STATE OF FLORIDA FLORIDA ELECTIONS COMMISSION

In Re: Myke Tairu		Case No.: FEC 16-728	
TO:	Myke Tairu		City of Daytona Beach Clerk's Office

153 Fountain Lake Blvd.
Daytona Beach, FL 32117

Daytona Beach, FL 32115-2451

Letitia LaMagna

P.O. Box 2451

NOTICE OF HEARING (AUTOMATIC FINE)

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

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

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

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

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

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

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

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

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

See further instructions on the reverse side.

Amy McKeever Toman

Executive Director Florida Elections Commission May 1, 2017 Please refer to the information below for further instructions related to your particular hearing:

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

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

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

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

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

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

FLORIDA ELECTIONS COMMISSION

CASE REPORT

Case Number: FEC-16-728

CANDIDATE [X]

POLITICAL PARTY []

PC []

CCE []

STATE []
DISTRICT []

CITY [X]

COUNTY []

NAME: MYKE TAIRU

DATE APPEAL RECEIVED: 10/21/16

DATE REPORT DUE: 10/7/16 (2016 G3)

DATE OF HAND-DELIVERED: 10/10/16

DATE FILING OFFICER RECEIVED REPORT: 10/10/16

NUMBER OF DAYS LATE: 1

AMOUNT OF FINE: \$50.00

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

TOTAL RECEIPTS FOR REPORTING PERIOD: \$250.00

TOTAL EXPENDITURES FOR REPORTING PERIOD: \$619.39

DATE OF FIRST NOTIFICATION: 10/11/16

SUMMARY: Myke Tairu was a candidate for City Commissioner, Zone 5 in the 2016 elections. Latoya Carey was his treasurer.

Ms. Carey is appealing the fine claiming that unusual circumstances existed that caused the 2016 G3 Report to be untimely filed. According to Ms. Carey, "During the week of October 2, 2016, most of Central Florida and other parts of the state were preparing and bracing for a direct hit by Hurricane Matthew. By Wednesday, the 5th, Governor Scott declared a state of emergency for our area. Under these extreme conditions, I attempted to directly contact our local city clerk, Letitia LaMagna twice on Thursday the 6th to confirm the hours of operation and was not successful at doing so; there were not any updates provided on her voicemail message either. I went to the main website and discovered that the office had closed by 12noon without forewarning or prior notice. The office closed early on Thursday and was not opened at all on Friday. As a result, the filing of our campaign reports could not be submitted and accepted until Monday, October 10, 2016, deeming them late".

- The 2016 G3 Report covers the time period from 9/17/16 through 9/30/16.
- In a 1/17/17 email with Letitia LaMagna, City Clerk, FEC staff was informed, "I do not maintain a call log. I did call the candidates to let them know that in the event of Hurricane Matthew that City Hall would close and if they couldn't get the form to City Hall prior to closing (We closed Thursday, October 6 at Noon) they could mail the report as long as it was post marked by October 7, 2016. However, without any electronic call log I cannot prove whom I called and at what time. Mr. Tairu's report was the only one that was received late for that reporting period".

PRIOR CASES: None



Fwd: Letter of Appeal Campaign Team to: erin.riley Cc: LaToya Carey

paign Team to: erin.riley 10/21/2016 03:15 PM aTova Carev

History:

This message has been replied to.

Ms Riley,

I hope this message finds you well. I am writing to inform you that I, Myke Tairu approve of the attached letter and would like to move forward with the appeal process.

Thank you, Myke Tairu

----- Forwarded message -----

From: "LaToya Carey" <<u>flofuse@gmail.com</u>>

Date: Oct 20, 2016 3:03 PM Subject: Letter of Appeal

To: <erin.riley@myfloridalegal.com>

Cc: "Campaign Team" < teamtairu@gmail.com>

Good afternoon Ms. Riley:

I spoke with a representative from your office yesterday who gave me your contact information to address my letter of appeal to; please find the letter attached. If you are not the correct person, would you be so kind as to inform me as soon as possible and share who this letter should be sent to.

Thank you, LaToya Carey Deputy Treasurer Myke Tairu Campaign City Commissioner for Zone 5 153 Fountain Lake Blvd. Daytona Beach, FL 32117



letter of appeal.pdf

153 Fountain Lake Blvd. Daytona Beach, FL 32117

October 19, 2016

Erin Riley 107 West Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399-1050

Dear Ms. Erin Riley:

My name is LaToya Carey, Deputy Treasurer for Myke Tairu, City Commissioner for Zone 5. I am writing to request a review and appeal of the fine imposed according to Section 106.07(8), 106.29(2), Florida Statues.

