her] personal Facebook page, or does such posting constitute an improper political advertisement or public representation of his or her political affiliation under Chapter 106, Florida Statutes?

Your attorney states that your city ordinance provides “each candidate for elected municipal office shall not campaign as a member of any political party or publicly represent or advertise himself as a member of any political party.” The ordinance further provides that elections for municipal office in Coral Springs are nonpartisan. The Division of Elections has no authority to interpret provisions of municipal charters or ordinances; therefore, this opinion limits itself to the interpretation of Florida’s Election Code (chapters 97-106, Florida Statutes).

Section 97.021(20), Florida Statutes (2009), defines a nonpartisan office as one “for which a candidate is prohibited from campaigning or qualifying for election or retention in office based upon party affiliation.” The Election Code does not define “campaigning.” According to *Black's Law Dictionary*, it includes all acts done to bring about a candidate's election.¹ Therefore, the Election Code precludes a *nonpartisan candidate* from doing any act to bring about the candidate's election *based upon party affiliation*. This prohibition would include campaigning for a nonpartisan office based upon party affiliation on an Internet social networking site. We adhere to our statements in *Division of Elections Opinion 03-02* (February 21, 2003), where we stated to a nonpartisan candidate concerning his political advertisements:²

[A]s a nonpartisan municipal candidate, you may not publicly represent or advertise yourself as a member of any political party. Thus, information stating your political affiliation may not appear in your political advertising. It is permissible, however, for you to list partisan related experience such as “executive committee of _____ party” in campaign advertisements. In doing so you would simply be providing information on past experiences as opposed to “campaigning based on party affiliation.”

Again, the Election Code's prohibition is against a nonpartisan *candidate* “campaigning” or qualifying for elected office *based upon party affiliation*. Once candidates are elected, they are no longer “candidates” until they again satisfy the definition of “candidate” contained in sections 97.021(4) and 106.011(16), Florida Statutes. This usually occurs when a person first appoints a campaign treasurer and designates a primary campaign depository. Under state law, therefore, nonpartisan officeholders are not prohibited from publicly representing their party affiliation unless and until they again become a “candidate” at which point they are precluded from campaigning based upon party affiliation.

SUMMARY

Florida's Election Code defines a nonpartisan office as one “for which a candidate is prohibited from campaigning or qualifying for election or retention in office based upon party affiliation.” Therefore, a nonpartisan candidate may never campaign based upon party affiliation. This prohibition would include campaigning for a nonpartisan office based upon party affiliation on Internet social networking sites. However, the Election Code does not prohibit nonpartisan officeholders from publicly representing their party affiliation unless and until they again

¹ *Black's Law Dictionary* (6th Ed. 1990).

² A “political advertisement” means a paid expression in a statutorily-prescribed communications media which expressly advocates the election or defeat of the candidate. § 106.011(17), Fla. Stat. (2009). A message by a candidate on a social networking site posted without any cost to the candidate would not constitute a paid expression; therefore, it would not be a “political advertisement.” However, depending on the content of the message, such a posting may constitute “campaigning.”

Honorable Scott J. Brock
March 3, 2010
Page 3 of 3

become a "candidate" at which point they are precluded from campaigning based upon party affiliation.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Palmer', with a long horizontal line extending to the right.

Donald L. Palmer
Director, Division of Elections

cc: Samuel S. Goren, City Attorney, City of Coral Springs

FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 16-356

Respondent: Wakulla County Republican Executive Committee

Complainant: Hugh Taylor

1. **Date and time:** 01/11/17 @ 10:30 a.m.

Name: Henry Wells – Wakulla Co. SOE

Phone #: 850-926-7575

Summary: I called the supervisor of elections to ask him some questions concerning Respondent and his involvement with the Republican candidate forum held on August 11, 2016.

I brought it to his attention that I had reviewed a newspaper article, dated August 18, 2016, from the Wakulla News relative to the candidate forum that was held on August 11, 2016 at the Wakulla Senior Center. I explained to him that in the article, he apparently met with Respondent prior to the forum and had cautioned him about it. When asked to elaborate, the supervisor said that Respondent called his office and they spoke on the phone, they did not meet face-to-face. The supervisor said that he had already taken some earlier telephone calls from Republican candidates asking him about the forum and he thought that is what precipitated Respondent's telephone call to him.

The supervisor said that he had earlier contacted the Division's "Legal Department" and explained to them the circumstances. The supervisor said that the legal department's representative told him that they would be "skating on thin ice" by attending the forum. The supervisor said that he told Respondent what he had been told by the Division's legal representative and he read Respondent the statute concerning campaigning based on party affiliation. The supervisor said that he did not tell Respondent that he could or could not hold the forum, only what the statute read. The supervisor said that Respondent told him he was "wrong" and that he (Respondent) had read the statutes himself. When asked, he said that he did not recall the date of his telephone conversation with Respondent but he assumed it was shortly before the candidate forum scheduled for August 11, 2016.

When asked, the supervisor reiterated that Respondent's telephone call to him was some time after one or two of the candidates had called his office asking about the candidate forum. I inquired of him, to make sure that I understood him correctly, that he read the statute over the telephone to Respondent and that he did not provide Respondent with anything in writing; he said that was correct. He added that he provided a written copy, a cut-and-paste of the statute, to a local citizen who had previously e-mailed his office with a concern about the forum and he provided the same written response to the local newspaper whenever they called his office.

I inquired of him as to whether or not Respondent had contacted him previously about anything involving non-partisan elections; he said he had not. When asked, the supervisor said that the 2016 election was the first year of having non-partisan elections.

ATTACHMENT C

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Case No.: FEC 16-356

Respondent: Wakulla County Republican Executive Committee

Counsel for Respondent: Jason Gonzalez

Complainant: Hugh Taylor

On August 19, 2016, the Florida Elections Commission (“Commission”) received a sworn complaint alleging that Respondent violated Chapters 104 or 106, Florida Statutes. Commission staff investigated whether Respondent violated the following statute:

Section 104.091(1), Florida Statutes, prohibiting a person from aiding, abetting, or advising another person to violate a provision of the Florida Election Code.

I. Preliminary Information:

1. Respondent is the Wakulla County Republican Executive Committee; Chris Russell served as the chairman in 2016.

2. Respondent is represented by Jason Gonzalez of the law firm, Shutts & Bowen LLP.

3. Complainant, Hugh Taylor, is a resident of Wakulla County; he is involved with a local group of residents known as “Concerned Citizens of Wakulla.” The group is not a political committee.

II. Alleged Violation of Section 104.091(1), Florida Statutes:

4. I investigated whether Respondent violated this section of the election laws by aiding, abetting, or advising another person to violate a provision of the Florida Election Code. Essentially, Complainant’s concern is that Respondent aided, abetted or advised local candidates in Wakulla County to violate Section 106.143(3), Florida Statutes.

5. Section 106.143(3), Florida Statutes, reads:

Any political advertisement of a candidate running for partisan office shall express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation. A political advertisement of a candidate running for nonpartisan office may not state the candidate’s political party affiliation. This section does not prohibit a political advertisement from stating the candidate’s

partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

6. Complainant noted that Respondent held a partisan forum on August 11, 2016. As part of his complaint, Complainant offered a number of articles from the local newspaper, *The Wakulla News*¹, addressing the forum. Each of the articles will be discussed in the following paragraphs.

Article titled, “Republican Executive Committee plans forum Aug. 11.”

7. According to Complainant, the article appeared in the newspaper on July 21, 2016. The article reported that Respondent would be hosting a Republican Candidates Forum on August 11 at the Senior Citizens Center. The second paragraph of the article reads, “REC Chairman Chris Russell advised that the Executive Committee felt it was vitally important to allow the voters an opportunity to hear firsthand from the Republican candidates that may ultimately represent them.” According to the article, a number of candidates confirmed that they would be present at the forum. To review the newspaper article, refer to Exhibit 1.

Article titled, “Disappointed about Republican ‘forum.’”

8. According to Complainant, the article appeared in the newspaper on August 4, 2016. The article appeared to be in the form of a letter to the Editor from a local resident. According to the resident, Al Shylkofoski, Respondent’s chairman allegedly indicated that the forum would be exclusively for registered Republican candidates. To review the letter to the Editor, refer to Exhibit 2.

Article titled, “Republican forum draws concern.”

9. According to Complainant, the article appeared in the newspaper on August 18, 2016. According to the article, a number of candidates attended the event. The article reported that two candidates, Chuck Hess and Nikki Barnes, were not invited because they were registered Democrats. The article further reported that the Wakulla County Supervisor of Elections had spoken with Respondent’s chairman about the forum. To review the newspaper article titled “Republican forum draws concern,” refer to Exhibit 3.

10. In addition to the newspaper articles, Complainant offered a copy of a document titled, “Wakulla County Charter Review Commission Summary of Proposed Amended/Revised Articles.” Article 2.1 reads, “All candidates shall be nonpartisan in the Primary election, settled by 50% + 1, the top 2 candidates shall go to the General election (unless in conflict w/Supervisor of Elections Laws).” According to the document, it appears that the articles listed in the document were revised on June 9, 2014². To review the document, refer to Exhibit 4.

¹ The newspaper is delivered by mail to subscribers every Thursday.

² Although not found on the document provided by Complainant as part of the complaint, Commission staff found a similar document which shows Mr. Russell was a member of the county charter review commission. Mr. Russell was in attendance when the issue was discussed at a meeting held on May 6, 2014.

11. Complainant offered a video taken at the candidate's forum as well as an affidavit from Carrie Hess³. In her affidavit, Ms. Hess attested that she attended the candidate's forum at the senior center on August 11, 2016. She further attested that she recorded the events of the forum on her camera. To review the affidavit of Carrie Hess, refer to Exhibit 5.

12. Commission staff reviewed a video from the forum. In it, Respondent's chairman, Mr. Russell, introduced the candidates when it was their turn to speak⁴. Signs reading, "Vote Republican," were displayed on and near the stage while Respondent's chairman and the candidates addressed those in attendance. At one point in the video, Respondent's chairman states the following: "Let me clear something up real quick. This is not a problem what we're doing. This has been done for years. School board races have been going on for years nonpartisan. This is nothing new. Ask Leon County, they did theirs earlier this year. Ask Franklin County, they did it in June. So it's not a problem. We're all good to go." To review a still-shot of Respondent's chairman speaking at the forum, refer to Exhibit 6. To review a still-shot of certain candidates speaking at the forum, refer to Exhibit 7, pages 1 through 4.

13. Respondent's chairman offered a response to the complaint. Mr. Russell noted that Section 104.091 pertains to aiding, abetting, advising, or conspiring in violation of the code. He stated, "In other words, there would have to be a violation of at least one additional section of the Election Code, Florida Statute 104 in order to make an accusation of 'aiding, abetting, advising, or conspiring in violation of the code.'" Mr. Russell argued that since the complaint did not allege a violation of another section of Chapter 104, "there is no basis for the accusation that I or the WCREC have also violated 104.091 by aiding, abetting, advising, or conspiring in violation of the code." To review Mr. Russell's response to the complaint, refer to Exhibit 8.

14. In a questionnaire-affidavit, Respondent's chairman was asked to describe any conversation he had with the supervisor of elections relative to the candidate's forum. Mr. Russell explained that after returning from vacation he had a voice-mail from a reporter concerning the upcoming forum. He further explained that he contacted the reporter who had advised him that the newspaper staff had contacted the supervisor of elections regarding a rumor that a complaint had been filed concerning the forum.

15. According to Mr. Russell, he then visited with the supervisor of elections to discuss the matter brought to his attention by the reporter. He stated that in his meeting with the supervisor of elections, they discussed the forum and "if it was prohibited by Statutes, or if the attendance by any candidates would be a violation of election laws." According to Mr. Russell, the supervisor of elections informed him that he had contacted the legal department with the Division of Elections and "that they could not validate that the forum itself, nor the attendance by any candidates, partisan or non-partisan, would be a violation of Florida Statutes."

16. Mr. Russell continued that he and the supervisor of elections "jointly" reviewed

³ In a telephone interview, Ms. Hess said that she was reluctant to answer questions as her husband is the current commissioner representing District 5. She did confirm the statements made in the affidavit—that she attended the forum and recorded the forum by using her camera.

⁴ In the article, "Republican forum draws concern" (Exhibit 3), Respondent's chairman was described as the "Master of Ceremonies" at the forum.

the Florida Statutes, specifically Section 106.143, to determine if the proposed forum itself, or the attendance by any candidates, would constitute a violation of Section 106.143, Florida Statutes. He added that he and the supervisor of elections could not find where the forum, or the attendance of candidates, would lead to a violation of the election laws. According to Mr. Russell, "This joint conclusion was based on the fact that F.S. 106.143 deals with 'Political Advertisements' and that the forum was not an advertisement and that candidates are free to attend any venue they choose."

