

FLORIDA ELECTIONS COMMISSION RULES
(Effective 9-11-06)

2B-1.002 Definitions. For purposes of imposing a civil penalty for violating Chapter 104, F.S., the following definitions shall apply:

(1) A person acts “willful” or “willfully” when he or she showed reckless disregard for whether his or her conduct was prohibited or required by Chapter 104, F.S.

(2) “Knew” means that the person was aware of a provision of Chapter 104, F.S., understood the meaning of the provision, and then performed an act prohibited by the provision or failed to perform an act required by the provision.

(3) “Reckless disregard” means that the person disregarded the requirements of Chapter 104, F.S., or was plainly indifferent to its requirements, by failing to make any reasonable effort to determine whether his or her acts were prohibited by Chapter 104, F.S., or whether he or she failed to perform an act required by Chapter 104, F.S.

Specific Authority: 106.26 FS. Law Implemented: Section 106.25(3), FS. History—
New

2B-1.0025 Complaints.

(1) Any complaint alleging violations of the Florida Election Code over which the Florida Elections Commission has jurisdiction shall be filed with the Commission. A complaint form, Confidential Complaint, FEC 001, effective 4-24-05, which is hereby adopted and incorporated by reference may be obtained by calling the Commission office during normal business hours or by writing to the Commission. The complaint form may also be obtained from the Commission’s website www.fec.state.fl.us.

(2) Within five working days of receipt of a sworn complaint, the executive director shall send a copy of the complaint to the person against whom the complaint was made, the respondent.

(3) Upon receipt of a complaint, the executive director shall determine whether the complaint is legally sufficient, unless the executive director determines that the identity of the parties or witnesses or other factual or legal basis would prevent his or her determination due to an appearance of impropriety or a conflict as defined by Section 112.312(8), Florida Statutes. Upon the executive director's determination that he or she has a conflict or that action on the complaint would present an appearance of impropriety, the executive director shall refer the complaint to the Commission for a determination of legal sufficiency.

(4) A complaint is legally sufficient if it meets the following criteria.

(a) The complaint alleges a violation of Chapter 104 or 106 or Section 98.122 or 105.071, Florida Statutes;

(b) The complaint was made under oath in the presence of a notary public or other person authorized by law to administer oaths;

(c) The complaint contains the original signature of the complainant;

(d) The complaint contains specific facts upon which the complainant bases the allegation of a violation of law; and

(e) The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission.

(5) A complaint is not required to list every section of the Election Code that a respondent could have violated or to specify facts that support every element of the violations alleged.

(6) 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.

(7) In determining the legal sufficiency of a complaint, the executive director shall consider any document referred to in the complaint and any material Commission staff has obtained in prior Commission investigations. In determining the legal sufficiency of a complaint alleging a violation of the campaign finance laws, the executive director shall also consider documents on file with the filing officer.

(8) When the executive director determines that a complaint is legally insufficient, the complainant and the respondent shall be notified. The notice shall include the reason the complaint is legally insufficient and notify the complainant that he has 14 days to correct the stated ground of insufficiency. If the complainant does not respond within 14 days, the executive director shall close the case. If the complainant responds but does not provide information that corrects the stated ground of insufficiency, the complainant and the respondent shall be notified of complainant's right to seek the Commission's review of the executive director's finding that the complaint is legally insufficient.

(9) A complainant seeking the Commission's review of the executive director's finding that the complaint is legally insufficient shall file a written request for review with the Commission clerk stating with specificity the reasons the complainant believes that the complaint is legally sufficient within 21 days of receipt of the notice. If a written request for review is not filed with the Commission clerk within 21 days of receipt of the notice, the executive director shall close the case.

(10) If the Commission finds the complaint legally sufficient, it shall direct the executive director to further investigate the complaint. If the Commission finds the complaint legally insufficient, it shall dismiss the complaint.

Specific Authority: 106.26(1) FS. Law Implemented: Sections 105.071 and 106.25 FS. History—New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended 1-11-98, 1- 1-2-02, 2-15-04, 4-24-05

2B-1.0027 Investigation of Complaints; Staff Recommendations; and Probable Cause Determinations.

(1) If a complaint is legally sufficient, it shall be investigated by Commission staff. The staff shall investigate all violations specifically alleged in the sworn complaint.

