

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: James F. Kelly, Jr.

Case No.: FEC 24-066

TO: James F. Kelly, Jr.
8417 Hemlig Street, #104
Kissimmee, FL 34747

Division of Elections
500 S. Bronough Street
RA Gray Building, Room 316
Tallahassee, FL 32399

NOTICE OF HEARING (INFORMAL HEARING (IH))

A hearing will be held in this case before the Florida Elections Commission on **December 3, 2025, at 1:00 pm, or as soon thereafter as the parties can be heard**, via Webinar at: **Registration URL** <https://attendee.gotowebinar.com/register/8443550463090426453>. **Webinar ID** 144-463-043
Audio Only 1 877 309 2074 -- 786-784-735.

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.

Tim Vaccaro

Executive Director
Florida Elections Commission
November 7, 2025

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.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

Case No.: FEC 24-066

v.

**James F. Kelly, Jr.,
Respondent.**

_____ /

ORDER OF PROBABLE CAUSE

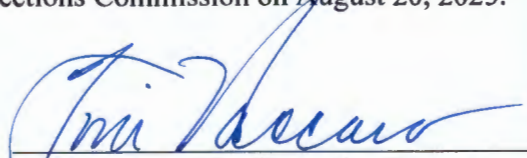
THIS MATTER was heard by the Florida Elections Commission (Commission) at its regularly scheduled meeting held on August 20, 2025, at 1:00 p.m. via Zoom teleconferencing.

On October 7, 2024, Staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. The facts articulated in Staff's Recommendation are adopted by reference and incorporated herein. Based on the Complaint, Report of Investigation, Staff's Recommendation, and oral statements (if any) made at the probable cause hearing, the Commission finds that there is **probable cause** to charge Respondent with the following violation(s):

Count 1:

On or about March 13, 2024, James F. Kelly, Jr. violated Section 106.07(2)(b)1., Florida Statutes, when he failed to timely file an addendum to the campaign's 2023 Q4 Report within seven days after receiving notice from the Division of Elections that the report required amendments.

DONE AND ORDERED by the Florida Elections Commission on August 20, 2025.



Tim Vaccaro, J.D., Executive Director
For Joseph S. Van de Bogart, Chair
Florida Elections Commission

Copies furnished to:
Jeffrey J. Kelly, Assistant General Counsel
James F. Kelly, Jr., Respondent
Division of Elections, Complainant

NOTICE OF RIGHT TO A HEARING

As the Respondent, you may elect to resolve this case in several ways. First, you may elect to resolve this case by consent order where you and Commission staff agree to resolve the violation(s) and agree to the amount of the fine. The consent order is then presented to the Commission for its approval. To discuss a consent order, contact the FEC attorney identified in the Order of Probable Cause.

Second, you may request an informal hearing held before the Commission, if you do not dispute any material fact in the Staff Recommendation. You have 30 days from the date the Order of Probable Cause is filed with the Commission to request such a hearing. The date this order was filed appears in the upper right-hand corner of the first page of the order. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violation(s) and the potential fine. At the request of Respondent, the Commission will consider and determine willfulness at an informal hearing. Otherwise, live witness testimony is unnecessary.

Third, you may request a formal hearing held before an administrative law judge in the Division of Administrative Hearings (DOAH), if you dispute any material fact in the Staff Recommendation. You have 30 days from the date the Order of Probable Cause is filed with the Commission to request such a hearing. The date this order was filed appears in the upper right-hand corner of the first page of the order. At the hearing, you will have the right to present evidence relevant to the violation(s) listed in this order, to cross-examine opposing witnesses, to impeach any witness, and to rebut the evidence presented against you.

If you do not elect to resolve the case by consent order or request a formal hearing at the DOAH or an informal hearing before the Commission within 30 days of the date this Order of Probable Cause is filed with the Commission, the case will be sent to the Commission for a formal or informal hearing, depending on whether the facts are in dispute. The date this order was filed appears in the upper right-hand corner of the first page of the order.

To request a hearing, please send a written request to the Commission Clerk, Donna Ann Malphurs. The address of the Commission Clerk is 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida 32399-1050. The telephone number is (850) 922-4539. The Clerk will provide you with a copy of Chapter 28-106, *Florida Administrative Code*, and other applicable rules upon request. No mediation is available.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: James F. Kelly, Jr.