17. According to Mr. Russell, after his and the supervisor of elections' "joint research," and the readdressing Mr. Wells conversation with the Division's legal department, he directly asked Mr. Wells "would the forum or the attendance of the forum by any local candidates be a violation of Florida Statutes." Mr. Russell stated that the supervisor of elections advised "that he could not say that it would be." According to Mr. Russell, the supervisor of elections told him that although he (Wells) had conversations with various candidates, he had not advised any candidate that they would be in violation of any election laws if they attended the event.

18. In the questionnaire-affidavit, Respondent's chairman was asked whether he discussed the substance of his conversation with the supervisor of elections with the candidates that attended and spoke at the candidate's forum; he declined to answer. In addition, Mr. Russell declined to answer questions about the invitation to the candidate's forum and how the candidates received the invitations. Further, Mr. Russell declined to answer questions about he and the other members of Respondent and who they sought guidance from to determine their understanding of the law⁵. To review Mr. Russell's response to the questionnaire-affidavit, refer to Exhibit 9.

19. In a telephone interview, Wakulla County Supervisor of Elections Henry F. Wells stated that he had a discussion with Respondent's chairman concerning the candidate's forum. Mr. Wells stated that he received a telephone call from Mr. Russell asking him questions relative to the candidate's forum. Mr. Wells explained that he had received an earlier telephone call from a local republican candidate who had asked him about the forum so he (Wells) had called and discussed the circumstances of the candidate's forum with the Division's legal representative.

20. Mr. Wells continued that after explaining the circumstances to the legal department, he was informed that they would be "skating on thin ice." According to Mr. Wells, he relayed what he was told by the legal representative to Mr. Russell when he called his office. Mr. Wells stated that he also read the statute addressing campaigning based on party affiliation with Mr. Russell. He further stated that he did not advise Mr. Russell that he could or could not hold the forum, only reiterating to him the statutes. According to Mr. Wells, Mr. Russell told him that he was "wrong" as he had read the statutes himself. Mr. Wells added that he was

⁵ Questions in the questionnaire-affidavit concerning Mr. Russell and Respondent's members came as a result of one of the newspaper articles submitted with the complaint. In the newspaper article titled, "Republican forum draws concern," Mr. Russell and Respondent's members reviewed the law. Respondent's chairman had been asked to name Respondent's other members and to provide their position/title. In addition, Mr. Russell had been asked who he, or other members of Respondent sought guidance from to determine whether their understanding of the law, including Section 106.143(3), Florida Statutes, was correct.

unsure of the date of his telephone conversation with Respondent's chairman but believed it transpired about a week or so prior to the candidate's forum held on August 11, 2016.

21. In an affidavit, Mr. Wells attested that he had a conversation with Respondent's chairman concerning the candidate's forum. According to Mr. Wells, Mr. Russell called him toward the end of July and later Mr. Russell approached him in person at a local back to school event on August 6, 2016. Mr. Wells said that he and Mr. Russell discussed issues about candidates speaking at the forum.

22. In his affidavit, Mr. Wells was asked to elaborate on his conversation with Respondent's chairman relative to the candidate's forum. Mr. Wells stated, "My statement to Mr. Russell was the same as stated to all that ask questions on the candidate's participation in the Republican Party candidate Forum. After looking into the Florida Statutes chapters 97.021(22) Nonpartisan office meaning – 104. – 106.143(3)(11) also 106.265. Then talking to the Division of Election Legal Dept. Mr. Jordan⁶ made the statement that the candidates were skating on thin ice."

23. Mr. Wells continued, "I informed any that contacted me of this statement and again said they could do what they wanted to but be sure to check the FS listed above. Candidates that are running in a Nonpartisan race should not campaign using party in any way. He informed me that I was incorrect about candidates speaking at the forum. I assured him that I had not told anyone that they could not speak at the forum only to be sure of the Florida Statutes concerning Nonpartisan Races." To review the affidavit of Supervisor of Elections Henry Wells, refer to Exhibit 10.

24. No record was found to indicate that Respondent, or Respondent's chairman, has previously violated this section of the election laws.

III. FEC History:

25. Respondent has no prior history with the Florida Elections Commission.

Conclusion:

26. On May 24, 2017, I interviewed Jason Gonzalez, Respondent's counsel, by telephone to provide him with a brief overview of the case and to afford him an opportunity for questions or comments. After reviewing the case, counsel said that he had nothing to add at this time.

27. In an affidavit, Mr. Wells attested that Respondent's chairman ran as a candidate for the Wakulla County School Board, District 3, in the 2014 election but was defeated. In addition, Mr. Wells attested that Mr. Russell served as Respondent's chairman from January 2015 through January 2017. With his affidavit, the supervisor of elections provided a copy of a Statement of Candidate form executed by Mr. Russell for his candidacy for School Board, District 3. Mr. Russell indicated that he had been provided access to read and understand the

⁶ W. Jordan Jones, attorney with the Division of Elections.

requirements of Chapter 106, Florida Statutes; the form is dated as having been signed April 4, 2014. To review the filing officer affidavit, refer to Exhibit 10. To review the Statement of Candidate form executed by Respondent's chairman in 2014, refer to Exhibit 11.

28. In a questionnaire-affidavit, Respondent's chairman attested that he does not possess a copy of Chapter 104, Florida Statutes. Mr. Russell added that he had not read Chapter 104, Florida Statutes, prior to the complaint being brought against him but he has read the law after the complaint. To review Mr. Russell's response to the questionnaire-affidavit, refer to Exhibit 9.

Respectfully submitted on May 25, 2017.



Keith Smith
Investigation Specialist

Current address of Respondent

Wakulla County Republican Executive
Committee
Post Office Box 1200
Crawfordville, Florida 32326

Current address of Complainant

Hugh Taylor
1357 MLK Road
Crawfordville, Florida 32327

Current Address of Respondent's Atty.:

Jason Gonzalez
Shutts & Bowen LLP
215 South Monroe Street – Suite 804
Tallahassee, Florida 32301

Name and Address of Filing Officer:

The Honorable Henry F. Wells
Supervisor of Elections
Post Office Box 305
Crawfordville, Florida 32326

Copy furnished to: David Flagg, Investigations Manager

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
Wakulla Co. REC -- FEC 16-356

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	Newspaper article dated 07/21/16
Exhibit 2	Letter to the Editor article
Exhibit 3	Newspaper article dated 08/18/16
Exhibit 4	Charter review document
Exhibit 5	Affidavit – Carrie Hess
Exhibit 6	Still-shot of Chris Russell
Exhibit 7	Still-shot of candidates
Exhibit 8	Response from chairman
Exhibit 9	Chairman’s response to Q/A
Exhibit 10	Filing Officer Q/A
Exhibit 11	Statement of Candidate

Republican Executive Committee plans forum Aug. 11

Special to The News

The Wakulla County Republican Executive Committee (REC) will be hosting a Republican Candidates Forum on Thursday Aug. 11, at the Senior Citizens Center, starting at 6:30 p.m.

REC Chairman Chris Russell advised that the Executive Committee felt it was vitally important to allow the voters an opportunity to hear firsthand from the Republican candidates that may ultimately represent them. The forum will feature candidates running for local, state, and federal office. He noted that 12 of the 14 candidates running for local office are registered Republicans and that the U.S. Congressional District 2 seat has an overwhelming high probability of being filled by a registered Republican. This complements the two school board seats that were up for election this cycle and will remain filled by Republicans as both of those candidates went unopposed.

Russell stated that the number of registered Republicans in Wakulla County has dramatically increased over the last couple of years and he credits that with local voters making a stronger stand on issues they hold dear, such as: constitutional rights, the protection of the unborn, and domestic security. He said more local Republican

now getting involved as candidates, and pointed out the fact that for the first time in modern history, Wakulla County will elect both a Sheriff and a Property Appraiser, that are registered as Republicans. Mr. Russell closed by stating that he appreciated the Christian Coalition's willingness to reschedule the event they previously planned for Aug. 11, that by doing so, more voters will now have an opportunity to hear firsthand from the candidates running to represent them.

The following candidate campaigns have confirmed they will be present at the forum: BOCC District 1 candidate Ralph Thomas, BOCC District 3 candidates John Shuff and Mike Stewart, BOCC District 5 candidates Richard Harden and Gordon Millender, Property Appraiser candidates Ed Brimmer, Brad Harvey, and Steve Remke, Sheriff candidates Charlie Creel, Jared Miller, and Bill Poole, Florida House of Representatives District 7 incumbent Halsey Beshears, State Attorney's Office candidate Pete Williams, and U.S. Congressional District 2 candidates Neal Dunn, Ken Sukhia, and Mary Thomas.

More information about the forum can be found at the REC's home facebook page: www.facebook.com/wakullarepublicans/

7/21/16

THE WAKULLA
NEWS.

EXHIBIT "B"

EXHIBIT

The Opinion Page

READERS WRITE:

Public invited to coalition forum Aug. 8

Editor, The News:

We would love to invite everyone in the county to our first candidate forum, to be held Aug. 8, at 7 p.m. at the Wakulla County Public Library. This forum will be dedicated to those candidates running for office in county commission Districts 3 and 5.

The forum will be in a moderated forum format, with questions from the audience turned in to a moderator, with no questions directly from the floor.

Becoming informed is a civic duty, and we have offered these forums to help citizens know about the candidates and their positions.

on issues. Part of our mission is education and we can think of nothing better than making candidate positions and platforms available to the most people possible.

We believe all candidates should be included as the primary will turn out to be the election that could possibly elect a new commissioner, so we encourage all citizens to drop in and hear the candidates then get ready to vote.

Remember, early voting starts Aug. 20.

Thank you.

Jennie V. Jones

President
Wakulla County Christian Coalition

Disappointed about Republican 'forum'

Editor, The News:

I am disappointed by the actions of the Republican Executive Committee (REC) invitation. Chris Russell, the Republican Executive Committee chairman emphasizes that the GOP forum is exclusively for "registered" Republican candidates in a "Special To The News" report in the July 21, The Wakulla News, and on the Wakulla County Republican Party's Facebook page.

I am a registered Republican and believe the public is best served when they have the opportunity to see and hear all candidates.

Wakulla County's local elections are non-partisan (political party candidates not allowed) and, according to Wakulla County's Supervisor of Elections Buddy Wells, and Florida law F.S. 106.143, "A candidate for nonpartisan office is prohibited from campaigning based on

party affiliation.

There is no ambiguity in the Republican Executive Committee (REC) invitation. Chris Russell, the Republican Executive Committee chairman emphasizes that the GOP forum is exclusively for "registered" Republican candidates in a "Special To The News" report in the July 21, The Wakulla News, and on the Wakulla County Republican Party's Facebook page.

Russell, of all people, should know Florida's election laws on non-partisan elections; he led Wakulla County's Charter Review Committee, proposed by Wakulla County Commissioner Ralph Thomas that helped change Wakulla County elections to non-partisan races. Now, Republican candidates, and arguably, Wakulla's Republican Party, face

a sticky situation.

The REC's apparent disregard for Florida's elections laws puts Wakulla County's registered Republican candidates in a spot where they, running as non-partisan candidates attending this exclusive GOP forum could make themselves vulnerable to violating Florida's law.

It should not have to be said that Wakulla County's voters deserve an opportunity to ask questions of all candidates and hear them state their positions on how they would serve Wakulla County.

We should all strive to adhere to Florida's laws. Politicians who ignore our laws threaten the public's trust and our freedom.

Al Shylkofski

Crawfordville

8/4/14
THE WAKULLA
NEWS
EXHIBIT
"E"

EXHIBIT

Republican forum draws concern

Complaint reportedly filed with state claiming violation of non-partisan elections

By WILLIAM SNOWDEN
editor@thewakulla.com

A forum held by Wakulla Republicans last week reportedly drew an elections complaint after local candidates who are registered Democrats were not invited to attend.

The state Elections Commission would not verify a complaint had been filed, but a person close to the matter confirmed that a complaint was filed on Friday, Aug. 12, the day after the forum, against the local executive committee, and the candidates who attended.

All of Wakulla's local races are non-partisan — except the Superintendent of Schools. The political parties can still support candidates with money and other help, but the candidates are not allowed to campaign using their party affiliation.

At the senior center on Thursday night, the local party invited Republican candidates in local and area elections.



PHOTO BY WILLIAM SNOWDEN

The audience was standing-room only at the GOP forum on Thursday.

Chuck Hess and Nikki Barnes, two candidates in the non-partisan county commission races, were not invited because they are registered Democrats. Howard Kessler, who is a registered Republican, did not attend the forum out of concern that all candidates weren't invited.

Supervisor of Elections Buddy Wells met with Republican Party Chair Chris Russell about the concerns of possible violations and warned that the Republicans were "on thin ice."

Russell and the members of the executive committee reviewed the law and contend there is no violation.

At the start of the Thursday night forum,

which was attended by nearly 200 people and was standing-room only in the senior center, Russell referred to the controversy, but indirectly reassuring attendees and candidates that "This is not a problem," and "This is nothing new."

But many of the candidates who attended were unaware of the controversy and the threat of an election complaint. Some who were aware of the controversy said simply that they had received an invitation to speak and were going wherever they were invited.

Sheriff Charlie Creel, in an abundance of caution, told the crowd that, on the advice of his attorney, he would not speak at the event.