(2) A subpoena necessary to gather evidence during the investigation of a legally sufficient complaint shall be executed and issued by the executive director. The subpoena shall contain a notice that the person to whom the subpoena is directed may file a motion to quash or limit the subpoena with the Commission clerk and state the ground relied upon. At the request of any party, the Commission clerk shall schedule a motion hearing before a Commissioner designated by the Chairman to hear such non-dispositive matters. The filing of such a motion shall toll the time for responding to the subpoena. If the motion to quash is denied, the subpoena shall be complied with within five days of an oral or written ruling on the motion, whichever occurs first.

(3) The individual conducting the investigation shall prepare a report of the results of the investigation, including relevant documents or other evidence gathered during the investigation.

(4) The staff of the Commission shall make a recommendation of whether there is probable cause or no probable cause in each case.

(5) All staff recommendations shall be reviewed by the executive director.

(6) The executive director shall ensure that legally sufficient complaints alleging a violation of Section 104.271(2), Florida Statutes, shall be given priority in the allocation of investigative and legal resources. Any request for hearing before the Commission shall be scheduled for its first available meeting.

(7) The respondent, the complainant, and their respective counsels shall be permitted to attend the hearing at which the Commission determines probable cause. Notice of the hearing shall be sent to the respondent and the complainant at least 14 days before the date of the hearing. The respondent and his or her counsel shall be permitted to make a brief oral statement in the nature of oral argument to the Commission before the Commission determines probable cause.

(8) The Commission's determination of probable cause shall be based upon the complaint, report of investigation, staff recommendations, any written statements submitted by the respondent, and any oral statements made at the probable cause hearing. After the hearing, the Commission shall:

(a) Issue an order finding probable cause to believe that specific sections of the law have been violated;

(b) Issue an order finding no probable cause to believe a violation has occurred; or

(c) Return the matter to Commission staff for additional investigation

(9) The Commission clerk shall send a copy of the Commission's order determining probable cause or no probable cause to the complainant and the respondent.

(10) An order of no probable cause shall constitute final agency action.

(11) Any order of probable cause entered by the Commission shall advise the respondent of the right to a hearing pursuant to Chapter 120, Florida Statutes, and the provisions

of Rule 2B-1.004, F.A.C., which allow the Commission to designate a Commissioner or Commissioners to hold hearings involving disputed issues of material fact and hearings not involving disputed issues of material fact.

Specific Authority: 104.271(2), 106.26(1) FS. Law Implemented: 104.271(2), 106.25, 106.26 FS. History—New 1-12-99, Amended 4-24-05

2B-1.003 Violations.

(1) The Commission shall consider a violation of Chapter 106, Florida Statutes, a minor violation under the following circumstances:

(a) The violation is one of those identified in this rule.

(b) The complaint alleging the violation contains no legally sufficient violation other than those identified in this rule.

(c) The respondent against whom the complaint was filed has not been notified of an allegation of the same violation before the conduct about which the complaint was filed.

(d) The respondent against whom the complaint was filed agrees to correct, if feasible, the conduct that resulted in a violation identified in this rule; and

(e) If the violation involves political advertising, the violation must have occurred more than 14 days before the election in which the candidate or committee named in the political advertising is participating and the person, candidate, or committee that paid for the political advertisement must be named in the political advertisement. If the violation occurred less than 14 days before the election, the complaint must not contain an allegation that the political advertising was either deceptive or influenced the outcome of the election.

(2) The following violations are minor violations so long as the requirements of subsection (1) of this rule have been met:

(a) Section 106.021(1)(b), Florida Statutes, failure of a candidate or political committee to properly designate a separate interest-bearing campaign account, so long as the account is identified as the campaign account of the candidate or political committee. A fine of \$100 shall be imposed for each violation.

(b) Section 106.023, Florida Statutes, failure of a candidate to file a statement with the filing officer that says he or she has read and understands the requirements of Chapter 106, within ten days after filing his or her appointment of campaign treasurer and designation of campaign depository. A fine of \$100 shall be imposed for each violation.

(c) Section 106.025(1)(c), Florida Statutes, failure of a person holding a campaign fund raiser to mark the tickets or advertising for the fund raiser with the required disclaimers. A fine of \$250 shall be imposed for each violation.

(d) Section 106.071(2), Florida Statutes, failure of a person making an independent expenditure for a political advertisement to mark prominently the political advertisement with the required disclaimer. A fine of \$250 shall be imposed for each violation.;

(e) Section 106.143(1)(a), Florida Statutes, failure of a candidate making an expenditure for a political advertisement to mark prominently the political advertisement with the required disclaimer. A fine of \$250 shall be imposed for each violation.