Case No.: FEC 24-066

TO: James F. Kelly, Jr.
8417 Heming Street, Apt. 104
Kissimmee, FL 34747

Division of Elections
500 S. Bronough Street
RA Gray Building, Room 316
Tallahassee, FL 32399

NOTICE OF HEARING (PROBABLE CAUSE DETERMINATION (PCD))

A hearing will be held in this case before the Florida Elections Commission on, **August 20, 2025 at 1:00 p.m., or as soon thereafter as the parties can be heard**, at the following location: **Virtual Meeting Session Two via Zoom link:**
<https://us06web.zoom.us/join/9tJ6tZn5A>.

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.

Tim Vaccaro

Executive Director
Florida Elections Commission
July 28, 2025

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.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: James F. Kelly, Jr.

Case No.: FEC 24-066

TO: James F. Kelly, Jr.
8417 Hemlig Street, Apt. # 104
Kissimmee, FL 34747

Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

NOTICE OF CANCELLATION OF HEARING (PROBABLE CAUSE DETERMINATION (PCD))

You are hereby notified that the previously scheduled hearing for February 26 and 27, 2025, is cancelled. It is anticipated that your case will be heard at the next regularly scheduled meeting, on a date to be determined. A Notice of Hearing will be mailed approximately 14 days prior to the new hearing date.

Tim Vaccaro

Executive Director
Florida Elections Commission
February 24, 2025

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: James F. Kelly, Jr.

Case No.: FEC 24-066

TO: James F. Kelly, Jr.
8417 Hemlig Street, Apt. # 104
Kissimmee, FL 34747

Division of Elections
500 S. Bronough Street, Room 316
Tallahassee, FL 32399

NOTICE OF HEARING (PROBABLE CAUSE DETERMINATION (PCD))

A hearing will be held in this case before the Florida Elections Commission on, **February 27, 2025 at 9:00 a.m., or as soon thereafter as the parties can be heard**, at the following location: **412 Knott Building, Pat Thomas Committee Room, 404 South Monroe Street, Tallahassee, Florida 32399**. 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.

Tim Vaccaro

Executive Director
Florida Elections Commission
February 5, 2025

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.

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: James F. Kelly, Jr.

Case No.: FEC 24-066

STAFF RECOMMENDATION FOLLOWING INVESTIGATION

Pursuant to Section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the referral in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.07(2)(b)1., Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on June 26, 2024, the following facts and law support this staff recommendation:

1. On March 27, 2024, the Florida Elections Commission (“Commission”) received a referral from the Division of Elections (“Division” or “Complainant”), alleging that James F. Kelly, Jr. (“Respondent”) violated Chapter 106, Florida Statutes.

2. Respondent is serving as the campaign treasurer for Octavio Eduardo Hernandez, a 2024 candidate for State Representative, District 51. This is the first time Respondent has served as a campaign treasurer. (ROI Exhibit 7, page 1, paragraph 3)¹ The Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates form (“DS-DE 9”) appointing Respondent as treasurer for Mr. Hernandez’s campaign was filed on July 17, 2023. (ROI Exhibit 1)

3. By letter dated May 28, 2024, the Executive Director notified Respondent that Commission staff would investigate the following statutory provision:

Section 106.07(2)(b)1., Florida Statutes: Respondent, treasurer for Octavio Eduardo Hernandez, a 2024 candidate for State Representative, District 51, failed to timely make necessary amendments to the 2023 Q4 campaign treasurer’s report, as alleged in the complaint.

4. By letter dated July 18, 2023, Donna S. Brown, Chief, Bureau of Election Records, sent Respondent a letter acknowledging that the Division received the DS-DE 9 form and Respondent’s appointment as the campaign treasurer for Mr. Hernandez’s campaign. (ROI Exhibit 2, page 1)

5. The acknowledgment letter advised that all candidates filing reports with the Division are required to use the electronic filing system (“EFS”) and provided Respondent with a user identification number and initial password to grant access to the EFS. (ROI Exhibit 2, page

¹ The Report of Investigation is referred to herein as “ROI.”