He offered to talk after the event — and walked away from the podium to silence and a few muffled boos.

Creel and the other two candidates for sheriff, Jared Miller and Bill Poole, are all registered Republicans. Miller had heard of the controversy and went ahead with his stump speech, while Poole was unaware of it and admitted afterwards that he was mystified by Creel's comments.

After the event, Russell would not talk on the record about the controversy.

It's not clear if the Democrats violated the non-partisan laws at their May gala at Wakulla Springs when Barnes and Hess spoke

Turn to Page 5A

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Wakulla
news
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EXHIBIT

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Republican forum draws concern

From Front Page

there, but no other candidates spoke. (Barnes was chair of the local Democratic Party until she was required to step down when qualifying as a candidate for county commission.) There was no election complaint filed alleging a violation at the Democratic event.

CANDIDATES AT THE FORUM

Russell served as Master of Ceremonies at the forum, which included many candidates from local and area races. State Rep. Halsey Beshears, whose district includes Wakulla but who has no opposition for re-election, helped with timekeeping.

Republican congressional candidates Ken Sukhia, Mary Thomas and Neal Dunn gave their stump speeches.

Sukhia, a former federal prosecutor for the Northern District of Florida, said that "People run as conservatives and then govern as moderates." He painted himself as a law and order conservative who wants to defend the American way of life.

Thomas, an attorney in the office of Gov. Rick Scott, noted her endorsement by the NRA and said she is the only candidate in the race to endorse Donald Trump for president. That drew applause from the crowd, as it did when she repeated Trump's pledge to "Make America great again."

Dunn, a surgeon, said his three priorities in office will be health care, the economy and national security. "The White House has more damage to the military than ISIS," he said.

Pete Williams, Republican candidate for state attorney and a former statewide prosecutor, spoke of the problems of different treatment for the same crimes under current state attorney Willie Meggs, who is retiring and whom Williams never mentioned by name.

Williams vowed to spend one day a week in each county in the circuit to discuss local concerns. Williams will face a Democrat in the November general election, either Sean Desmond or Jack Campbell.

Local candidates at the event, in addition to the sheriff's candidates, included Ralph Thomas, running for re-election to county commission, district 1; Mike Stewart and John Shuff, candidates for district 3; Richard Harden and Gordon Millender for district 5; and two of the three candidates for property appraiser, Steve Remke and Brad Harvey. Ed Brimmer was not at the event, and no reason was given for his absence.

THE WAKULLA
NEWS

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F H I B I T "A"
Wakulla County Charter Review Commission
Summary of Proposed Amended/Revised Articles

The following is a list of Articles for which the CRC has voted & approved to amend/revise:

✓ **Article 2.1 –**

- All candidates shall be nonpartisan in the Primary election, settled by 50% + 1, the top 2 candidates shall go to the General election (unless in conflict w/ Supervisor of Elections Laws)
- Shall be five single member districts for BOCC

✓ **Article 2.3 –**

- Mandatory residency requirement – must provide a declaration/oath of living in district for 6 months prior to qualifying date. Must also provide 3 out of the following 4 other categories providing proof of residency: (1) vehicle registration; (2) voter registration card; (3) Florida Driver's License and/or Florida Identification Card; (4) a notarized statement of residency from home-owner, or homestead exemption card, or leasing/renting statement.
-

✓ **Article 6 –**

- Add a new subsection regarding "Special Elections/Referendums" that reads all referendums shall take place at the general election

✓ **Article 6.1 –**

- Add language that reads 60% of the electors votes shall be required to pass charter amendments and ordinances.

✓ **Article 6.2 –**

- All local officers shall be subject to recall

✓ **Article 7.4 –**

- Each County Commissioner shall appoint 3 citizens to serve on the Charter Review Commission (totaling 15 members); 12 members shall make a quorum and 2/3 of the 12 members to pass a vote; and the CRC shall be appointed no more than 8 years apart
- The BOCC shall provide CRC a list of no less than 3 attorneys before the 1st CRC meeting to allow CRC to rank and provide recommendation to the BOCC for approval

✓ **New Article –**

- The BOCC shall adopt, and adhere to, a debt policy that regulates the acceptance, issuance, and management of debt. The BOCC shall also adhere to the fund balance policy.

(Revised June 9, 2014)

EXHIBIT

4

AFFIDAVIT

State of Florida

County of Wakulla

I, Carrie A. Hess, swear that I attended the "Wakulla County Republican Executive Committee Republican Candidates Forum" where on the Wakulla County Chamber of Commerce website, the public was invited to "come out to the Senior Citizens Center and meet the Republican Candidates running for all local offices (BOCC, Sheriff, Property Appraiser)..." held on August 11th, 2016 and that I recorded the proceedings on my camera in seven parts, which recordings have been accurately transferred from the original recordings to the thumb drives submitted with this affidavit. Recording in seven parts were necessary due to limitations of my camera.

Carrie A. Hess

Carrie A. Hess

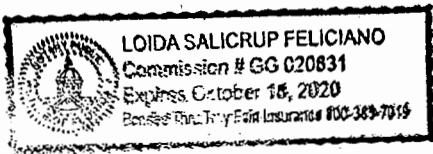


expired on: 7-12-2022

Sworn to and subscribed before me this ___ day of November, 2016

Loida Salicrup Feliciano

Notary Public



Loida Salicrup Feliciano

Print or stamp name of notary public

NOTARY SEAL

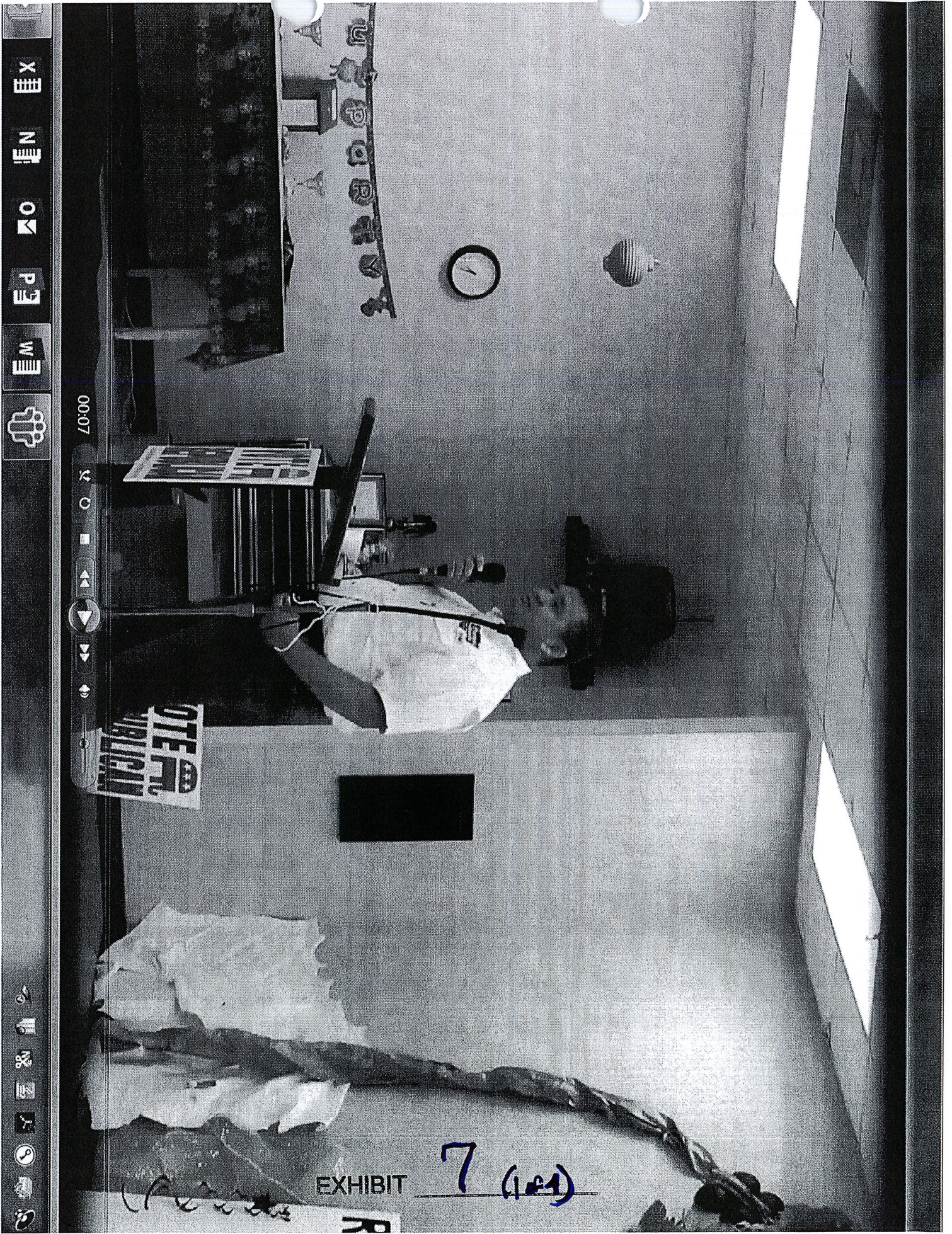
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EXHIBIT