(f) Section 106.143(1)(b), Florida Statutes, failure of a person making an expenditure for a political advertisement to mark prominently the political advertisement as a "pd. pol. adv." or a "paid political advertisement" and to identify the sponsor. A fine of \$200 shall be imposed for each violation.

(g) Section 106.143(2), Florida Statutes, failure of a candidate running for a partisan office to mark his or her political advertisement with his or her political party affiliation or to

indicate that he or she is running with no party affiliation. A fine of \$200 shall be imposed for each violation.

(h) Section 106.143(3), Florida Statutes, prohibiting a candidate or any person on behalf of a candidate from representing in a political advertisement that a person or an organization supports the candidate before obtaining the written approval of that person or organization. A fine of \$200 shall be imposed for each violation.

(i) Section 106.143(4)(a), Florida Statutes, failure of a person offering a political advertisement on behalf of a candidate to obtain approval from the candidate before circulating the advertisement. A fine of \$200 shall be imposed for each violation.

(j) Section 106.143(4)(a), Florida Statutes, failure of a candidate or a person on behalf of a candidate to state on the candidate's political advertisement that the content of the advertisement was approved by the candidate and to identify the person who paid for the advertisement. A fine of \$250 shall be imposed for each violation.

(k) Section 106.143(4)(a), Florida Statutes, failure of a candidate to provide the news media with a written statement authorizing the content of each political advertisement submitted to the media for distribution. A fine of \$250 shall be imposed for each violation.

(l) Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement submitted to the news media for distribution to provide the media with a written statement that no candidate approved of the advertisement. A fine of \$200 shall be imposed for each violation.

(m) Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement submitted to the news media for distribution to state on the advertisement that no candidate approved the advertisement. A fine of \$200 shall be imposed for each violation.

(n) Section 106.143(5), Florida Statutes, prohibiting a candidate who is not the incumbent from using the word "re-elect" in his or her a political advertisement. A fine of \$200 shall be imposed for each violation.

(o) Section 106.143(5), Florida Statutes, failure of a candidate who is not the incumbent from including the word "for" in his or her political advertisement between his or her name and the office for which he or she is running. A fine of \$100 shall be imposed for each violation.

(p) Section 106.1435(3), Florida Statutes, prohibiting a person from placing or locating a political advertisement on or above any state or county road right-of-way. A fine of \$100 shall be imposed for each violation.

(q) Section 106.1437, Florida Statutes, failure of a person sponsoring a political advertisement intended to influence public policy or the vote of a public official to include a clearly readable statement of sponsorship. A fine of \$200 shall be imposed for each violation.

(r) Section 106.1439(1), Florida Statutes, failure of a person making an expenditure for an electioneering communication to mark prominently the electioneering communication with the required disclaimer. A fine of \$250 shall be imposed for each violation.

(s) Section 106.19(1)(a), Florida Statutes, prohibiting a person from accepting a contribution in excess of the limits prescribed by Section 106.08, Florida Statutes, if the excessive contribution is returned to the donor within 14 days of receipt. A fine of \$200 shall be imposed for each violation.

(3) Upon the executive director's determination that an alleged violation is a minor violation as defined by this rule, the executive director shall offer the respondent an opportunity to enter into a consent order to pay the fine or fines designated above. The consent order shall provide that the respondent neither admits nor denies the allegations.

(4) The Commission shall approve the consent order unless it determines that the requirements of this rule have not been met.

Specific Authority: 106.26(12) FS. Law Implemented: 106.26(12) FS. History—New 1-11-99, Amended 2-14-00, 1-2-02, 4-24-05.

2B-1.004 Hearings Before the Commission.

(1) If a respondent who is entitled to a hearing involving disputed issues of material fact does not elect to proceed before the Division of Administrative Hearings, and the Commission does not refer the case to Division of Administrative Hearings, the executive director shall schedule the formal hearing before the Commission.

(2) At the time the hearing is scheduled, the Chairman shall issue a pre-hearing order form, Pre-hearing Order, FEC 002, effective 4-24-05, which is hereby adopted and incorporated by reference. The order shall require the parties to file a joint pre-hearing statement at least five working days before the scheduled hearing date. The pre-hearing order shall provide the date of the hearing and the date the pre-hearing statement must be filed. The pre-hearing order shall require the parties to confer and file a joint pre-hearing statement that provides the following information:

(a) The name, address and telephone number of each person intended to be called as a witness by either party.