1) The letter further advised that all the Division's publications and reporting forms were available on its website and directed Respondent to print out Chapter 106, Florida Statutes, and the *Calendar of Reporting Dates*, as well as other relevant documents. (ROI Exhibit 2, page 2)

Alleged Violation: Section 106.07(2)(b)1., Florida Statutes

6. Complainant alleged that Respondent violated Florida's election laws by failing to timely file the required amendment to the campaign's 2023 Q4 Report within 7 days of receiving notification from the filing officer that the report was incomplete and required amendment. *See* Compl.

7. The campaign's 2023 Q4 Report was filed on January 12, 2024. (ROI Exhibit 5, page 6). The report was incomplete when filed. (*See* Compl and ROI Exhibit 4) The report contained an invalid expenditure of \$60.00 to the Florida Democratic Party that was made on October 7, 2023, as well as an incorrect expenditure type for a \$17.12 expenditure to ActBlue. (ROI Exhibit 4, page 2)

8. The Division sent two letters regarding the erroneous report. The letters notified Respondent that the campaign's 2023 Q4 report was incomplete and that Respondent was required to amend the report within seven days of receipt of the notifications. An Error Report showing why the report was incomplete was attached to each notification. (ROI Exhibits 3 & 4) The final notification letter was confirmed delivered on March 6, 2024. (ROI Exhibit 4, page 3)

9. In a response to the investigation on June 26, 2024, Respondent stated he is a first-time treasurer, acknowledged that he was advised of the election materials online, and stated that he had not received any correspondence from either the Division or the Commission. Therefore, Respondent had not made any amendments to the report. Respondent stated that he had moved to a new address in June, 2023, and would make the required amendments to the report the next day. (ROI Exhibit 7, page 1, paragraph 3)

10. As of September 20, 2024, Respondent had not filed the required amendments to the report. (Attachment A)

11. Respondent failed to timely file the required amendments to the campaign's 2023 Q4 Report within 7 days of receiving notification from his filing officer that the report was incomplete and required amendment.

12. "Probable Cause" is defined as 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).

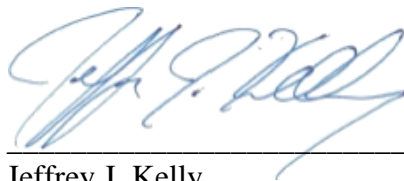
13. The facts set forth above show that Respondent is the campaign treasurer for Octavio Eduardo Hernandez, a 2024 candidate for State Representative, District 51. Respondent failed to timely file the required amendments to the campaign's 2023 Q4 Report within 7 days of receiving notification from his filing officer that the report was incomplete and required amendment.

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

Count 1:

On or about March 13, 2024, James F. Kelly, Jr. violated Section 106.07(2)(b)1., Florida Statutes, when he failed to timely file an addendum to the campaign's 2023 Q4 Report within seven days after receiving notice from the Division that the report required amendments.

Respectfully submitted on October 7th, 2024.



Jeffrey J. Kelly
Assistant General Counsel

I reviewed this Staff Recommendation this 7th day of October 2024.



Stephanie J. Cunningham
General Counsel



Florida Department of State
Division of Elections

Campaign Expenditures

2024 General Election
Octavio E. Hernandez (DEM)
State Representative

This information is being provided as a convenience to the public, has been processed by the Division of Elections and should be cross referenced with the original report on file with the Division of Elections in case of questions.
[About the Campaign Finance Data Base](#)