During the week of October 2, 2016, most of Central Florida and other parts of the state were preparing and bracing for a direct hit by Hurricane Matthew. By Wednesday, the 5th, Governor Scott declared a state of emergency for our area.

Under these extreme circumstances, I attempted to directly contact our local city clerk, Letitia LaMagna twice on Thursday the 6th to confirm the hours of operation and was not successful at doing so; there were not any updates provided on her voicemail message either.

I went to the main website and discovered that the office had closed by 12noon without forewarning or prior notice.

The office closed early on Thursday and was not opened at all on Friday.

As a result, the filing of our campaign reports could not be submitted and accepted until Monday, October 10, 2016, deeming them late.

Therefore, I am requesting your reconsideration of this issue. If a personal appearance is deemed necessary before the commission we would be happy to oblige. If there is any additional information I could provide to you that would expedite this matter, please feel free to contact me.

On behalf of Myke Tairu and myself, thank you for your time and consideration.

Sincerely.

LaToya Carey



The CITY OF DAYTONA BEACH

- "THE WORLD'S MOST FAMOUS BEACH"

CERTIFIED MAIL

October 11, 2016

Myke Tairu 153 Fountain Lake Blvd Daytona Beach, FL, 32117

Subject: Campaign Treasurer's Report

Dear Mr. Tairu:

Section 106.07(1)(b) of the Florida Statutes states any other candidate or a political committee required to file reports with a filing officer other than the division must file reports on the 60th day immediately preceding the primary election, and biweekly on each Friday thereafter through and including the 4th day immediately preceding the general election, with additional reports due on the 25th and 11th days before the primary election and the general election.

106.07 (2)(a)1. All reports required of a candidate by this section shall be filed with the officer before whom the candidate is required by law to qualify. Except as provided in s. 106.0705, reports shall be filed not later than 5 p.m. of the day designated; however, any report postmarked by the United States Postal Service no later than midnight of the day designated is deemed to have been filed in a timely manner.

The last Campaign Treasurer's report was due on Friday, October 7, 2016 by 5:00 p.m.

Section 106.07(7) of the Florida Statutes further states notwithstanding any other provisions of this chapter, in any reporting period during which a candidate or political committee has not received funds, made any contributions, or expended any reportable funds, the filing of the required report for that period is waived. However, the next report filed must specify that the report covers the entire period between the last submitted report and the report being filed, and any candidate or political committee not reporting by virtue of this subsection on dates prescribed elsewhere in this chapter shall notify the filing officer (City Clerk) in writing on the prescribed reporting date that no report is being filed on that date. (Waiver of Report – DS-DE 87)

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the report immediately preceding the primary and general elections, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts of expenditures, whichever is greater, for the period covered by the report. The fine shall be paid only from personal funds of the candidate (Section 106.07(8)(a)(b).

Your campaign treasurer's report was due on <u>Friday, October 7, 2016</u>; it received by the Office of the City Clerk on Monday, October 10, 2016. You are hereby notified that your report was one (1) day late (subject to a fine of \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report) for the report that should have been received on Friday, October 7, 2016. Please make your check payable to The City of Daytona Beach in the amount of \$50.



The CITY OF DAYTONA BEACH

"THE WORLD'S MOST FAMOUS BEACH"—

Please notify my office immediately so that you can be in compliance with the law. If you have any questions or need further assistance, please feel free to contact me at (386) 671-8023.

Thank you.

Sincerely yours,

Letitia LaMagna City Clerk

U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only; No Insurance)	
For delivery information visit our website at www.usps.come Postage \$ Certified Fee Restricted Delivery Fee (Endorsement Required) Total Postage & Fees \$ Sent Total Postage & Fees &	
torise for instructions	

item 4 if Restricted Delivery is desired. Print your name and address on the reverse	A, Signature		
so that we can return the card to you. Attach this card to the back of the mailplece, or on the front if space permits.	B. Received by (Printed Name) C. Date of Delivery		
1. Article Addressed to: Myke Tairu 153 Fountain Lake	D. is delivery address different from item 1? If YES, enter delivery address delivery 2 1 2016		
Saytona Beach	3. Service Type Certified Mall		

LaMagna, Letitia

From:

LaMagna, Letitia

Sent:

Tuesday, October 11, 2016 10:08 AM

To:

'Myke Tairu'

Subject:

FW: Hurricane Matthew - Campaign Reports

Mr. Tairu,

Please see the response below from the Division of Elections.

