

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**In Re: Gulf County Democratic Executive
Committee**

Case No.: FEC 18-136

TO: Gulf County Democratic Executive Committee
Shannon Stallings, Chair
PO Box 282
Apalachicola, FL 32329

John M. Hanlon, Gulf County SOE
401 Long Avenue
Port St. Joe, FL 32456-1707

NOTICE OF HEARING (AUTOMATIC FINE)

A hearing will be held in this case before the Florida Elections Commission on, **August 14, 2018 at 9:00 am, or as soon thereafter as the parties can be heard**, at the following location: **First District Court of Appeal, 2000 Drayton Drive, Tallahassee, Florida 32399**. Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

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
July 30, 2018

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

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

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

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

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

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

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

FLORIDA ELECTIONS COMMISSION
CASE REPORT
Case Number: FEC-18-136

NAME: **GULF COUNTY DEMOCRATIC EXECUTIVE COMMITTEE**

DATE APPEAL RECEIVED: 06/05/18

DATE REPORT DUE: 04/10/18 (2018 Q1)

DATE OF HAND DELIVERED RECEIPT: 05/24/18

NUMBER OF DAYS LATE: 44

AMOUNT OF FINE: \$678.75

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

TOTAL RECEIPTS FOR REPORTING PERIOD: \$2,715.00

TOTAL EXPENDITURES FOR REPORTING PERIOD: \$125.00

DATE OF FIRST NOTIFICATION: 05/29/18

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

SUMMARY: Gulf County Democratic Executive Committee is a political party executive committee (PPX) registered with the Gulf County Supervisor of Elections office. The PPX's chair is Shannon Stallings and its treasurer is Michael McKenzie.

The PPX is appealing the fine claiming that the treasurer overlooked the filing date during tax season. According to Mr. Stallings, the treasurer is a volunteer member who is also a CPA. He claims the treasurer overlooked the due date for filing the first quarter report but has since established a process to minimize the risk of overlooking due dates in the future. They request a hearing before the commission.

- The 2018 Q1 Original Report covers the period from 01/01/18-03/31/18; it was due on 04/10/18.
- The 2018 Q1 Original Report shows that it was submitted on 05/24/18.
- Gulf County Democratic Executive Committee reported receiving 6 contributions, while making 1 expenditure.
- The Gulf County Supervisor of Elections office does not have any notes that pertain to Gulf County Democratic Executive Committee's 2018 Q1 report.

PRIOR CASES: None.

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

June 4, 2018

RE: Gulf County Late Filing Fee

To Whom It May Concern:

I, as Chair of the Gulf County Democratic Executive Committee, hereby respectfully request to file a notice of appeal of fine pursuant to Florida Statute 106.29(3)(c). We are filing this request with the Agency Clerk as well as a copy filed with the filing officer, John Hanlon, Gulf County Supervisor of Elections.

We have enclosed a copy of the notice of imposition of fine dated May 29, 2018. My treasurer is a volunteer member who is also a CPA. During tax season, he overlooked the due date for filing the first quarter report. He has since established a process to minimize the risk of overlooking these due dates in the future. We respectfully request the waiver of the \$678.75 penalty due to the above circumstances. If the Commission would like further clarification about the cause of the filing error and our efforts to protect against any future recurrence, we would respectfully request a hearing before the commission.

My contact info:
Shannon Stallings
PO Box 282
Apalachicola, FL 32329
850-348-0303

Treasurer:
Michael McKenzie
116A Sailors Cove Dr
Port Saint Joe, FL 32456
850-227-3838


Chair, Gulf Co DEC


Treasurer, Gulf Co DEC

Select Year: 2018 ▾ Go

The 2018 Florida Statutes

[Title IX](#)

ELECTORS AND ELECTIONS

[Chapter 106](#)

CAMPAIGN FINANCING

[View Entire Chapter](#)**106.29 Reports by political parties and affiliated party committees; restrictions on contributions and expenditures; penalties.—**