Rpt Yr	Rpt Type	Date	Amount	Expense Paid To	Address	City State Zip	Purpose	Typ Reimb
2023	Q4	10/07/2023	60.00	FLORIDA DEMOCRATIC PARTY	201 S MONROE ST.	TALLAHASSEE, FL 32301	DONATION	MON
2023	Q4	10/23/2023	14.40	GOOGLE	1600 AMPHITHEATRE PARKWAY	MOUNTAIN VIEW, CA 94043	WEBSITE DOMAIN FEE	MON
2023	Q4	11/02/2023	69.55	CITY OF HAINES CITY	620 E MAIN ST.	HAINES CITY, FL 33844	LATIN BUSINESS EXPO FEE	MON
2023	Q4	11/14/2023	14.40	GOOGLE	1600 AMPHITHEATRE PARKWAY	MOUNTAIN VIEW, CA 94043	WEBSITE DOMAIN FEE	MON
2023	Q4	11/16/2023	39.52	MICHAELS	1600 POSNER BLVD	DAVENPORT, FL 33837	T-SHIRTS FOR EVENT	MON
2023	Q4	11/17/2023	34.78	THE UPS STORE #5556	109 AMBERSWEET WAY	DAVENPORT, FL 33897	PRINTING SERVICES	MON
2023	Q4	11/18/2023	192.77	STAPLES	3500 POSNER BLVD	DAVENPORT, FL 33837	PRINTING SERVICES AND MATERIALS	MON
2023	Q4	11/18/2023	18.10	PUBLIX	617 US-17	DAVENPORT, FL 33837	CAMPAIGN MATERIALS	MON
2023	Q4	12/14/2023	14.40	GOOGLE	1600 AMPHITHEATRE PARKWAY	MOUNTAIN VIEW, CA 94043	WEBSITE DOMAIN FEE	MON
2023	Q4	12/27/2023	149.00	USPS	511 RONALD RAGAN PKWY	LOUGHMAN, FL 33858	P.O. BOX	MON
2023	Q4	12/29/2023	17.12	ACTBLUE	366 SUMMER STREET	SOMERVILLE, ME 02144	FEES PAID TO COLLECT CONTRIBUTIONS	PPD

624.04

11 Expenditure(s) Selected

[Query the Campaign Finance Data Base](#)

[\[Department of State\]](#) [\[Division of Elections\]](#) [\[Candidates and Races\]](#) [\[Campaign Finance Information\]](#)

FLORIDA ELECTIONS COMMISSION

Report of Investigation for Failure to Timely Amend

Case Number: FEC 24-066

Section 106.07(2)(b)1., Florida Statutes, failure of the treasurer for a candidate or political committee to file an addendum to an incomplete report after receiving notice from the filing officer.

Respondent: James F. Kelly, Jr.

Respondent's Atty: N/A

Division of Elections (Division)

Referral Filed: March 27, 2024

Respondent Type: Treasurer for Candidate

I. Preliminary Information:

1. I investigated whether Respondent violated this section of the election laws by failing to file amended report(s) for the following campaign treasurer report(s) after receiving notice from the filing officer: 2023 Q4.

2. An Appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9) was filed on July 17, 2023. Respondent was appointed as campaign treasurer for Octavio Eduardo Hernandez, a 2024 candidate for State Representative, District 51. To review the DS-DE 9, refer to Exhibit 1.

3. On July 18, 2023, the Division sent Respondent a letter acknowledging Respondent's appointment as the campaign treasurer for Octavio Eduardo Hernandez's campaign. The letter advised Respondent that all of the Division's publications and reporting forms are available on their website, including Chapter 106, Florida Statutes, the *Candidate and Campaign Treasurer Handbook*, and the *Calendar of Reporting Dates*. The letter further advised that it was Respondent's responsibility to read, understand, and follow the requirements of Florida's election laws. To review the acknowledgement letter, refer to Exhibit 2.

II. Alleged Violation of Section 106.07(2)(b)(1), Florida Statutes:

4. The Division sent correspondence to the address provided on the DS-DE 9 notifying Respondent that one or more campaign treasurer report(s) were incomplete. The correspondence included error report(s) referencing the following report(s): 2023 Q4. To review the correspondence and error report(s), refer to Exhibit 3.

5. On February 27, 2024, the Division sent a letter marked "Final Notice" with delivery confirmation to the address provided on the DS-DE 9 notifying Respondent that one or more campaign treasurer report(s) were incomplete. The letter included an error report referencing the following report(s): 2023 Q4. It was confirmed delivered on March 6, 2024. To review the "Final Notice," error report and delivery confirmation, refer to Exhibit 4.

6. As noted above, the "Final Notice" was confirmed delivered on March 6, 2024. The Division filed the referral on March 27, 2024. By filing the referral, the Division affirmed that as of that date, the report(s) at issue had not been amended to correct all errors identified by the Division. To review the report(s) at issue, refer to Exhibit 5.

7. Division records show that Division staff called Respondent on March 18, 2024, but the phone line was disconnected. Division staff called Mr. Hernandez and "left detailed voice message explaining errors and advising that we will allow 1 business day to correct errors." To review the Division records, refer to Exhibit 6.