(b) A stipulation by the parties setting forth:

1. The facts that are not in dispute;
2. The facts that are in dispute;
3. A list of all exhibits that the parties agree should be admitted into evidence;
4. A list of exhibits to which either party objects, the nature of the objection and a response to the objection; and

5. An estimate of the time that each party believes shall be necessary to present the formal hearing to the Commission.

(c) Should the parties fail to reach a joint pre-hearing statement, each party shall be required to file a unilateral pre-hearing statement that also included the reasons that a joint pre-hearing statement was not filed.

(3) When necessary to expedite the processing of agency matters on behalf of the public, the Chairman shall designate one or more Commissioners to hear any motion filed by a party that is not dispositive of the case pending before the Commission.

(4) Upon the request of any party, the Commission clerk shall schedule a motion hearing on any pending motion, so long as the motion is not dispositive of the matter pending before the Commission, a designated Commissioner may hear the motion, and adequate notice and opportunity to appear in person or by telephone can be provided to the parties.

(5) When necessary to secure the just, speedy, and inexpensive determination of a case, the Chairman shall direct that one or more Commissioners hear any hearing involving disputed issues of material fact, any hearing not involving disputed issues of material fact, or any dispositive motion hearing.

(a) Designation of the specific Commissioner or Commissioners to hold a hearing involving disputed issues of material fact, hearing not involving disputed issues of material fact, or dispositive motion shall be made only by a majority of the Commissioners voting.

(b) The Commission clerk shall notify the parties of the designation of a Commissioner or Commissioners and shall notice the hearing.

(c) The designated Commissioner or Commissioners shall hear the evidence and argument presented by the parties during a hearing involving disputed issues of material fact, a hearing not involving a disputed issues of material fact, or a dispositive motion hearing.

(d) The designated Commissioner or Commissioners hearing the case shall file a report with the Commission clerk within 30 days of receiving any post hearing submissions from the parties. The report shall contain a recommended order that includes findings of fact, conclusions of law, a recommended disposition or penalty, if applicable, and any exceptions and responses filed by the parties. The report shall be served upon the parties.

(e) The Commission shall review the report, deliberate and reach a decision in the case. The designated Commissioner or Commissioners hearing the case shall not participate in the deliberation or vote of the Commission.

(6) Upon the Commission's determination of the outcome of a case after a hearing involving disputed issues of material fact, or after reviewing the report of the designated Commissioner or Commissioners, the Commission's counsel shall prepare a proposed final order.

(7) A clerical mistake in a final order arising from oversight or omission may be corrected by the Commission at any time on its own initiative or on the motion of any party.

Specific Authority: 106.24(5), 106.26 FS. Law Implemented: 106.24(5), 106.26 FS.
History—New 1-11-99. Amended 1-2-02, 4-24-05.

2B-1.0045 Award of Attorney's Fees.

(1) If the Commission determines that a complainant has filed a complaint against a respondent with a malicious intent to injure the reputation of such respondent 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 Chapter 104 or 106, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the complaint, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees.

(2) To claim costs and attorney's fees, the respondent shall file a petition with the Commission clerk within 30 days following dismissal of the complaint. The petition shall state with particularity the facts and grounds that prove entitlement to costs and attorney's fees. The Commission clerk shall forward a copy of the petition to the complainant by certified mail at the most recent address on file with the Commission.

(3) At a hearing, the Commission shall determine whether the petition contains sufficient facts and grounds to support a claim for cost and attorney's fees. If the petition does not contain sufficient facts and grounds to support such a claim, the Commission shall dismiss the petition. If the petition contains sufficient facts and grounds to support such a claim, the Commission shall order a hearing involving disputed issues of material fact be held before the Commission or a Commissioner or Commissioners designated by the Commission, or refer the petition to the Division of Administrative Hearings for a formal hearing.

(4) The parties to the claim shall be the respondent and the complainant. The respondent shall prove by clear and convincing evidence that he or she is entitled to an award of costs and attorney's fees. The Commission shall review the recommended order of the designated Commissioner or Commissioners or the administrative law judge and the parties' exceptions before entering a final order.