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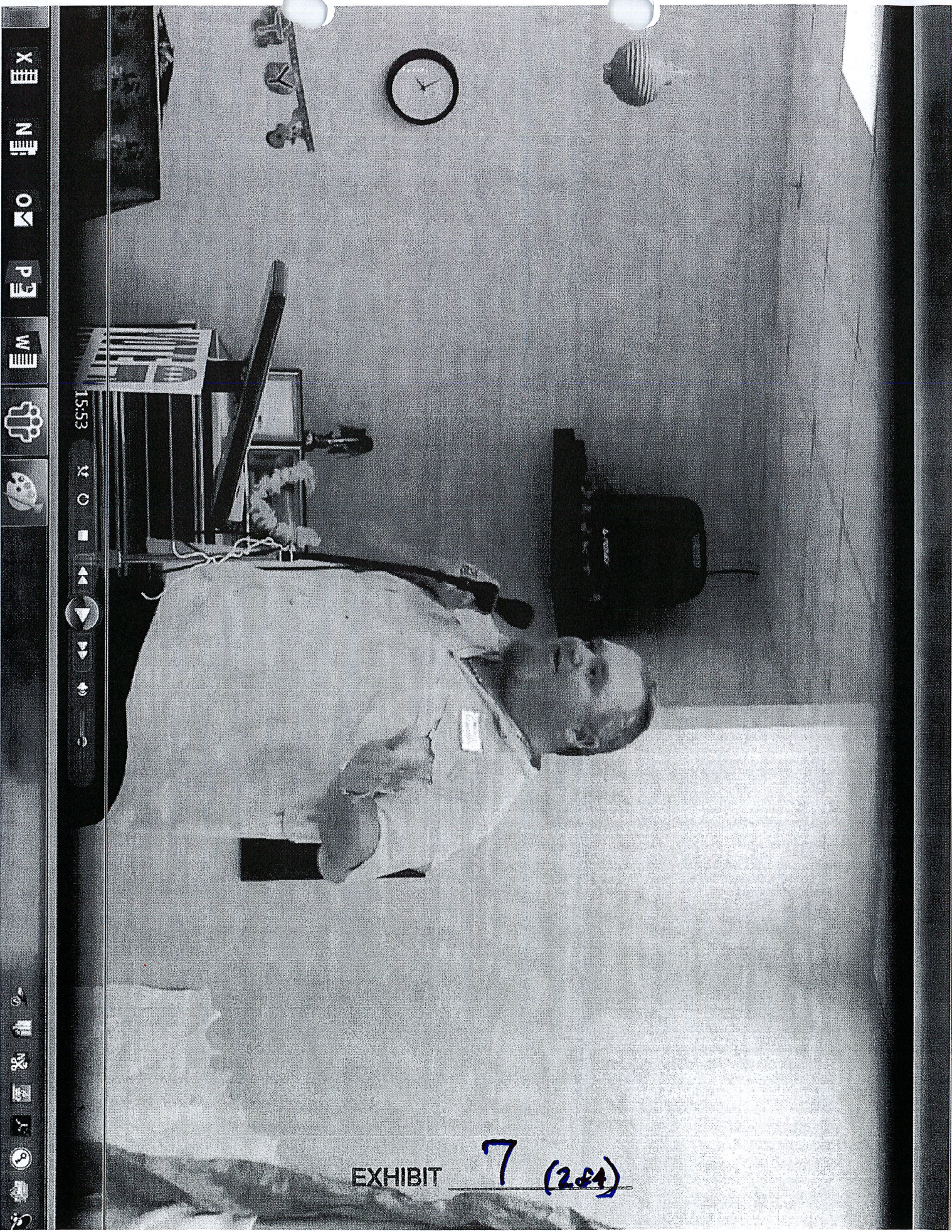
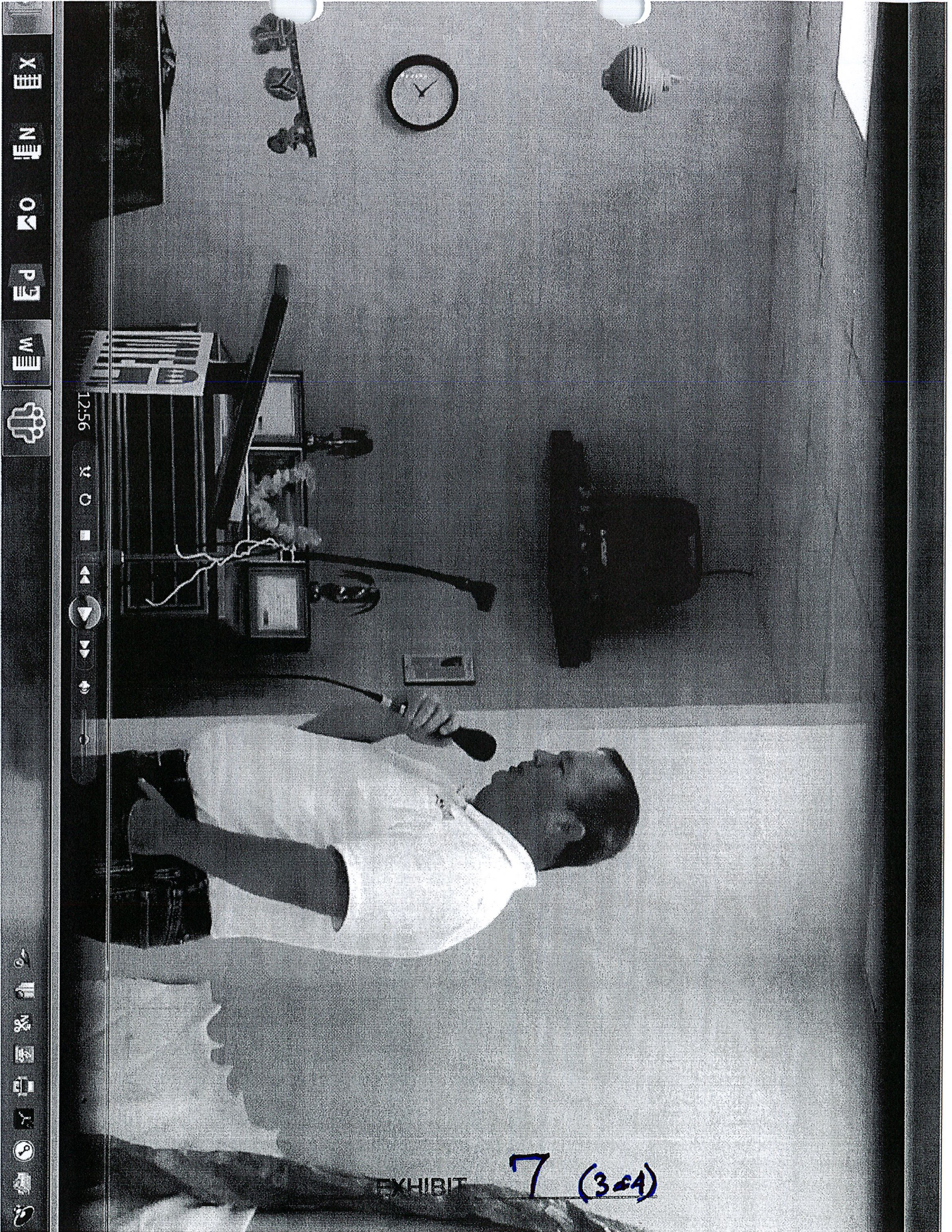
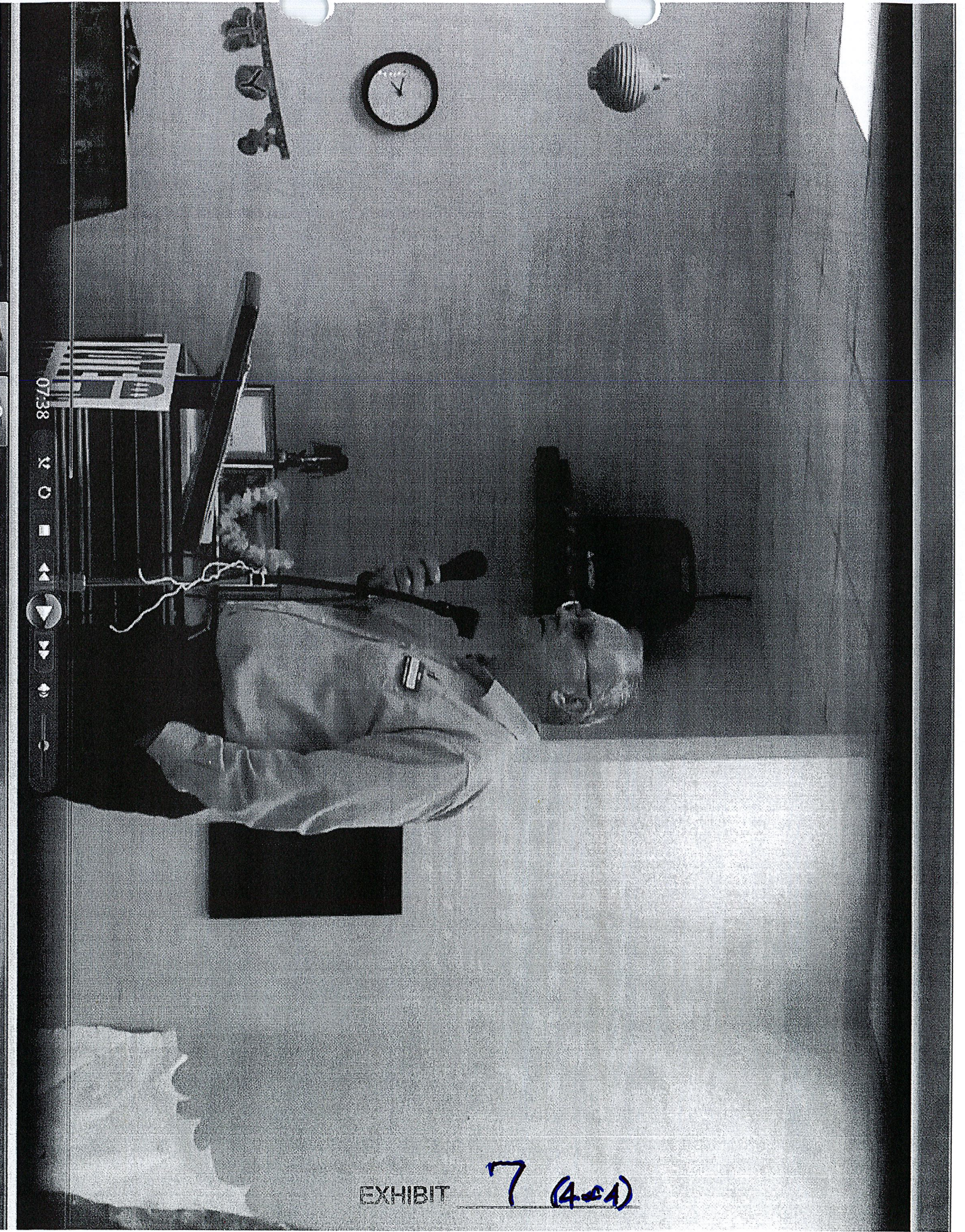


EXHIBIT 7 (284)



EXHIBIT

7 (324)



07:38



EXHIBIT 7 (401)

Chris Russell
92 Pimlico Drive
Crawfordville, Florida 32327

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

RE: Cases No.: FEC 16-355; Respondent Chris Russell (Individual) & FEC 16-356; Respondent Wakulla County Republican Executive Committee (Chris Russell as Chairman-WCREC)

RECEIVED

2016 SEP - 8 10 2:55
STATE OF FLORIDA
ELECTIONS COMMISSION

Director Toman,

First of all, I would like to apologize to you and your staff, for once again having to review two more malicious complaints submitted by Mr. Hugh Taylor. Since both complaints, FEC 16-355 & 356, list the same allegations towards me as an individual and myself as the Chairman of the Wakulla County Republican Executive Committee, I have opted to respond to both complaints with this singular correspondence as a means of helping you and your team streamline the process needed to address these matters. Should this not be a sufficient means of responding, please let me know at your earliest convenience and I will adjust and respond accordingly.

It is my understanding that Mr. Taylor's complaint contains two alleged violations of Florida Statutes. I have listed both of Mr. Taylor's alleged violations below along with my responses.

Alleged Violation #1

"Mr. Russell and the Republican Executive Committee violated this code by advertising & holding a partisan forum in a nonpartisan county, telling/inviting other Republicans to attend the partisan forum."

Response #1

I believe Mr. Taylor most likely intended to reference Florida Statute 106.143(3) rather than mistakenly referencing 104.43.3(3) in his complaint. Mr. Taylor alleges that myself, and the Wakulla County Republican Executive Committee (WCREC), violated 106.143(3) by advertising & holding a partisan forum. The entirety of 106.143 pertains to **"Political advertisements circulated prior to election; requirements"**. Paragraph (3), specifically pertains to **political advertisement** of a "candidate" running for partisan and non-partisan office. 106.143(3) does not pertain to holding a forum or noticing the public of such forum. Florida Statute 106.011(15) states, "'Political advertisement' means a paid expression in a communications medium prescribed in subsection (4), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue." As outlined in "exhibit D" (pg. 9 of 12) of Mr. Taylor's complaint package, the WCREC is not a candidate for any office. Furthermore, myself as an individual, am not a candidate running for office which precludes 106.143 (3) from pertaining to either the WCREC or myself. In turn, I respectfully request that a finding of legally insufficient be determined on alleged violation #1.

Although Mr. Taylor implies I crafted the factually written response in Exhibit D, I must confess that it was not my handiwork. However, I do admire the level of detail the author partook in helping to enlighten Mr. Al Shylkofski, who was clearly uneducated and confused on this matter. Like Mr. Taylor, Mr. Shylkofski has failed to grasp the statutes and regulations governing such issues, but none the less

EXHIBIT

8 (1-22)

they have haphazardly patched together various regulatory references, in apparent hopes that their malicious allegations will ultimately become legitimized.

Alleged Violation #2

"Additionally, subject violated the following statute (104.091 below) by aiding, agreeing to attend, confederating, combined with, knew of the felony violation, gave aid to the offender who violated the code (the REC).

Response #2

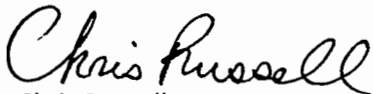
As mentioned in response to Allegation #1, Mr. Taylor incorrectly referred to Florida Statute 104.43.3(3), in his alleged violation #1, therefore, only one of his alleged violations pertain to Florida Statute 104, specifically 104.091. 104.091 pertains to "**Aiding, abetting, advising, or conspiring in violation of the code**". In other words, there would have to be a violation of at least one additional section of the Election Code, Florida Statute 104 in order to make an accusation of "**aiding, abetting, advising, or conspiring in violation of the code**". Since Mr. Taylor's complaint did not allege a violation of another section of Florida Statute 104, there is no basis for the accusation that I or the WCREC have also violated 104.091 by "**aiding, abetting, advising, or conspiring in violation of the code**". I respectfully request that a finding of legally insufficient be determined on alleged violation #2.

I fully respect and welcome the opportunity afforded each and every citizen of our great State in making a complaint via the Florida Elections Commission. However, it's discouraging to see that Mr. Taylor's continual allegations, which are routinely garnered legally insufficient, cost the taxpayers so much with nothing in return. Casting shells devoid of nuts into the ring from the peanut gallery seems to be the modus operandi of Mr. Taylor. One can only assume that he takes such measures hoping to bring down the fighter in the ring, not by having the intestinal fortitude or confidence to actually enter the ring himself, but rather by projecting rubbish into the ring in hopes that the fighter will be defeated. Defeated, not by the hand of his challenger, nor by growing weary from a long hard fought battle, but rather by a slip in step due to the rubbish hurled from afar. However, unfortunately for Mr. Taylor, the bloodied knuckles and scarred hand of the champion will continuously be raised high in victory, grasping tightly to the second greatest document ever drafted by man, The United States Constitution. An instrument that protects Americans' freedoms and rights, including an individual's right to free speech and the people's right to assemble peaceably.

Once again, my apologies to you and your staff for the wasting of your resources having to review these complaints. In closing, as advised above, given the lack of documents or other evidence to support Mr. Taylor's complaints, I respectfully request that a finding of legally insufficient be determined on both complaints FEC 16-355 and FEC 16-3

I truly appreciate your time and consideration in this matter.

Respectfully



Chris Russell

For Myself & The Wakulla County Republican Executive Committee

EXHIBIT 8 (2.c.2)

AFFIDAVIT OF BACKGROUND INFORMATION
Case Number: FEC 16-355

RECEIVED

2017 APR 19 A 10:59

STATE OF FLORIDA
County of Wakulla

STATE OF FLORIDA
ELECTIONS COMMISSION

Chris Russell, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by _____ as _____.

3. Have you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in.

~~_____~~
~~_____~~
~~_____~~

4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s).