(1) The state executive committee and each county executive committee of each political party and any affiliated party committee regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. However, the reports shall not include contributions and expenditures that are reported to the Federal Election Commission. In addition, when a special election is called to fill a vacancy in office, each state executive committee, each affiliated party committee, and each county executive committee making contributions or expenditures to influence the results of the special election or the preceding special primary election must file campaign treasurers' reports on the dates set by the Department of State pursuant to s. [100.111](#). Such reports shall contain the same information as do reports required of candidates by s. [106.07](#) and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding each special primary election, special election, primary election, and general election. In addition to the reports filed under this section, the state executive committee, each county executive committee, and each affiliated party committee shall file a copy of each prior written acceptance of an in-kind contribution given by the committee during the preceding calendar quarter as required under s. [106.08\(6\)](#). Each state executive committee and affiliated party committee shall file its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any state or county executive committee or affiliated party committee failing to file a report on the designated due date shall be subject to a fine as provided in subsection (3). No separate fine shall be assessed for failure to file a copy of any report required by this section.

(2) The chair and treasurer of each state or county executive committee shall certify as to the correctness of each report filed by them on behalf of such committee. The leader and treasurer of each affiliated party committee under s. [103.092](#) shall certify as to the correctness of each report filed by them on behalf of such committee. Any committee chair, leader, or treasurer who certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3)(a) Any state or county executive committee or affiliated party committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the General Revenue Fund.

(b) Upon determining that a report is late, the filing officer shall immediately notify the chair of the executive committee or the leader of the affiliated party committee as defined in s. [103.092](#) as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$1,000 for a state executive committee, \$1,000 for an affiliated party committee, and \$50 for a county executive committee, per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, if an executive committee or an affiliated party committee fails to file a report on the Friday immediately preceding the special election or general election, the fine shall be \$10,000 per day for each day a state executive committee is late. \$10,000 per day for each day an affiliated party committee is

late, and \$500 per day for each day a county executive committee is late. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the chair or leader as defined in s. 103.092. Notice is deemed complete upon proof of delivery of written notice to the mailing or street address on record with the filing officer. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.
5. When the electronic receipt issued pursuant to s. 106.0705 is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). An officer or member of an executive committee shall not be personally liable for such fine.

(c) The chair of an executive committee or the leader of an affiliated party committee as defined in s. 103.092 may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the chair of the executive committee or the leader of the affiliated party committee as defined in s. 103.092 shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by an executive committee or affiliated party committee, the failure of an executive committee or affiliated party committee to file a report after notice, or the failure to pay the fine imposed.

(4) Any contribution received by a state or county executive committee or affiliated party committee less than 5 days before an election shall not be used or expended in behalf of any candidate, issue, affiliated party committee, or political party participating in such election.

(5) No state or county executive committee or affiliated party committee, in the furtherance of any candidate or political party, directly or indirectly, shall give, pay, or expend any money, give or pay anything of value, authorize any expenditure, or become pecuniarily liable for any expenditure prohibited by this chapter. However, the contribution of funds by one executive committee to another or to established party organizations for legitimate party or campaign purposes is not prohibited, but all such contributions shall be recorded and accounted for in the reports of the contributor and recipient.

(6)(a) The national, state, and county executive committees of a political party and affiliated party committees may not contribute to any candidate any amount in excess of the limits contained in s. 106.08(2), and all contributions required to be reported under s. 106.08(2) by the national executive committee of a political party shall be reported by the state executive committee of that political party.

(b) A violation of the contribution limits contained in s. 106.08(2) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A civil penalty equal to three times the amount in excess of the limits contained in s. 106.08(2) shall be assessed against any executive committee found in violation thereof.

History.—s. 29, ch. 73-128; s. 14, ch. 74-200; s. 62, ch. 77-175; s. 65, ch. 79-400; ss. 14, 33, ch. 81-304; s. 1, ch. 82-46; s. 13, ch. 82-143; s. 2, ch. 83-265; s. 40, ch. 84-302; s. 23, ch. 89-256; s. 39, ch. 90-315; ss. 10, 14, ch. 90-338; ss. 8, 12, ch. 91-107; s. 3, ch. 95-140; s. 653, ch. 95-147; s. 8, ch. 97-13; ss. 23, 24, ch. 2004-252; s. 26, ch. 2005-286; s. 2, ch. 2005-360; ss. 26, 30, ch. 2011-6; s. 73, ch. 2011-40; HJR 7105, 2011 Regular Session.