I have included a link to the Florida Elections Commission FAQs.

http://www.fec.state.fl.us/FECWebFi.nsf/pages/FAQs#question17

Thank you, Letitia

From: LaMagna, Letitia

Sent: Wednesday, October 05, 2016 10:01 AM

To: 'Bronson, Kristi R.' < Kristi.Bronson@DOS.MyFlorida.com>

Cc: Jagger, Robert < Jagger R@CODB.US>

Subject: RE: Hurricane Matthew - Campaign Reports

Thank you for the information.

From: Bronson, Kristi R. [mailto:Kristi.Bronson@DOS.MyFlorida.com]

Sent: Wednesday, October 05, 2016 9:58 AM To: LaMagna, Letitia <LaMagnaL@CODB.US>

Subject: RE: Hurricane Matthew - Campaign Reports

This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.

No. A filing officer has no discretion regarding filing deadlines as they are statutory. If a report is late, the appropriate remedy for the filer is to appeal to the Florida Elections Commission.

REGARDS.

Kristi Reid Bronson, Chief Division of Elections, Bureau of Election Records (850) 245-6240 This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided.

Please note: Florida has a very broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, your e-mail message may be subject to public disclosure.

From: DivElections

Sent: Wednesday, October 05, 2016 8:55 AM

To: Bronson, Kristi R.

Subject: FW: Hurricane Matthew - Campaign Reports

Importance: High

From: LaMagna, Letitia [mailto:LaMagnaL@CODB.US]

Sent: Wednesday, October 5, 2016 8:52 AM

To: DivElections < <u>DivElections@DOS.MyFlorida.com</u>> **Subject:** Hurricane Matthew - Campaign Reports

Importance: High

Good morning,

Are there any considerations for Hurricane Matthew in regards to campaign reporting? The G3 report is due by 10/07/2016 however, City Hall will be closed Thursday and Friday.

Thank you,

Letitia LaMagna

City Clerk
Office of the City Clerk
City of Daytona Beach
386-671-8022
lamagnal@codb.us

"Though we travel the world over to find the beautiful, we must carry it with us or we find it not." - Ralph Waldo Emerson

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

The Department of State is committed to excellence. Please take our <u>Customer Satisfaction Survey</u>.

CAMPAIGN TREASURER'S REPORT SUMMARY					
(1) Mykal R. Tairu	OFFICE RECEIVED				
Name (2) 154 Fountain Lake Blvd.	OCT 10 2016				
(2) 154 Fountain Lake Blvd. Address (number and street)	OFFICE OF THE OTHER				
Daytona Beach, FL 32117	OFFICE OF THE CITY CLERK				
City, State, Zip Code					
Check here if address has changed	(3) ID Number:				
(4) Check appropriate box(es): ☐ Candidate Office Sought: ☐ 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 09 / 17 / 16 To	09 / 30 / 16 Report Type: G3				
☑ Original ☐ Amendment ☐ Spe	ecial Election Report				
(6) Contributions This Report	(7) Expenditures This Report				
Cash & Checks \$,, 250 . 00	Monetary Expenditures \$, , 619 . 39				
Loans \$,,	Transfers to Office Account \$,				
Total Monetary \$	9				
In-Kind \$	Total Monetary \$, , 619 . 39				
	(8) Other Distributions \$, ,				
(9) TOTAL Monetary Contributions To Date	(10) TOTAL Monetary Expenditures To Date				
\$, _4, _40063	\$, _3, _83700				
(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) LaToya Carey (Type name) Mykal R. Tairu					
☐ Individual (only for IE ☐ Treasurer ☐ Deputy Treasurer ☐ Candidate ☐ Chairperson (only for PC and PTY) or electioneering comm.)					
v Soloco Va					
Signature	Signature				