8. Respondent did not respond to the referral.

9. I called Respondent for the purpose of providing an opportunity to discuss the allegations made in the referral. Respondent advised that he was a first-time treasurer. He acknowledged that he had been advised of the election materials available online. Respondent asserted that he had not made any amendments to the report at issue because he had not received any correspondence from the Division about it. He stated that he had moved in June 2023 to another address.¹ Respondent stated that he would go online to make the required amendments. To review the phone log, refer to Exhibit 7.

SIGNATURE OF INVESTIGATOR:



Date: June 26, 2024

¹ The Division's website does not show record that any of the notices sent to Respondent about the report at issue were returned undelivered or that Respondent changed or updated his address after the DS-DE 9 was filed on 6/17/23.

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
James F. Kelly, Jr. -- FEC 24-066

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	DS-DE 9 Form
Exhibit 2	Acknowledgement Letter
Exhibit 3	Initial Failure to Amend Letter
Exhibit 4	Final Failure to Amend Letter with Delivery Confirmation Receipt
Exhibit 5	2023 Q4 Report with associated Queued-Transaction Report
Exhibit 6	Division Records
Exhibit 7	Phone Log

**APPOINTMENT OF CAMPAIGN TREASURER
AND DESIGNATION OF CAMPAIGN
DEPOSITORY FOR CANDIDATES**

(Section 106.021(1), F.S.)

(PLEASE PRINT OR TYPE)

RECEIVED
DEPARTMENT OF STATE
2023 JUL 17 AM 8:38
DIVISION OF ELECTIONS
TALLAHASSEE, FL

NOTE: This form must be on file with the qualifying officer before opening the campaign account.

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

☒ Initial Filing of Form Re-filing to Change: ☐ Treasurer/Deputy ☐ Depository ☐ Office ☐ Party

2. Name of Candidate (in this order: First, Middle, Last)

Octavio Eduardo Hernandez

3. Address (include post office box or street, city, state, zip code)

136 Seville DR
Davenport, FL 33837

4. Telephone

(407) 760-3130

5. E-mail address

Octavio.hernandez1986@gmail.com

6. Office sought (include district, circuit, group number)

State Representative District 51

7. If a candidate for a nonpartisan office, check if applicable:

☐ My intent is to run as a Write-In candidate.

8. If a candidate for a partisan office, check block and fill in name of party as applicable: My intent is to run as a

☐ Write-In ☐ No Party Affiliation ☒ Democratic Party candidate.

9. I have appointed the following person to act as my ☒ Campaign Treasurer ☐ Deputy Treasurer

10. Name of Treasurer or Deputy Treasurer

James E. Kelly Jr

11. Mailing Address

234 Santana Place

12. Telephone

(407) 837 7454

13. City

Davenport

14. County

Polk

15. State

FL

16. Zip Code

33897

17. E-mail address

720JKelly@gmail.com

18. I have designated the following bank as my ☒ Primary Depository ☐ Secondary Depository

19. Name of Bank

Mid Florida Credit Union

20. Address

300 Ambersweet Wy, Davenport, FL 33897

21. City

Davenport

22. County

Polk

23. State

Florida

24. Zip Code

33897

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.

25. Date

7-10-23

26. Signature of Candidate

☒ 

27. Treasurer's Acceptance of Appointment (fill in the blanks and check the appropriate block)

I, James Franklin Kelly Jr, do hereby accept the appointment

(Please Print or Type Name)

designated above as:

☒ Campaign Treasurer.

☐ Deputy Treasurer.

7/10/23

Date

☒


Signature of Campaign Treasurer or Deputy Treasurer



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

July 18, 2023

Octavio Eduardo Hernandez
136 Seville Drive
Davenport, Florida 33837

Dear Mr. Hernandez:

This will acknowledge receipt of the Appointment of Campaign Treasurer and Designation of Campaign Depository for the office of State Representative, which was placed on file in our office on July 17, 2023. Your name has been placed on the 2024 active candidate list.

Campaign Treasurer's Reports

Your first campaign treasurer's report will be due on **October 10, 2023**. The report will cover the period of July 1 - September 30, 2023 (2023 Q3). All candidates who file reports with the Division of Elections are required to file by means of the Division's Electronic Filing System (EFS).