John M. Hanlon

Supervisor of Elections

Gulf County

401 Long Ave. • Port St. Joe, Florida 32456-1707

May 29, 2018

Ms. Shannon Stallings, Chairperson
Gulf County Democratic Executive Committee
116A Sailors Cove
Port St Joe, FL 32456

Dear Ms. Stallings:

We are in receipt of your 2018 Q1 Campaign Treasurer's Report Summary submitted on May 25, 2018. Pursuant to F.S. 106.29(3)(b) upon determining that a report is late, the filing officer shall immediately notify the chair of the executive committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 for a county executive committee, per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

The fine as determined is \$678.75. The fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to F.S. 106.29(3)(c).

I have enclosed a copy of F.S. 106.29 and a copy of the 2018 Calendar of Reporting Dates for Political Party Executive Committees for your review.

Sincerely,

John M Hanlon
Gulf County Supervisor of Elections

CAMPAIGN TREASURER'S REPORT SUMMARY

(1) Democratic Committee

Name

(2) _____

Address (number and street)

City, State, Zip Code

Check here if address has changed

OFFICE USE ONLY
 ONLINE SUBMISSION
 [1155290]
 Submitted on:
 5/24/2018 09:36:42 (eastern)

(3) ID Number: _____ 265

(4) Check appropriate box(es):

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

(5) Report Identifiers

Cover Period: From 1 / 1 / 2018 To 3 / 31 / 2018 Report Type: Q1

Original Amendment Special Election Report

(6) Contributions This Report

Cash & Checks \$, 2 , 715 . 00

Loans \$, , 0 . 00

Total Monetary \$, 2 , 715 . 00

In-Kind \$, , 0 . 00

(7) Expenditures This Report

Monetary Expenditures \$, , 125 . 00

Transfers to Office Account \$, , 0 . 00

Total Monetary \$, , 125 . 00

(8) Other Distributions

\$, , 0 . 00

(9) TOTAL Monetary Contributions To Date

\$, 2 , 715 . 00

(10) TOTAL Monetary Expenditures To Date

\$, , 125 . 00

(11) Certification

It is a first degree misdemeanor for any person to falsify a public record (ss. 839.13, F.S.)

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


(Type name) Michael McKenzie

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

(Type name) Shannon Stallings

Candidate Chairperson (only for PC and PTY)

X 
 Signature

X 
 Signature

MAY 25 10 00 AM '18

CAMPAIGN TREASURER'S REPORT – ITEMIZED CONTRIBUTIONS

(1) Name Democratic Committee (2) I.D. Number 265
 1/1/2018 through 3/31/2018
 (3) Cover Period / / through / / (4) Page 1 of 1

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Contributor		(9) Contribution Type	(10) In-kind Description	(11) Amendment	(12) Amount
(6) Sequence Number		Type	Occupation				
1/12/2018 / /	Vespa, James 1610 Long Ave Port Saint Joe, FL 32456	I		CH			\$50.00
1							
1/12/2018 / /	Depuy, Tim 2002 Garrison Ave Port St Joe, FL 32456	I		CH			\$50.00
2							
3/27/2018 / /	FL Democratic Party, 214 South Bronough St Tallahassee, FL 32301	P	political party	CH			\$2,500.00
3							
3/28/2018 / /	Vespa, James 1610 Long Ave Port St Joe, FL 32456	I		CH			\$75.00
4							
3/27/2018 / /	Nagy, John 143 Indian Swamp Rd Wewahitchka, FL 32465	I		CA			\$20.00
5							
3/27/2018 / /	Abbott, Karen 2012 Monument Ave Port St Joe, FL 32456	I		CA			\$20.00
6							
/ /							
/ /							
/ /							

CAMPAIGN TREASURER'S REPORT – ITEMIZED EXPENDITURES

(1) Name Democratic Committee

(2) I.D. Number 265

(3) Cover Period 1/1/2018 through 3/31/2018

(4) Page 1 of 1

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Expenditure Type	(10) Amendment	(11) Amount
(6) Sequence Number					
2/6/2018 //	Gulf Co Chamber, 308 Reid Ave Port St Joe, FL 32456	chamber dues	MO		\$125.00
1					
//					
//					
//					
//					
//					
//					
//					