CAMPAIGN TREASURER'S REPORT - ITEMIZED CONTRIBUTIONS

(1)	Name Mykal	l R. Tairu		(2)	I.D. Number		
(3)	Cover Period	d / / /	through 09 /	30 / ²⁰¹⁶	_ (4) Page		of
	(5) Date (6) Sequence	(7) Full Name (Last, Suffix, First, Middle) Street Address &	Contributor	(9)	(10)	(11)	(12)
09 G3-1	22 2016 / /	City, State, Zip Code Shelly, Edith T. 313 South Palmetto Avenue Daytona Beach, FL 32114	Type Occupation I Consultant	СНЕ	Description	Andronom	Amount \$250.00
09 G3-2	, ²⁰ , ²⁰¹⁶	Volusia/Flagler AFL-CIO 1381 Educators Road Daytona Beach, FL 32124		INK		, , , , , , , , , , , , , , , , , , ,	\$72.00
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DS-DE 13 (Rev. 11/13)

SEE REVERSE FOR INSTRUCTIONS AND CODE VALUES

CAMPAIGN TREASURER'S REPORT - ITEMIZED EXPENDITURES

(1) Name Mykal R. Ta	iru			(2) I.D. Number	
(3) Cover Period _09	/_17	/ ²⁰¹⁶ through ⁰⁹	/ 30 / 2016	(4) Page1	of

(5)	(7)	(8)	(9)	(10)	(11)
(6) Sequence Number	Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	Purpose (add office sought if contribution to a candidate)	Expenditure Type	Amendment	Amount
09 /19 /2016 G3-1	Supervisor of Elections Historic Courthouse 125 West New York Avenue Deland, FL 32720	Candidate reports	CAN		\$75.00
09 /27 /2016 G3-2					\$97.08
09 /30 /2016 G3-3	Kale Cafe 116 North Beach Street Daytona Beach, FL 32114	Catered food for campaign fundraiser	CAN		\$154.43
09 30 2016 G3-4	Tairu, Mykal R. 154 Fountain Lake Blvd. Daytona Beach, FL 32117	Reimbursement for personal expense of yard signs order	RMB		\$292.88
//	8				
/ /					
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The City of Daytona Beach "The World's Most Famous Beach"

2016 Special Municipal Elections

Campaign Treasurer Reports

Candidate Name	Report Code	Period Covered	Report
Zone 5 Candidates			
Dannette Henry	P1	06/01/2016 - 06/24/2016	Click here to view report
	P1 Amendment		Click here to view report
	P2	06/25/2016 - 07/08/2016	Click here to view report
	P3	07/09/2016 - 07/22/2016	Click here to view report
	P4	07/23/2016 - 07/29/2016	Click here to view report
	P5	07/30/2016 - 08/12/2016	Click here to view report
	P6	08/13/2016 - 08/25/2016	Click here to view report
	G1	08/26/2016 - 09/02/2016	Click here to view report
	G2	09/03/2016 - 09/16/2016	Click here to view report
	G3	09/17/2016 - 09/30/2016	Click here to view report
	G4	10/01/2016 - 10/07/2016	Click here to view report
	G5	10/08/2016 - 10/14/2016	Click here to view report
	G6	10/15/2016 - 10/21/2016	Click here to view report
	G7	10/22/2016 - 11/03/2016	Click here to view report
	TR		Click here to view report
Myke Tairu	M5	05/01/2016 - 05/31/2016	Click here to view report
	P1	06/01/2016 - 06/24/2016	Click here to view report
	P2	06/25/2016 - 07/08/2016	Click here to view report
	P3	07/09/2016 - 07/22/2016	Click here to view report
	P3 Amendment		Click here to view report
	P4	07/23/2016 - 07/29/2016	Click here to view report
	P5	07/30/2016 - 08/12/2016	Click here to view report
	P6	08/13/2016 - 08/25/2016	Click here to view report
	G1	08/26/2016 - 09/02/2016	Click here to view report
	G2	09/03/2016 - 09/16/2016	Click here to view report
L	ate - G3	09/17/2016 09/30/2016	Click here to view report
	G4	10/01/2016 - 10/07/2016	Click here to view report
*	G5	10/08/2016 - 10/14/2016	Click here to view report
	G6	10/15/2016 - 10/21/2016	Click here to view report
	G7	10/22/2016 - 11/03/2016	Click here to view report
	TR		Click here to view report

Willie F. Williams	P1	06/01/2016 - 06/24/2016	Click here to view report
	P2	06/25/2016 - 07/08/2016	Click here to view report
	P3	07/09/2016 - 07/22/2016	Click here to view report
	P4	07/23/2016 - 07/29/2016	Click here to view report
	P5	07/30/2016 - 08/12/2016	Click here to view report
	P6	08/13/2016 - 08/25/2016	Click here to view report
	TR		Click here to view report