EFS Access

Below is the web address to access the EFS and your user identification number. Enclosed are your confidential, filing credentials.

EFS Website Address: <https://efs.dos.state.fl.us>

Identification Number: 84089

Timely Filing

All reports filed must be completed and filed through the EFS no later than midnight, Eastern Standard Time, of the due date. Reports not filed by midnight of the due date are late filed and subject to the penalties in Section 106.07(8), Florida Statutes. In the event that the EFS is inoperable on the due date, the report will be accepted as timely filed if filed no later than midnight of the first business day the EFS becomes operable. No fine will be levied during the period the EFS was inoperable.

Division of Elections

R.A. Gray Building, Suite 316 • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6240 • 850.245.6260 (Fax) • [DOS.MyFlorida.com/elections](https://dos.mylouisiana.com/elections)



Octavio Eduardo Hernandez
July 18, 2023
Page Two

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 three days late and, thereafter, \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Electronic Receipts

The person submitting the report on the EFS will be issued an electronic receipt indicating and verifying the report was filed. Each campaign treasurer's report filed by means of the EFS is considered to be under oath by the candidate and campaign treasurer, and such persons are subject to the provisions of Section 106.07(5), Florida Statutes.

Instructions and Assistance

An online instruction guide is available to you on the EFS to assist with navigation, data entry, and submission of reports. The Division of Elections will also provide assistance to all users by contacting the EFS Help Desk at (850) 245-6280.

All of the Division's publications and reporting forms are available on the Division of Elections' website at <https://dos.myflorida.com/elections>. It is your responsibility to read, understand, and follow the requirements of Florida's election laws. Therefore, please print a copy of the following documents: Chapters 104 and 106, Florida Statutes, *Candidate and Campaign Treasurer Handbook*, *Calendar of Reporting Dates*, and Rule 1S-2.017, Florida Administrative Code.

Please let me know if you need additional information.

Sincerely,



Donna S. Brown, Chief
Bureau of Election Records

DSB/kaf

Enclosures

pc: James F. Kelly Jr., Treasurer



FLORIDA DEPARTMENT OF STATE

Cord Byrd
Secretary of State

DIVISION OF ELECTIONS

January 31, 2024

James F. Kelly Jr, Treasurer for
Candidate Octavio Eduardo Hernandez
234 Santana Place
Davenport, FL 33897

Re: CAN 84089

Dear Mr. Kelly:

The Division of Elections has determined that one or more campaign reports are incomplete for the reasons noted in the attached error report.

Pursuant to Section 106.07(2), Florida Statutes, you have 7 days from receipt of this notice to file an amended report to correct errors or provide missing information. If the audit states that a written explanation is required, provide the division with a signed letter of explanation addressing the errors noted in the report(s). Your explanation should (1) reference the specific error(s) that occurred; (2) describe how you corrected the errors (example: refunded excess contribution and reported the refund in 2021 M8 report); and (3) list the report(s) and sequence number(s) that were amended to reflect the corrections. Please be advised that failure to supply this information within the time allowed may constitute a violation of Chapter 106, Florida Statutes.

If you need assistance in filing an amendment, please contact Whitney Brown at (850) 245-6280.

Sincerely,

Donna S. Brown, Chief
Bureau of Election Records

Attachment

cc: Octavio Eduardo Hernandez, Candidate

Compliance Report

Office: STR

Candidate: Octavio Eduardo Hernandez

Account: 84089

Report: 2023 Q4 (2) Covering Period: 10/1/23 - 12/31/23

Overall

Contributions

Expenditures

Expenditures				Expenditure		
Statute	FAC	Description	Seq	Date	Name	City
106.011(10)		Invalid expenditure - written explanation required	1	10/7/2023	FLORIDA DEMOCRATIC PARTY	MON
1S-2.017 F		Incorrect Expenditure Type	11	12/29/2023	ACTBLUE	PPD
						Amount
						\$60.00
						\$17.12

Fund Transfers

Other Distributions



FLORIDA DEPARTMENT OF STATE

Cord Byrd
Secretary of State

DIVISION OF ELECTIONS

FINAL NOTICE

Delivery Confirmation:

USPS TRACKING # **9488 8178 9820 3243 6218 67**
FOR TRACKING GO TO USPS.COM

February 27, 2024

James F. Kelly Jr, Treasurer for
Candidate Octavio Eduardo Hernandez
234 Santana Place
Davenport, FL 33897

Re: CAN 84089

Dear Mr. Kelly:

You have previously been advised that one or more campaign treasurer's reports are incomplete for the reasons noted in the attached error report.