John M. Hanlon

Supervisor of Elections

Gulf County

401 Long Ave. • Port St. Joe, Florida 32456-1707

RE: Case No: FEC 18-136; Campaign Treasurer's Report due 04/10/2018

Gulf County Democratic Executive Committee – Filing History

Reports / Waiver Filed: 2018, Quarter 1 (Late Filing Fees Apply)

Reports / Waiver Filed: 2017 Quarter 1,2,3,4

Reports / Waiver Filed: 2016 Quarter 1,2,3,4

Reports / Waiver Filed: 2015 Quarter 1,2,3,4

Reports / Waiver Filed: 2014 Quarter 1,2,3,4

Reports / Waiver Filed: 2013 Quarter 1.2.3.4

2018 Calendar of Reporting Dates

for Political Party Executive Committees and Affiliated Party
Committees that file with the **Division of Elections**

<u>Cover Period</u>	<u>Report Code</u>	<u>Due Date</u>
10/1/17 – 12/31/17	2017 Q4	01/10/18
1/1/18 – 3/31/18	2018 Q1	4/10/2018
4/1/18 – 8/23/18	2018 P7	8/24/2018
8/24/18 – 11/1/18	2018 G7	11/2/2018
11/2/18 – 12/31/18	2018 Q4	1/10/2019

Br'Axeton Wims

From: Gene McCroan <wgm@votegulf.com>
Sent: Friday, June 22, 2018 11:09 AM
To: Br'Axeton Wims
Subject: Re: Case No: FEC 18-136

Good morning ...

- (1) We did not send a Failure to File Letter. We only sent a the letter detailing the fine.
- (2) There were no phone calls.

The Treasurer of the Gulf County Democratic Committee brought the matter to our attention that the report had not been filed, when he brought the report in to the office.

Thanks

Gene McCroan

On 6/22/2018 9:54 AM, Br'Axeton Wims wrote:

Good Morning,

Thank you for the information. I have reviewed the documents and have a few questions.

1. Is there any information available that shows when your office notified Gulf County Democratic Executive Committee about the late Q1 report? We usually call it a Failure to file letter.
2. Do you have a phone log or notes regarding the committee?

Thank you

Br'Axeton E. Wims
Administrative Assistant II
Florida Elections Commission
107 West Gaines St
Collins Building, Suite 224
Tallahassee, FL 32399-1050
850-922-4539 Ext. 109
br'axeton.wims@myfloridalegal.com

From: Gene McCroan [<mailto:wgm@votegulf.com>]
Sent: Tuesday, June 19, 2018 11:37 AM
To: Br'Axeton Wims <Braxeton.Wims@myfloridalegal.com>; John Hanlon <jhanlon@fairpoint.net>
Subject: Case No: FEC 18-136

Per your request, please see the attached.

Thanks,

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W. Gene McCroan, CPA
Chief Deputy, Finance / IT
Gulf County Supervisor of Elections
P: 850.229.6117
F: 850.229.8975
wgm@votegulf.com

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W. Gene McCroan, CPA
Chief Deputy, Finance / IT
Gulf County Supervisor of Elections
P: 850.229.6117
F: 850.229.8975
wgm@votegulf.com



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

June 13, 2018

The Honorable John M. Hanlon
Gulf County Supervisor of Elections
401 Long Ave.
Port St. Joe, Florida 32456-1707

RE: Case No.: FEC 18-136; Campaign Treasurer's Report due 05/25/18

Dear Mr. Hanlon:

Gulf County Democratic Executive Committee has appealed the fine assessed for failing to timely file the above-referenced report.

In order for us to present this appeal to the Florida Elections Commission, it is necessary to ask you to furnish us with copies of the following information, if available:

- The CTR that was filed late
- The envelope that contained the report
- Card or letter reminding candidate that report was due
- The filing officer's failure to file letter
- The filing officer's fine letter
- Certified mail receipt or other evidence that the fine letter was received
- Additional relevant notes or phone logs
- Appointment of Campaign Treasurer and Designation of Campaign Depository form
- The filing history

A filing history is a list of reports filed by this candidate with a notation of any late filing fines assessed against the candidate for failing to timely file reports. Please return the requested information to me by July 6, 2018.

I appreciate your assistance in obtaining this information. Please let me know if you have any questions.

I can be reached at 850-922-4539 Ext.109 or via email at braxeton.wims@myfloridalegal.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Braxeton Wims".

Administrative Assistant II