~~_____~~
~~_____~~
~~_____~~

5. Have you ever held the office of chairperson or treasurer or a political committee? If so, please list the names and addresses of the committees and dates when you held the position.

~~_____~~
~~_____~~
~~_____~~

6. What action have you taken to determine your responsibilities under Florida's election laws?

~~_____~~
~~_____~~
~~_____~~

EXHIBIT 9 (147)

7. Do you possess a copy of Chapter 106, Florida Statutes? Yes No

8. If so, when did you first obtain it? NIA

9. Have you read Chapter 106, Florida Statutes? Not entirely Yes No

10. Do you possess a copy of Chapter 104, Florida Statutes? Yes No

11. If so, when did you first obtain it? NIA

12. Have you read Chapter 104, Florida Statutes? See Addendum Yes No

13. Do you possess a copy of the *Candidate and Campaign Treasurer Handbook*? Yes No

14. If so, when did you first obtain it? NIA

15. Have you read the *Candidate and Campaign Treasurer Handbook*? I do not recall Yes No

16. In 2016, were you the chairman of the Wakulla County Republican Executive Committee (WCREC)? Yes () No. If no, please provide the name of the person who served as chairman.

17. Did you speak with the Wakulla County Supervisor of Elections regarding the candidate's forum prior to the forum being held on August 11, 2016? () Yes () No. If yes, please state when (on what date, approximately) you spoke with him and why you spoke with him. In the space below, please describe in detail your conversation(s) with the Supervisor of Elections.

See Addendum

18. Did you speak with the following persons about the substance of your conversation(s) with the Wakulla County Supervisor of Elections that you described above.

EXHIBIT

9 (2017)

Gordon Millender () Yes () No

Ralph Thomas () Yes () No

John Shuff () Yes () No

Richard Harden () Yes () No

19. Did you speak with Gordon Millender about the forum prior to the forum event including whether or not he should attend and speak at the forum? If so, please state when (on what date, approximately) you spoke with him and describe the conversation(s) in detail.

20. Did you speak with Ralph Thomas about the forum prior to the forum event including whether or not he should attend and speak at the forum? If so, please state when (on what date, approximately) you spoke with him and describe the conversation(s) in detail.

21. Did you speak with John Shuff about the forum prior to the forum event including whether or not he should attend and speak at the forum? If so, please state when (on what date, approximately) you spoke with him and describe the conversation(s) in detail.

22. Did you speak with Richard Harden about the forum prior to the forum event including whether or not he should attend and speak at the forum? If so, please state when (on what date, approximately) you spoke with him and describe the conversation(s) in detail.

EXHIBIT

9 (3-57)

23. Who within the WCREC invited the non-partisan candidates, specifically, Gordon Millender, Ralph Thomas, John Shuff and Richard Hardent, to attend and speak at the candidate's forum held on August 11, 2016?

24. How (e-mail, phone call, written invitation, etc.) and when were the candidates invited to attend the forum? If the invitation was in written format, please provide a copy for our review.

25. According to a newspaper article included as part of the complaint, titled, "Republican forum draws concern," you and members of the executive committee reviewed the law. At the time, who were the other members of the executive committee? Additionally, please state their position/title within the executive committee.

26. Who did you or other members of the executive committee seek guidance from to determine whether your understanding of the law, including your understanding of Section 106.143(3), FS, was correct?

27. According to the same newspaper article as referenced in question #25, relative to the candidate's forum, you are attributed as saying, "This is not a problem" and "This is nothing new," when addressing those in attendance. In the space below, please explain why you made these statements.

See Addendum

EXHIBIT

9 (4-7)

28. Did you speak with anyone at the Division of Elections regarding the candidate's forum prior to the forum being held on August 11, 2016? () Yes () No. If yes, please provide the name of the person whom you spoke with, when (on what date, approximately) you spoke with this person, and your reason for speaking with this person. Additionally, please describe your conversation(s) with the Division of Elections in detail.

29. As of March 2017, are you still the chairman of the WCREC? () Yes (X) No. If no, please provide the name of the person who is currently serving as the chairman. In addition, please state whether you still hold a position/title with the WCREC.

Ralph Thomas

I am a Precinct Committeeman on the WCREC

I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Chris Russell
Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 17th day of April, 2017.

Vickie Brown
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public



**Vickie D. Brown
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG017498
Expires 8/1/2020**

Personally Known or Produced Identification _____

Type of Identification Produced: _____

Case Investigator: KS

EXHIBIT 9 (5 of 7)

FEC 16-355 (Chris Russell) Questionnaire Addendum

#12. After receiving a copy of the complaints against me, I read Chapter 104 F.S., before that time I had not read Chapter 104 F.S. to my recollection.

#17 Yes: As I recall, on or about July 28, 2016. Upon returning from vacation, I had a voicemail from a reporter concerning the upcoming forum. I contacted the reporter who advised that her newspaper staff had contacted the Wakulla County Supervisor of Elections Buddy Wells (SOE) in regards to a rumor that a complaint had been filed with him concerning the upcoming forum. Afterwards, I went to the SOE Office and met with the SOE to discuss the matters brought up by the reporter. This meeting lead to a deeper discussion concerning the forum and if it was prohibited by Statutes, or if the attendance by any candidates would be a violation of election laws. The SOE advised that after receiving the previous inquiry from the reporter, he had contacted "Legal" at the Florida Division of Elections and they ("Legal") stated that they could not validate that the forum itself, nor the attendance by any candidates, partisan or non-partisan, would be a violation of Florida Statutes. The SOE and I then jointly reviewed the F.S. that he felt would be applicable (106.143) to determine if the proposed forum itself, or if the attendance by any candidates, would constitute a violation of F.S. 106.143 and we could not find where the forum, or the attendance of candidates would lead to a violation of Florida election law. This joint conclusion was based on the fact that F.S. 106.143 deals with "Political Advertisements" and that the forum was not an advertisement and that candidates are free to attend any venue they choose. After our joint research and then readdressing the conversation the SOE had with the "Legal" staff at the Florida Division of Elections, I asked the SOE directly: "would the forum or the attendance of the forum by any local candidates be a violation of Florida Statutes" and he advised that he could not say that it would be. The SOE also advised on that date, as well as during another discussion held at an off-site charity event (outside of the SOE office), that although he had conversations with various candidates, he had not advised **any** candidate that they would be in violation of any election laws if they attended the event.

#27 As I recall, the statement was made due to the information provided by, and research conducted with, the SOE, whom also consulted the Florida Division of Elections on this matter, as well as from the research I conducted myself. The combination of these events lead to the firm belief that the holding of such a forum, as well as the attendance by candidates seeking election to non-partisan offices, would not violate election law by me personally, as the Chairman of the Wakulla County REC, or for those candidates attending themselves.

My research found that it is commonplace in Florida for entities, such as the REC, to utilize "political advertisements" referencing the political affiliation, etc of a candidate seeking a non-partisan office (School Board, various municipalities, etc via paid ads, rack cards, etc). Although the forum held by the REC clearly **does not** meet the definition of "Political Advertisement" as found in F.S. 106.011(15), (specifically the fact that the forum consisted of the "spoken word in

direct conversation”, which is expressly excluded from the definition of “Political Advertisement”), even should one *inaccurately* determine that the forum was a “Political Advertisement”, such advertisement by the Wakulla County REC would not be a violation of Florida election law, in turn, myself personally, and I as the Chairman of the Wakulla County REC, did not violate any Florida election laws.

My research and discussions (including the research conducted jointly) with the SOE, who also consulted with the Florida Division of Elections on the proposed forum, also indicates that the attendance and speaking at the forum by any candidate, be they for non-partisan office or not, would not be a violation of Florida election law. This conclusion was made due to the above stated reasons in regards to the forum not being a “Political Advertisement”, as well as the fact that candidates are not prohibited from attending forums, be they hosted by political parties, Churches, civic groups, etc and that as long as they (candidates seeking non-partisan offices) do not discuss their party affiliation (although they are allowed to discuss their party experiences) they are not in fact campaigning in a partisan manner. The definition of “campaigning” is not found in F.S. 106. It appears that some individuals may rely on the definition of “Political Advertisement” when seeking guidance on campaigning issues relative to F.S. 106 (an example being the SOE used the F.S. 106 definition of Political Advertisement when discussing and researching the matter with me, as well as when the SOE replied to Al Shylkofski on July 28, 2016 as outlined in Exhibit C of the complaint against me). The definition of Political Advertisement as found in F.S. 106.011(15) states: “Political Advertisement” means a **paid expression** in communications medium prescribed in subsection (4), whether radio, television, newspaper, periodical, campaign literature, direct mail, or display **or by means other than the spoken word in direct conversation**, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue. The candidates seeking non-partisan offices that attended the forum did not institute a “**paid expression**” and each of them **limited their activities to the spoken word in direct conversation**. Furthermore, none of these candidates discussed their political party affiliation and to my knowledge, I do not recall any of them even mentioning their experiences with partisan affiliations, although this would be allowed by Florida election law. In summary, candidates, even those seeking non-partisan offices (except possibly Judicial Offices) are not prohibited from attending forums, events, etc regardless of who hosts the forum or event. In reality, the opposite is quite true, their attendance at such forums and events is expressly protected by the First Amendment to the Constitution of the United States of America, whereas their rights to free speech and peaceably assembling are protected under the First Amendment. I hope these responses help you resolve your investigation against me and the other individuals from Wakulla County swiftly. Thank you for your time reviewing them.

EXHIBIT 9 (707)

AFFIDAVIT OF FILING OFFICER

STATE OF FLORIDA
County of Wakulla

RECEIVED

Henry F. Wells "Buddy", being duly sworn, says:

2017 MAR 23 P 4: 20

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by Wakulla County as Supervisor of Elections

STATE OF FLORIDA
ELECTIONS COMMISSION

3. Does your office have any record of Chris Russell having sought elective office within your jurisdiction? Yes or No. If yes, please list the previous office(s) he ran for, the date(s) of the election(s), and the result(s) of the election(s).

School Board District 3 – Election August 26, 2014

Results – Rebecca S. Cook 3,118=54.43% - Chris Russell 2,443=42.65% - Under Votes 167=2.92%

4. Does your office have any record of Mr. Russell having been named as a chairperson or campaign treasurer of a political committee or electioneering communication organization within your jurisdiction? Yes or No. If yes, please list the name(s) of the committees.

Wakulla County Republican Executive Committee as of January 2015

Also ran for State Committeeman 2016 unopposed see attached Oath 2016

5. To your knowledge, how long has Mr. Russell served as the chairman for the Wakulla County Republican Executive Committee?
January 2015 thru January 2017

6. To your knowledge, have you ever provided Mr. Russell with a copy or advised him to download copies of Chapter 104, Chapter 105, or Chapter 106, Florida Statutes, in the past?
 Yes or No.

This information is given to and discussed with all that file to run for any office within Wakulla County

Candidates are informed that we are as close as a call and the information is available online at website

7. Did you have any discussion with Mr. Russell concerning the issue of holding a Candidate forum to be held by the Wakulla County Republican Executive Committee at the Senior center? Yes or No. If yes, please answer the following questions.

EXHIBIT 10 (102)

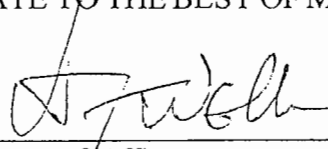
A.) Did you speak with Mr. Russell in person or via telephone? Yes - Both . If you did speak with him, did he initiate contact with you? He called sometime ~ end of July and he approached me in person at local back to school event on August 6, 2016 we discussed the same issues about candidates speaking at the forum.

B.) When (on what date, approximately) did you speak with him?
~ end of July and then again on August 6, 2016

C.) In the space below, please explain in as much detail as you can, what you told him relative to attending the candidate's forum.

My statement to Mr. Russell was the same as stated to all that ask questions on the candidate's participation in the Republican Party candidate Forum. After looking into the Florida Statutes chapters 97.021 (22) Nonpartisan office meaning- 104. - 106.143 (3) (11) also 106.265. Then talking to the Division of Election Legal Dept. Mr. Jordon made the statement that the candidates were skating on thin ice. I informed any that contacted me of this statement and again said they could do what they wanted to but be sure to check the FS listed above. Candidates that are running in a Nonpartisan race should not campaign using party in any way. He informed me that I was incorrect about candidates speaking at the forum. I assured him that I had not told anyone they could not speak at the forum only to be sure of the Florida Statutes concerning Nonpartisan Races.

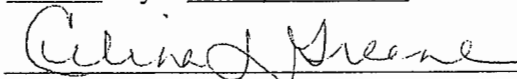
ISWEAR OR AFFIRM THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.