Specific Authority: 106.24(5), 106.26 FS. Law Implemented: 106.265(5). History—
New 4-24-05.

2B-1.005 Appeal of Fines Imposed by Filing Officers.

(1) To appeal a fine imposed pursuant to Section 106.04(8) or 106.07(8), Florida Statutes, the candidate, chairman of a political committee, or treasurer of a committee of continuous existence shall file a notice of appeal. The notice of appeal shall be filed with the

Commission clerk, and a copy filed with the filing officer, within 20 days of the appealing party's receipt of notice that a fine is being imposed. The notice of appeal shall contain:

- (a) The name, address and telephone number of the appealing party;
- (b) A copy of the notice of imposition of fine issued by the filing officer; and
- (c) A request for hearing if a personal appearance before the Commission is desired.

If no hearing request is made, the appeal shall be decided solely on the documents submitted by the appealing party and Commission staff.

(2) Failure to timely file a notice of appeal shall result in waiver of the right to appeal the fine and a final order upholding the fine shall be entered by the Chairman of the Commission without further notice.

(3) Upon receipt of a timely notice of appeal, the Commission staff shall notify the appealing party that the appeal has been accepted. The appealing party shall have 20 days from acceptance of the appeal to submit any documents supporting the appeal.

(4) The Commission shall uphold the fine imposed by the filing officer unless the appealing party presents credible evidence that the report was timely filed or credible evidence that there were unusual or other circumstances beyond the control of the candidate or committee caused the report to be filed late. Credible evidence is evidence that is from a credible source and is so natural, reasonable and probable as to make it easy to believe. The Commission shall give greater weight to a written statement that is certified to have been made under oath in the presence of a notary or other person authorized by law to administer oaths.

(5) If a hearing has been requested, the Commission clerk shall notify the appealing party of the date and location of the hearing. Convenience of location of the hearing shall not be a basis for continuing the hearing. The Commission is not required to provide notice of its consideration of the appeal if the appealing party did not request a hearing.

(6) Unless good cause is shown, the Commission will not consider at the hearing any written document unless the party offering the document has filed it with the Commission clerk at least ten days before the hearing.

Specific Authority: Ch. 97-13, Sec. 52, *Laws of Florida*. Law Implemented: 106.04(8), 106.07(8) FS. History—New 9-14-86, Amended 10-19-86, Formerly 1D-1.005, Amended 1-11-99, 4-24-05.

2B-1.0052 Fine imposed; Timely Filed Reports.

(1) Campaign treasurer's reports are required to be filed in the office of the filing officer by 5 p.m. on the due date. A report is deemed timely filed if it is postmarked before midnight on the due date.

(2) If a report is received by the filing officer without a postmark or with an illegible postmark within five days of the due date and it is delivered to the filing officer by the United States Postal Service, it shall be deemed timely filed.

(3) If a report is received by the filing officer without a postmark or with an illegible postmark more than five days after the due date or it is delivered to the filing officer by a mail delivery service other than the United States Postal Service, it shall not be deemed timely filed unless the appealing party submits a copy of a proof of mailing or at a hearing before the Commission, presents the oral testimony of the person who timely mailed the report. The proof of mailing submitted shall reflect that it was obtained from the United States Postal Service or other mail delivery service at the time of mailing and shall reflect that the report was mailed before midnight on the due date. The testimony presented shall indicate that the report was mailed so that it would have received a postmark or a legible postmark on the report's due date but for the failure of the United States Postal Service to properly mark the report.

(4) A metered postage mark does not constitute a postmark or a proof of mailing.

Specific Authority: 106.26(1) FS, Ch. 97-13, Sec. 52, *Laws of Florida*. Law Implemented: 106.04(8), 106.07(8) FS. History—New 1-11-98. Amended 1-2-02, 4-24-05.

2B-1.0055 Late-filed Reports; Unusual Circumstances.

(1) Unusual circumstances mean uncommon, rare or sudden events over which the actor has no control and which directly result in the failure to act according to the filing requirements. Unusual circumstances must occur within a time period that would clearly prevent the person legally responsible for filing the report from doing so in a timely manner.

(a) Unusual circumstances shall not include the failure of the United States Postal Service or other mail delivery service to postmark an envelope, legibly postmark an envelope, or timely deliver mail.

(b) Unusual circumstances shall not include the failure of the sender to affix sufficient postage to a report that is being mailed.