Signature of Affiant

Sworn to (or affirmed) and subscribed before me this

23 Day of March 2017



Signature of Notary Public State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public



CELINAL GREENE
MY COMMISSION # GG 005499
EXPIRES: June 23, 2020
Bonded Thru Budget Notary Services

Personally Known or Produced

Identification _____ Type of Identification

Produced: _____

Case
Investigator: KS

EXHIBIT

10 (2x2)

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)

(Please print or type)

OFFICE USE ONLY

RECEIVED

2014 APR -4 P 3:05

SUPERVISOR OF ELECTIONS
WAKULLA COUNTY, FLORIDA

I, Chris Russell,

candidate for the office of School Board District 3;

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

X

Chris Russell

Signature of Candidate

4/4/14

Date

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

FEC Case No.'s 16-356 and 16-353

Marsha A. Poppell

to:

'Florida Elections Commission'

05/24/2017 01:28 PM

Cc:

"keith.smith@myfloridalegal.com"

Hide Details

From: "Marsha A. Poppell" <MPoppell@shutts.com>

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

Cc: "keith.smith@myfloridalegal.com" <keith.smith@myfloridalegal.com>

2 Attachments



FEC 16353 Notice of Appearance.pdf FEC 16356 Notice of Appearance.pdf

Good afternoon:

Attached please find Notices of Appearance in the above referenced cases.

Thanks.

Shutts

Marsha A. Poppell

Legal Assistant

Shutts & Bowen LLP

215 South Monroe Street, Suite 804 | Tallahassee, FL 32301

Direct: (850) 521-0600 x6612 | Fax: (850) 521-0604

[E-Mail](#) | [Website](#)

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

IN RE: CHRIS RUSSELL, as
Chairman of the Wakulla County
REC,

Case No.: FEC 16-356

Respondent

NOTICE OF APPEARANCE

Jason Gonzalez of Shutts & Bowen LLP hereby provides notice of his appearance as counsel for Respondent Chris Russell as Chairman of the Wakulla County REC in this matter.

Respectfully submitted,

/s/ Jason Gonzalez

Jason Gonzalez (FBN 146854)
SHUTTS & BOWEN LLP
215 South Monroe Street, Suite 804
Tallahassee, Florida 32301
Telephone: 850-521-0600
Email: jasongonzalez@shutts.com

*Counsel for Respondent Chris Russell as
Chairman of the Wakulla County REC*

CERTIFICATE OF FILING

I hereby certify that a true copy of this document has been filed this 24th day of May, 2017,

with:

Erin Riley
Deputy Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

IN RE: CHRIS RUSSELL, as
Chairman of the Wakulla County
REC,

Case No.: FEC 16-356

Respondent
_____ /

NOTICE OF APPEARANCE

Jason Gonzalez of Shutts & Bowen LLP hereby provides notice of his appearance as counsel for Respondent Chris Russell as Chairman of the Wakulla County REC in this matter.

Respectfully submitted,

/s/ Jason Gonzalez

Jason Gonzalez (FBN 146854)
SHUTTS & BOWEN LLP
215 South Monroe Street, Suite 804
Tallahassee, Florida 32301
Telephone: 850-521-0600
Email: jasongonzalez@shutts.com

*Counsel for Respondent Chris Russell as
Chairman of the Wakulla County REC*

CERTIFICATE OF FILING

I hereby certify that a true copy of this document has been filed this 24th day of May, 2017,

with:

Erin Riley
Deputy Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

RECEIVED
2017 MAY 24 P 1:33
STATE OF FLORIDA
ELECTIONS COMMISSION



FLORIDA ELECTIONS COMMISSION

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

December 23, 2016

Daniel E. Nordby, Esquire
Shutts & Bowen LLP
215 South Monroe Street, Ste. 804
Tallahassee, FL 32301

RE: Case No.: FEC 16-356; Respondent: Wakulla County Republican Executive Committee

Dear Mr. Nordby:

On November 7, 2016, the Florida Elections Commission received **an amended complaint** alleging that your client violated Florida's election laws. I have reviewed the complaint and find that it contains one or more legally sufficient allegations. The Commission staff will investigate the following alleged violation:

Section 104.091(1), Florida Statutes: Respondent knowingly aided, abetted, or advised the violation of Section 106.143(1), Florida Statutes, as alleged in the complaint.

You may respond to the allegation above by filing a notarized statement providing any information regarding the facts and circumstances surrounding the allegation. Your response will be included as an attachment to the investigator's report.

When we conclude the investigation, a copy of the Report of Investigation will be mailed to you at the above address. You may file a response to the report within 14 days from the date the report is mailed to you. Based on the results of the investigation, legal staff will make a written recommendation to the Commission on whether there is probable cause to believe you have violated Chapter 104 or 106, Florida Statutes. A copy of the Staff Recommendation will be mailed to you and you may file a response within 14 days from the date the recommendation is mailed to you. Your timely filed response(s) will be considered by the Commission when determining probable cause.

The Commission will then hold a hearing to determine whether there is probable cause to believe you have violated Chapters 104 or 106, Florida Statutes. You and the complainant will receive a notice of hearing at least 14 days before the hearing. The notice of hearing will indicate the location, date, and time of your hearing. You will have the opportunity to make a brief oral

statement to the Commission, but you will not be permitted to testify or call others to testify, or introduce any documentary or other evidence.


At any time before a probable cause finding, you may notify us in writing that you want to enter into negotiations directed towards reaching a settlement via consent agreement.

The Report of Investigation, Staff Recommendation, and Notice of Hearing will be mailed to the above address as this letter. Therefore, if your address changes, you must notify this office of your new address. Otherwise, you may not receive these important documents. Failure to receive the documents will not delay the probable cause hearing.

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 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.

If you have any questions or need additional information, please contact **Keith Smith**, the investigator assigned to this case.

Sincerely,



Amy McKeever Toman
Executive Director

AMT/enr

MW



Notices of Appearance

Marsha A. Poppell

to:

'Florida Elections Commission'

12/07/2016 04:56 PM

Cc:

"Daniel E. Nordby"

Hide Details

From: "Marsha A. Poppell" <MPoppell@shutts.com>

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

Cc: "Daniel E. Nordby" <DNordby@shutts.com>

7 Attachments



FEC 16-350.pdf FEC 16-351.pdf FEC 16-352.pdf FEC 16-353.pdf FEC 16-354.pdf FEC 16-355.pdf



Good afternoon:

Attached please find Notices of Appearance for the following case numbers: FEC 16-350; FEC 16-351; FEC 16-352; FEC 16-353; FEC 16-354; FEC 16-355; and FEC 16-356.

Thanks and have a great evening.



Marsha A. Poppell

Legal Assistant

Shutts & Bowen LLP

215 South Monroe Street, Suite 804 | Tallahassee, FL 32301

Direct: (850) 521-0600 | Fax: (850) 521-0604

[E-Mail](#) | [Website](#)

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

IN RE: CHRIS RUSSELL, as
Chairman of the Wakulla County
REC,

Case No.: FEC 16-356

Respondent
_____ /

NOTICE OF APPEARANCE

Daniel E. Nordby of Shutts & Bowen LLP hereby provides notice of his appearance as counsel for Respondent Chris Russell as Chairman of the Wakulla County REC in this matter.

Respectfully submitted,

/s/ Daniel Nordby

Daniel E. Nordby (FBN 014588)
SHUTTS & BOWEN LLP
215 South Monroe Street, Suite 804
Tallahassee, Florida 32301
Telephone: 850-521-0600
Email: dnordby@shutts.com

*Counsel for Respondent Chris Russell as
Chairman of the Wakulla County REC*

CERTIFICATE OF FILING

I hereby certify that a true copy of this document has been filed this 7th day of December,
2016, with:

Erin Riley
Deputy Agency Clerk
Florida Elections Commission
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
fec@myfloridalegal.com

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 16-356

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:

*please see attached
1. affidavit
2. thumb drive video*

OATH
STATE OF FLORIDA
COUNTY OF Haskell

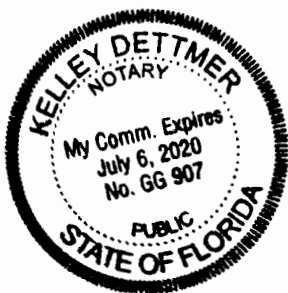
RECEIVED
2016 NOV - 7 P 11:3
STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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 7th day of
November, 2016

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



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

Personally known Or Produced Identification

Type of Identification Produced FDLT 460-333-46-383-0

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.

Hugh Taylor
1357 Martin Luther King Rd.
Crawfordville, Fl. 32327
11/6/16

RE: Response/Addendum to Case No.: FEC 16-356

Respondent: Wakulla County Republican Executive Committee

This addendum is in response to the Florida Elections Commission letter dated October 25, 2016, allowing me to provide additional information to correct the ground(s) of insufficiency in the case cited above.

I quote your letter to me: "...you do not provide any evidence other than the newspaper articles to support your allegations about Respondent's involvement with the forum . . . As such, your complaint is based on hearsay, *rather than personal information* or information other than hearsay and it is legally insufficient pursuant to Section 106.25, Florida Statutes."

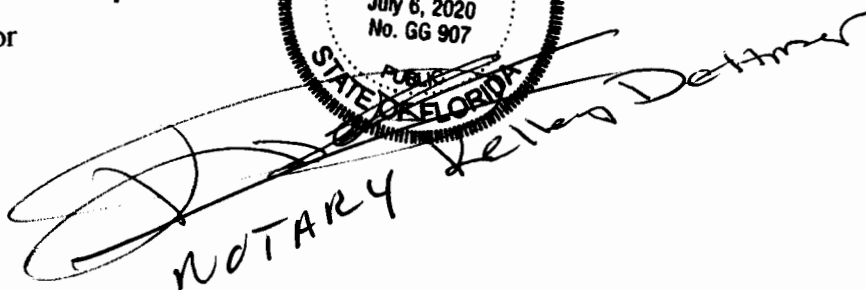
As I am permitted to supply additional information that "corrects the stated ground(s) of insufficiency," I am submitting the *attached affidavit and video* to reflect and support my original complaint. This should remove all doubt about both my original complaint and the newspaper article attached to my original complaint.

While I did not personally witness the actions alleged in the complaint, the attached affidavit and video clarify the allegations in my complaint and cure the hearsay objections of the commission with a first person affidavit and video of the event and participants.

Cordially,



Hugh Taylor



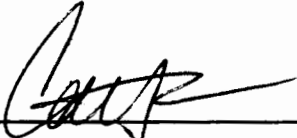
NOTARY Kelley Dettmer

AFFIDAVIT

State of Florida

County of Wakulla

I, Carrie A. Hess, swear that I attended the "Wakulla County Republican Executive Committee Republican Candidates Forum" where on the Wakulla County Chamber of Commerce website, the public was invited to "come out to the Senior Citizens Center and meet the Republican Candidates running for all local offices (BOCC, Sheriff, Property Appraiser)..." held on August 11th, 2016 and that I recorded the proceedings on my camera in seven parts, which recordings have been accurately transferred from the original recordings to the thumb drives submitted with this affidavit. Recording in seven parts were necessary due to limitations of my camera.



Carrie A. Hess

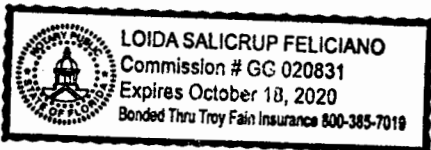


Expired on: 7-12-2022

Sworn to and subscribed before me this 5 day of November, 2016



Notary Public





Print or stamp name of notary public

NOTARY SEAL



FLORIDA ELECTIONS COMMISSION

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

October 25, 2016

Hugh Taylor
1357 Martin Luther King Jr. Road
Crawfordville, FL 32327

RE: Case No.: FEC 16-356; Respondent: Wakulla County Republic Executive Committee

Dear Mr. Taylor:

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.

The essential allegations of your complaint are that Respondent campaigned based on party affiliation in a non-partisan election, and that Respondent aided and abetted in violation of the election laws.

In support of your complaint, you provided several news articles that reference a candidate forum that was sponsored by the Wakulla County Republican Executive Committee "exclusively for registered Republican candidates."

While it appears that the kind of forum described by the news articles could result in a violation of Section 106.143(3), Florida Statutes, by participating candidates, as well as a violation of Section 104.091, Florida Statutes, for aiding and abetting in violation of the election laws by Respondent, you do not provide any evidence other than the newspaper articles to support your allegations about Respondent's involvement with the forum. As such, your complaint is based on hearsay, rather than on personal information or information other than hearsay, and it is legally insufficient pursuant to Section 106.25, Florida Statutes.

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', with a long horizontal flourish extending to the right.

Amy McKeever Toman
Executive Director

AMT/enr

Enclosure: Additional Information Form

cc: Wakulla County Republican Executive Committee, Respondent w/out Enclosure



FEC 16-355 & FEC 16-356
Erin Riley to fcrussell92

10/25/2016 02:21 PM

Mr. Russell,

Please find attached the Letter of Legal Insufficiency signed by the Executive Director. A hard copy has been mailed to you.



16-355 Letter of Legal Insufficiency.pdf 16-356 Letter of Legal Insufficiency.pdf

Should you have any questions, please let me know.

Thanks,
Erin Riley
Administrative Assistant II
Florida Elections Commission
Phone: 850-922-4539
Fax: 850-921-0783
Email Erin.Riley@myfloridalegal.com

The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by replying to this message and deleting the material from any computer.