(2) The following events shall constitute unusual circumstances so long as the events clearly interfered with filing the report.

(a) Natural disaster or other emergency that prevented timely filing. Evidence submitted shall include copies of newspaper reports or other documents from an independent and reliable source that documents the nature, date, and location of the natural disaster or emergency.

(b) Death of the candidate or campaign treasurer or an immediate family member of the candidate or campaign treasurer. Evidence submitted shall include a copy of the death certificate, newspaper obituary, or funeral program or notice.

(c) Serious illness, disability or non-elective surgery of the candidate or campaign treasurer. Evidence submitted shall include a physician's certification on professional letterhead stationery that includes the dates of the illness, disability, or surgery; a statement regarding the period of time that the patient was incapacitated; and a statement that surgery, if any, was not

elective. The period of incapacitation may also be shown by copies of hospital records reflecting the dates of hospitalization.

(d) Serious illness, disability or non-elective surgery of the candidate's or campaign treasurer's immediate family member. Evidence submitted shall include evidence of the candidate's or treasurer's relationship to the family member, the location of the family member, and the reason the candidate or campaign treasurer's presence was required. Evidence submitted shall also include a physician's certification on professional letterhead stationary that includes the dates of the illness, disability, or surgery; a statement regarding the period of time that the patient was incapacitated; a statement that surgery, if any, was not elective; and a statement that the patient required the care of a family member.

(e) Computer or equipment failure caused by events that could not have been anticipated and that made timely filing of the report impossible. Power outages or program failure does not constitute unusual circumstances unless it is established that reasonable precautions to assure the safety of the equipment or the ability of the program to perform as anticipated were taken before the events causing failure of the equipment or program.

(f) The abrupt and unexpected loss of the campaign treasurer, over which the appealing party had no control. The loss of the campaign treasurer shall not constitute unusual circumstances if the appealing party failed to monitor the campaign treasurer's performance before his or her departure or if the appealing party failed to assure prompt preparation of the report after the treasurer's departure.

(g) Failure of the filing officer to e-mail, telephone, or mail a letter to the candidate, chairman of a political committee, or treasurer of a committee of continuous existence that a report is late no later than seven days after the report was due shall constitute unusual circumstances if the appealing party establishes that lack of notice clearly interfered with the

timely filing of the report. The fine imposed by the filing officer shall be reduced to the amount that would have been imposed had the report been filed 13 days late.

Specific Authority: 106.26(1) FS, Ch. 97-13, Sec. 52, *Laws of Florida*. Law Implemented: 106.04(8), 106.07(8) FS, History—New 1-11-98. Amended 4-24-05.

2B-1.007 Appeal of Fine by Members of County Canvassing Board.

(1) To appeal a fine imposed pursuant to Section 102.112, Florida Statutes, the county canvassing board member shall file a notice of appeal. The notice of appeal shall be filed with the commission clerk, and a copy filed with the Division of Elections, within 21 days of the appealing party's receipt of notice that a fine is being imposed. The notice of appeal shall contain:

- (a) The name, address and telephone number of the appealing party;
- (b) A copy of the notice of imposition of fine issued by the Division of Elections; and
- (c) A request for hearing if a personal appearance before the Commission is desired.

If no hearing request is made, the appeal shall be decided solely on the documents submitted by the appealing party and Commission staff.

(2) Failure to timely file a notice of appeal shall result in waiver of the right to appeal the fine and a final order upholding the fine shall be entered by the Chairman of the Commission without further notice.

(3) Upon receipt of a timely notice of appeal, the Commission staff shall notify the appealing party whether or not the appeal has been accepted. If the appeal is accepted, the appealing party shall have 20 days from acceptance of the appeal to submit any documents supporting the appeal.

(4) The Commission shall consider all credible evidence presented. Credible evidence is evidence that is from a credible source and is so natural, reasonable and probable as

to make it easy to believe. The Commission shall give greater weight to a written statement that is certified to have been made under oath in the presence of a person authorized to administer oaths, such as a notary public.

(5) If a hearing has been requested, the Commission clerk shall notify the appealing party of the date and location of the hearing. Convenience of the location of the hearing shall not be a basis for continuing the hearing. The Commission is not required to provide notice of its consideration of the appeal if the appealing party did not request a hearing.

Specific Authority: 102.112(3) FS. Law Implemented: 102.112 FS. History—New 2-28-90, Formerly 1D-1.007, Amended 1-12-98.