FLORIDA ELECTIONS COMMISSION

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

October 25, 2016

Hugh Taylor
1357 Martin Luther King Jr. Road
Crawfordville, FL 32327

RE: Case No.: FEC 16-356; Respondent: Wakulla County Republic Executive Committee

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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.

The essential allegations of your complaint are that Respondent campaigned based on party affiliation in a non-partisan election, and that Respondent aided and abetted in violation of the election laws.

In support of your complaint, you provided several news articles that reference a candidate forum that was sponsored by the Wakulla County Republican Executive Committee "exclusively for registered Republican candidates."

While it appears that the kind of forum described by the news articles could result in a violation of Section 106.143(3), Florida Statutes, by participating candidates, as well as a violation of Section 104.091, Florida Statutes, for aiding and abetting in violation of the election laws by Respondent, you do not provide any evidence other than the newspaper articles to support your allegations about Respondent's involvement with the forum. As such, your complaint is based on hearsay, rather than on personal information or information other than hearsay, and it is legally insufficient pursuant to Section 106.25, Florida Statutes.

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 McKeeyer Toman', with a long horizontal flourish extending to the right.

Amy McKeeyer Toman
Executive Director

AMT/enr

Enclosure: Additional Information Form

cc: Wakulla County Republican Executive Committee, 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 16-356

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.



Attention: Erin Riley Respondent Correspondence, RE: FEC 16-355 & FEC 356

Chris Russell

to:

fec

09/06/2016 12:51 PM

Cc:

Chris Russell, Wakulla County REC

Hide Details

From: Chris Russell <fcrussell92@gmail.com>

To: fec@myfloridalegal.com

Cc: Chris Russell <fcrussell92@gmail.com>, Wakulla County REC
<wakullacountyrec@gmail.com>

1 Attachment



WREC CR FEC Complaint Response.docx

Good Afternoon Erin:

Per the instructions provided in regards to both FEC Case Numbers FEC 16-355 (Chris Russell) and FEC 16-356 (Wakulla County Republican Executive Committee), please find attached my response for both complaints. As both complaints have the same allegations towards me as an individual and myself as Chairman of the Wakulla County REC, I have opted to submit one response encapsulating both complaints. Please advise if this is not acceptable and I will adjust accordingly.

Please do not hesitate to contact me should you have any comments, questions, or concerns pertaining to this matter.

Respectfully,

Chris Russell

fcrussell92@gmail.com

(850) 926-5981

Chris Russell
92 Pimlico Drive
Crawfordville, Florida 32327

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

RE: Cases No.: FEC 16-355; Respondent Chris Russell (Individual) & FEC 16-356; Respondent Wakulla County Republican Executive Committee (Chris Russell as Chairman-WCREC)

Director Toman,

First of all, I would like to apologize to you and your staff, for once again having to review two more malicious complaints submitted by Mr. Hugh Taylor. Since both complaints, FEC 16-355 & 356, list the same allegations towards me as an individual and myself as the Chairman of the Wakulla County Republican Executive Committee, I have opted to respond to both complaints with this singular correspondence as a means of helping you and your team streamline the process needed to address these matters. Should this not be a sufficient means of responding, please let me know at your earliest convenience and I will adjust and respond accordingly.

It is my understanding that Mr. Taylor's complaint contains two alleged violations of Florida Statutes. I have listed both of Mr. Taylor's alleged violations below along with my responses.

Alleged Violation #1

"Mr. Russell and the Republican Executive Committee violated this code by advertising & holding a partisan forum in a nonpartisan county, telling/inviting other Republicans to attend the partisan forum."

Response #1

I believe Mr. Taylor most likely intended to reference Florida Statute 106.143(3) rather than mistakenly referencing 104.43.3(3) in his complaint. Mr. Taylor alleges that myself, and the Wakulla County Republican Executive Committee (WCREC), violated 106.143(3) by advertising & holding a partisan forum. The entirety of 106.143 pertains to **"Political advertisements circulated prior to election; requirements"**. Paragraph (3), specifically pertains to **political advertisement** of a "candidate" running for partisan and non-partisan office. 106.143(3) does not pertain to holding a forum or noticing the public of such forum. Florida Statute 106.011(15) states, "'Political advertisement' means a paid expression in a communications medium prescribed in subsection (4), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue." As outlined in "exhibit D" (pg. 9 of 12) of Mr. Taylor's complaint package, the WCREC is not a candidate for any office. Furthermore, myself as an individual, am not a candidate running for office which precludes 106.143 (3) from pertaining to either the WCREC or myself. In turn, I respectfully request that a finding of legally insufficient be determined on alleged violation #1.

Although Mr. Taylor implies I crafted the factually written response in Exhibit D, I must confess that it was not my handiwork. However, I do admire the level of detail the author partook in helping to enlighten Mr. Al Shylkofski, who was clearly uneducated and confused on this matter. Like Mr. Taylor, Mr. Shylkofski has failed to grasp the statutes and regulations governing such issues, but none the less

they have haphazardly patched together various regulatory references, in apparent hopes that their malicious allegations will ultimately become legitimized.

Alleged Violation #2

“Additionally, subject violated the following statute (104.091 below) by aiding, agreeing to attend, confederating, combined with, knew of the felony violation, gave aid to the offender who violated the code (the REC).

Response #2

As mentioned in response to Allegation #1, Mr. Taylor incorrectly referred to Florida Statute 104.43.3(3), in his alleged violation #1, therefore, only one of his alleged violations pertain to Florida Statute 104, specifically 104.091. 104.091 pertains to **“Aiding, abetting, advising, or conspiring in violation of the code”**. In other words, there would have to be a violation of at least one additional section of the Election Code, Florida Statute 104 in order to make an accusation of **“aiding, abetting, advising, or conspiring in violation of the code”**. Since Mr. Taylor’s complaint did not allege a violation of another section of Florida Statute 104, there is no basis for the accusation that I or the WCREC have also violated 104.091 by **“aiding, abetting, advising, or conspiring in violation of the code”**. I respectfully request that a finding of legally insufficient be determined on alleged violation #2.

I fully respect and welcome the opportunity afforded each and every citizen of our great State in making a complaint via the Florida Elections Commission. However, it’s discouraging to see that Mr. Taylor’s continual allegations, which are routinely garnered legally insufficient, cost the taxpayers so much with nothing in return. Casting shells devoid of nuts into the ring from the peanut gallery seems to be the modus operandi of Mr. Taylor. One can only assume that he takes such measures hoping to bring down the fighter in the ring, not by having the intestinal fortitude or confidence to actually enter the ring himself, but rather by projecting rubbish into the ring in hopes that the fighter will be defeated. Defeated, not by the hand of his challenger, nor by growing weary from a long hard fought battle, but rather by a slip in step due to the rubbish hurled from afar. However, unfortunately for Mr. Taylor, the bloodied knuckles and scarred hand of the champion will continuously be raised high in victory, grasping tightly to the second greatest document ever drafted by man, The United States Constitution. An instrument that protects Americans’ freedoms and rights, including an individual’s right to free speech and the people’s right to assemble peaceably.

Once again, my apologies to you and your staff for the wasting of your resources having to review these complaints. In closing, as advised above, given the lack of documents or other evidence to support Mr. Taylor’s complaints, I respectfully request that a finding of legally insufficient be determined on both complaints FEC 16-355 and FEC 16-3

I truly appreciate your time and consideration in this matter.

Respectfully

Chris Russell
For Myself & The Wakulla County Republican Executive Committee



FEC 16-356 Respondent: REC

Wakulla County REC

to:

fec

08/25/2016 03:17 PM

Cc:

Chris Russell

[Hide Details](#)

From: Wakulla County REC <wakullacountyrec@gmail.com>

To: fec@myfloridalegal.com

Cc: Chris Russell <fcrussell92@gmail.com>

History: This message has been replied to.

Good Afternoon Erin Riley:

By virtue of this email and as described in the letter received from you in reference to FEC 16-356, please accept my written waiver to confidentiality for this matter.

Please do not hesitate to contact me via this email address or via cell phone (850) 879-1091 should you have any comments, questions, or concerns, pertaining to this waiver.

Respectfully,

Chris Russell

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

CONFIDENTIAL COMPLAINT FORM 2016 AUG 19 P 1: 22

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

1. PERSON BRINGING COMPLAINT:

Name: Harb4 Taylor Work Phone: (850) 926-6058
Address: 1357 MLK RD Home Phone: ()
CRAWFORDVILLE
City: CRAWFORDVILLE County: WAKULLA State: FL Zip Code: 32327

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: REPUBLICAN EXECUTIVE COMMITTEE
Address: PO BOX 1200 Phone: ()
City: CRAWFORDVILLE County: WAKULLA State: FL Zip Code: 32326
CRAWFORDVILLE
If individual is a candidate, list the office or position sought:

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.

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF Wakulla

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 19th day of
August, 2016

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

RECEIVED
2016 AUG 19 1 P 1:22
STATE OF FLORIDA
ELECTIONS COMMISSION



(Print, Type, or Stamp Commissioned Name of Notary Public)
Personally known _____ Or Produced Identification X
Type of Identification Produced DL

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.

Chris Russell, Chair
Republican Party Executive Committee

ADDENDUM TO ELECTIONS COMPLAINT

8/19/16

NARRATIVE AND EXHIBITS

1. Wakulla County, Florida, is a charter county. The county recently amended its charter. Article 2.1 plainly states all elections are to be nonpartisan (see attached exhibit "A").
2. On 7/21 The Republican Party announced a partisan forum to be held August 11th (see attached article from "The Wakulla News,"). And I quote: "REC Chairman *Chris Russell advised that the executive Committee felt it was vitally important to allow the voters an opportunity to hear firsthand from the Republican candidates that may ultimately represent them*" (exhibit "B" attached)
3. A citizen, Al Shylkofski, after reading the article wrote the Supervisor of elections about the Republican forum and received an email stating both the statute and the penalties for violating statutes 104.43 and 104.271 (exhibit "C" attached)
4. In a Facebook post (undated exhibit "D" attached, a representative of the Wakulla County Republican Party or Mr. Chris Russell arrogantly poo-pooed Mr. Shylkofski's concerns.
5. Mr. Shylkofski then wrote a letter to the Wakulla News, 8/14/16, Questioning the legality of the partisan Republican forum the Republican Executive committee, chaired by Mr. Chris Russell and the danger Mr. Russell and the Republican executive committee were putting Republican candidates in.
6. The partisan Republican forum was held 8/11 and the news article (exhibit "F" attached) In The Wakulla News reflected the fact that the Wakulla Supervisor of Elections "warned that the Republicans were 'on thin ice.'" Relative to the forum. Additionally Mr. Russell "referred to the controversy, but indirectly, reassuring the attendees and candidates that 'This is not a problem . . .'"

In summation:

There being no doubt Wakulla County is a Charter county, and the Republican Executive committee *and* Mr. Chris Russell, planned a partisan "forum," exclusively for Republican, for up-coming nonpartisan elections, I quote the following statutes:

104.43.3(3):

"(3)Any political advertisement of a candidate running for partisan office shall express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation.

A political advertisement of a candidate running for *nonpartisan office may not state the candidate's political party affiliation*. This section does not prohibit a political advertisement from stating the candidate's partisan-related experience. **A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.**

104.091 Aiding, abetting, advising, or conspiring in violation of the code (Chapter. 104)

(1) Any person, who knowingly aids, abets, or advises the violation of this code shall be punished in like manner as the principal offender.

(2) Any person who agrees, conspires, combines, or confederates with another person to commit a violation of this code shall be punished as if he or she had committed the violation.

(3) Any person who knows of a felony violation of this code and gives any aid to the offender who has violated the code, with intent that the offender avoid or escape detection, arrest, trial or punishment, shall be punished as if he or she had committed the violation. This subsection does not prohibit a member of The Florida Bar from giving legal advice to a client.

The statutes are clear. Mr. Russell and the Republican Executive committee violated this code by advertising & holding a partisan forum in a nonpartisan county, telling/inviting other Republicans to attend the partisan forum

E" H I B I T "A"
Wakulla County Charter Review Commission
Summary of Proposed Amended/Revised Articles

The following is a list of Articles for which the CRC has voted & approved to amend/revise:

✓ **Article 2.1 –**

- All candidates shall be nonpartisan in the Primary election, settled by 50% + 1, the top 2 candidates shall go to the General election (unless in conflict w/ Supervisor of Elections Laws)
- Shall be five single member districts for BOCC

✓ **Article 2.3 –**

- Mandatory residency requirement – must provide a declaration/oath of living in district for 6 months prior to qualifying date. Must also provide 3 out of the following 4 other categories providing proof of residency: (1) vehicle registration; (2) voter registration card; (3) Florida Driver's License and/or Florida Identification Card; (4) a notarized statement of residency from home-owner, or homestead exemption card, or leasing/renting statement.
-

✓ **Article 6 –**

- Add a new subsection regarding "Special Elections/Referendums" that reads all referendums shall take place at the general election

✓ **Article 6.1 –**

- Add language that reads 60% of the electors votes shall be required to pass charter amendments and ordinances.

✓ **Article 6.2 –**

- All local officers shall be subject to recall

✓ **Article 7.4 –**

- Each County Commissioner shall appoint 3 citizens to serve on the Charter Review Commission (totaling 15 members); 12 members shall make a quorum and 2/3 of the 12 members to pass a vote; and the CRC shall be appointed no more than 8 years apart
- The BOCC shall provide CRC a list of no less than 3 attorneys before the 1st CRC meeting to allow CRC to rank and provide recommendation to the BOCC for approval

✓ **New Article –**

- The BOCC shall adopt, and adhere to, a debt policy that regulates the acceptance, issuance, and management of debt. The BOCC shall also adhere to the fund balance policy.

(Revised June 9, 2014)

Republican Executive Committee plans forum Aug. 11

Special to The News

The Wakulla County Republican Executive Committee (REC) will be hosting a Republican Candidates Forum on Thursday Aug. 11, at the Senior Citizens Center, starting at 6:30 p.m.

REC Chairman Chris Russell advised that the Executive Committee felt it was vitally important to allow the voters an opportunity to hear firsthand from the Republican candidates that may ultimately represent them. The forum will feature candidates running for local, state, and federal office. He noted that 12 of the 14 candidates running for local office are registered Republicans and that the U.S. Congressional District 2 seat has an overwhelming high probability of being filled by a registered Republican. This complements the two school board seats that were up for election this cycle and will remain filled by Republicans as both of those candidates went unopposed.

Russell stated that the number of registered Republicans in Wakulla County has dramatically increased over the last couple of years and he credits that with local voters making a stronger stand on issues they hold dear, such as constitutional rights, the protection of the unborn, and domestic security. He said more local Republicans are

now getting involved as candidates and pointed out the fact that for the first time in modern history, Wakulla County will elect both a Sheriff and a Property Appraiser, that are registered as Republicans. Mr. Russell closed by stating that he appreciated the Christian Coalition's willingness to reschedule the event they previously planned for Aug. 11, that by doing so, more voters will now have an opportunity to hear firsthand from the candidates running to represent them.

The following candidate campaigns have confirmed they will be present at the forum: BOCC District 1 candidate Ralph Thomas, BOCC District 3 candidates John Shuff and Mike Stewart, BOCC District 5 candidates Richard Harden and Gordon Millender, Property Appraiser candidates Ed Brimmer, Brad Harvey, and Steve Remke, Sheriff candidates Charlie Greel, Jared Miller, and Bill Poole, Florida House of Representatives District 7 incumbent Halsey Beshears, State Attorney's Office candidate Pete Williams, and U.S. Congressional District 2 candidates Neal Dunn, Ken Sukhia, and Mary Thomas.

More information about the forum can be found at the REC's home facebook page: www.facebook.com/wakullarepublicans/

7/21/16
THE WAKULLA
NEWS.

EXHIBIT "B"

From: Henry Wells <hwells@mywakulla.com>
Date: July 28, 2016 at 10:05:04 AM CDT
To: "al@activecabling.com" <al@activecabling.com>
Subject: Nonpartisan Questions

2K HUBIT
C

Al,

See the information below for Nonpartisan offices and if we can be of further assistance contact the office.

97-021 (22) "Nonpartisan office" means an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation.

106-143 (3) Any political advertisement of a candidate running for partisan office shall express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation. A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation.

This section does not prohibit a political advertisement from stating the candidate's partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

106-143 (11) Any person who willfully violates any provision of this section is subject to the civil penalties prescribed in s. 106.265.

106.265 Civil penalties.— (1) The commission or, in cases referred to the Division of Administrative Hearings pursuant to s. 106.25(5), the administrative law judge is authorized upon the finding of a violation of this chapter or chapter 104 to impose civil penalties in the form of fines not to exceed \$1,000 per count, or, if applicable, to impose a civil penalty as provided in s. 104.271 or s. 106.19. (2) In determining the amount of such civil penalties, the commission or administrative law judge shall consider, among other mitigating and aggravating circumstances: (a) The gravity of the act or omission; (b) Any previous history of similar acts or omissions; (c) The appropriateness of such penalty to the financial resources of the person, political committee, affiliated party committee, electioneering communications organization, or political party; and (d) Whether the person, political committee, affiliated party committee, electioneering communications organization, or political party has shown good faith in attempting to comply with the provisions of this chapter or chapter 104. (3) If any person, political committee, affiliated party committee, electioneering communications organization, or political party fails or refuses to pay to the commission any civil penalties assessed pursuant to the provisions of this section, the commission shall be responsible for collecting the civil penalties resulting from such action. (4) Any civil penalty collected pursuant to the provisions of this section shall be deposited into the General Revenue Fund. (5) Any fine assessed pursuant to this chapter shall be deposited into the General Revenue Fund. (6) In any case in which the commission determines that a person has filed a complaint against another person with a malicious intent to injure the reputation of the person complained against by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of

the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission

Thank You

Henry F. Wells :Buddy" MFCEP

Wakulla County

Supervisor of Elections

850-926-7575

hwells@mywakulla.com

www.wakullaelection.com

EXHIBIT
"D"



Wakulla County Republican Party Al, your post disproved your own accusation of wrongdoing. I'll show you how. F.S. 106.143 pertains to "Political advertisements circulated prior to election". Please allow me to draw your attention to the word "advertisement". Follow me closely, it's very important that you understand, the statute you quoted applies to advertisements only, not others things that you would like to twist into the statute. You correctly quoted part of 106.143 (3) when you posted "A candidate for nonpartisan office is prohibited from campaigning based on party affiliation." Pay attention now, I don't want to lose or confuse you. Since the statute you quoted pertains to "advertising" and the quote you referenced pertains to "candidates", if you wish to defend your accusation of wrongdoing, you need to produce evidence of "A candidate for nonpartisan office" who is "campaigning based on party affiliation." I'm sure that you understand, the Wakulla County Republican Executive Committee is not a "candidate for nonpartisan office", therefore the statute you referenced is not applicable to the Wakulla County Republican Executive Committee. As a layperson, we understand how you you could be confused by Florida Statutes. We are happy to have this opportunity to clear up your misunderstanding. If this was an honest mistake by you, please leave an apology in the comments below and we will thank you for recognizing your mistake.

--

The Opinion Page

READERS WRITE:

Public invited to coalition forum Aug. 8

Editor, The News:

We would love to invite everyone in the county to our first candidate forum, to be held Aug. 8, at 7 p.m. at the Wakulla County Public Library. This forum will be dedicated to those candidates running for office in county commission Districts 3 and 5.

The forum will be in a moderated forum format, with questions from the audience turned in to a moderator, with no questions directly from the floor.

Becoming informed is a civic duty, and we have offered these forums to help citizens know about the candidates and their positions.

on issues. Part of our mission is education and we can think of nothing better than making candidate positions and platforms available to the most people possible.

We believe all candidates should be included as the primary will turn out to be the election that could possibly elect a new commissioner, so we encourage all citizens to drop in and hear the candidates, then get ready to vote.

Remember, early voting starts Aug. 20.

Thank you,

Jennie V. Jones
President
Wakulla County Christian Coalition

8/14/14
THE WAKULLA
NEWS
EXHIBIT
"E"

Disappointed about Republican 'forum'

Editor, The News:

I am disappointed by the actions of the Republican Executive Committee Chairman, Chris Russell and the Wakulla County Republican Party for advertising and scheduling a partisan forum whose participants are limited only to "registered" Republican candidates.

I am a registered Republican and believe the public is best served when they have the opportunity to see and hear all candidates.

Wakulla County's local elections are non-partisan (political-party candidates not allowed) and, according to Wakulla County's Supervisor of Elections Buddy Wells and Florida law P.S. 106.143, "A candidate for nonpartisan office is prohibited from campaigning based on

party affiliation.

There is no ambiguity in the Republican Executive Committee (REC) invitation. Chris Russell, the Republican Executive Committee chairman emphasizes that the GOP forum is exclusively for "registered" Republican candidates in a "Special to The News" report in the July 21, The Wakulla News, and on the Wakulla County Republican Party's Facebook page.

Russell, of all people, should know Florida's election laws on non-partisan elections, he led Wakulla County's Charter Review Committee, proposed by Wakulla County Commissioner Ralph Thomas that helped change Wakulla County elections to non-partisan races.

Now, Republican candidates, and arguably, Wakulla's Republican Party, face

a sticky situation. The REC's apparent disregard for Florida's elections laws puts Wakulla County's registered Republican candidates in a spot where they, running as non-partisan candidates attending this exclusive GOP forum, could make themselves vulnerable to violating Florida's law.

It should not have to be said that Wakulla County's voters deserve an opportunity to ask questions of all candidates and hear them state their positions on how they would serve Wakulla County.

We should all strive to adhere to Florida's laws. Politicians who ignore our laws threaten the public's trust and our freedom.

Al Shylkofski
Crawfordville

Republican forum draws concern

Complaint reportedly filed with state claiming violation of non-partisan elections

By WILLIAM SNOWDEN
editor@thewakullanews.net

A forum held by Wakulla Republicans last week reportedly drew an elections complaint after local candidates who are registered Democrats were not invited to attend.

The state Elections Commission would not verify a complaint had been filed, but a person close to the matter confirmed that a complaint was filed on Friday, Aug. 12, the day after the forum, against the local executive committee and the candidates who attended.

All of Wakulla's local races are non-partisan - except the Superintendent of Schools. The political parties can still support candidates with money and other help, but the candidates are not allowed to campaign using their party affiliation.

At the senior center on Thursday night, the local party invited Republican candidates in local and area elections.



PHOTO BY WILLIAM SNOWDEN

The audience was standing-room only at the GOP forum on Thursday.

Chuck Hess and Nikki Barnes, two candidates in the non-partisan county commission races, were not invited because they are registered Democrats. Howard Kessler, who is a registered Republican, did not attend the forum out of concern that all candidates weren't invited.

Supervisor of Elections Buddy Wells met with Republican Party Chair Chris Russell about the concerns of possible violations and warned that the Republicans were "on thin ice."

Russell and the members of the executive committee reviewed the law and contend there is no violation.

At the start of the Thursday night forum,

which was attended by nearly 200 people and was standing-room only in the senior center, Russell referred to the controversy, but indirectly, reassuring attendees and candidates that "This is not a problem," and "This is nothing new."

But many of the candidates who attended were unaware of the controversy and the threat of an election complaint. Some who were aware of the controversy said simply that they had received an invitation to speak and were going wherever they were invited.

Sheriff Charlie Creel, in an abundance of caution, told the crowd that, on the advice of his attorney, he would not speak at the event.

He offered to talk after the event - and walked away from the podium to silence and a few muffled boos.

Creel and the other two candidates for sheriff, Jared Miller and Bill Poole, are all registered Republicans. Miller had heard of the controversy and went ahead with his stump speech, while Poole was unaware of it and admitted afterwards that he was mystified by Creel's comments.

After the event, Russell would not talk on the record about the controversy.

It's not clear if the Democrats violated the non-partisan laws at their May gala at Wakulla Springs when Barnes and Hess spoke

Turn to Page 5A

5/15/16
THE
Wakulla
news
(1)
EXHIBIT
174



Republican forum draws concern

From Front Page

There, but no other candidates spoke. (Barnes was chair of the local Democratic Party until she was required to step down when qualifying as a candidate for county commission.) There was no election complaint filed alleging a violation at the Democratic event.

CANDIDATES AT THE FORUM

Russell served as Master of Ceremonies at the forum, which included many candidates from local and area races. State Rep. Halsey Beshears, whose district includes Wakulla but who has no opposition for re-election, helped with timekeeping.

Republican congressional candidates Ken Suddha, Mary Thomas and Neal Dunn gave their stump speeches.

Suddha, a former federal prosecutor for the Northern District of Florida, said that "People run as conservatives and then govern as moderates." He painted himself as a law-and-order conservative who wants to defend the American way of life.

Thomas, an attorney in the office of Gov. Rick Scott, noted her endorsement by the NRA and said she is the only candidate in the race to endorse Donald Trump for president. That drew applause from the crowd, as it did when she repeated Trump's pledge to "Make America great again."

Dunn, a surgeon, said his three priorities in office will be health care, the economy, and national security. "The White House has more damage to the military than ISIS," he said.

Pete Williams, Republican candidate for state attorney and a former statewide prosecutor, spoke of the problems of different treatment for the same crimes under current state attorney, Willie Meggs, who is retiring and whom Williams never mentioned by name.

Williams vowed to spend one day a week in each county in the circuit to discuss local concerns. Williams will face a Democrat in the November general election, either Sean Desmond or Jack Campbell.

Local candidates at the event, in addition to the sheriff's candidates, included Ralph Thomas, running for re-election to county commission, district 1; Mike Stewart and John Stauff, candidates for district 3; Richard Harden and Gordon Millender for district 5; and two of the three candidates for property appraiser, Steve Renke and Brad Harvey. Ed Brammer was not at the event, and no reason was given for his absence.

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