Pursuant to Section 106.07(2), Florida Statutes, you have 7 days from receipt of this letter to correct errors or provide missing information. If the audit states that a written explanation is required, provide the division with a signed letter of explanation addressing the errors noted in the report(s). Your explanation should (1) reference the specific error(s) that occurred; (2) describe how you corrected the errors (example: refunded excess contribution and reported the refund in 2021 M8 report); and (3) list the report(s) and sequence number(s) that were amended to reflect the corrections. Please be advised that if you fail to comply with this request, the Division will forward this matter to the Florida Elections Commission for further action. Section 106.265(1), Florida Statutes, authorizes the Florida Elections Commission to impose civil penalties of up to \$1,000 per violation.

If you need assistance in filing an amendment, please contact Whitney Brown at (850) 245-6280.

Sincerely,

Donna S. Brown, Chief
Bureau of Election Records

Attachment

cc: Octavio Eduardo Hernandez, Candidate

Account: 84089

Expenditures

Exhibit 4 Page 2 of 3

Tracking Number:

Remove X

9488817898203243621867

Copy Add to Informed Delivery (<https://informedelivery.usps.com/>)



Latest Update

Your item was delivered in or at the mailbox at 11:20 am on March 6, 2024 in KISSIMMEE, FL 34747.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered
Delivered, In/At Mailbox
KISSIMMEE, FL 34747
March 6, 2024, 11:20 am

See All Tracking History

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates ▼

USPS Tracking Plus® ▼

Product Information ▼

See Less ^

Track Another Package

Enter tracking or barcode numbers

**FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS
CAMPAIGN TREASURER'S REPORT SUMMARY**

(1) Octavio E. Hernandez (2) 84089
Candidate, Committee or Party Name I.D. Number

(3) 136 Seville Drive Davenport FL 33837
Address (number and street) City State Zip Code
☐ Check box if address has changed since last report

(4) Check appropriate box(es):
☒ Candidate (office sought):
☐ Political Committee ☐ Check If PC has DISBANDED
☐ Committee of Continuous Existence ☐ Check If CCE has DISBANDED
☐ Party Executive Committee

(5) REPORT IDENTIFIERS

Cover Period: From 10/01/2023 To 12/31/2023 Report Type: Q4
☐ Original ☒ Amendment ☐ Special Election Report

(6) CONTRIBUTIONS THIS REPORT

Cash & Checks	\$775.00
Loans	\$0.00
<i>Total Monetary</i>	\$775.00
In-Kind	\$0.00

(7) EXPENDITURES THIS REPORT

Monetary Expenditures	\$624.04
Transfers to Office Account	\$0.00
<i>Total Monetary</i>	\$624.04

(8) Other Distributions

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

Name of ☐ Treasurer ☐ Deputy Treasurer

X
Signature

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

Name of ☒ Candidate ☐ Chairman (PC/PTY Only)

X
Signature

Name: Octavio E. Hernandez

Report: 2023 Q4

Period: 10/01/2023 to 12/31/2023

**** Records in Filed Report ****

Seq #	Full Name (Last, Suffix, First, Middle)	Contributor	Occupation	Amount
Date	Street Address & City, State, Zip	Type	In-Kind Description	Amend
1	NIETO, IRWING	I		\$25.00
12/27/2023	3605 TURKEY CREEK ROAD PLANT CITY, FL 33567	CAS		
2	NIETO, IRWING	I		\$25.00
11/27/2023	3605 TURKEY CREEK ROAD PLANT CITY, FL 33567	CHE		
3	NIETO, IRWING	I		\$25.00
10/27/2023	3605 TURKEY CREEK ROAD PLANT CITY, FL 33567	CHE		
4	MURRAY, MICHAEL	I	RETIRED	\$250.00
11/14/2023	9350 PURPLE MARTIN DR. LAKELAND, FL 33810-4375	CHE		
5	WILGER, MICHERLIE	I		\$50.00
10/28/2023	1793 EAGLE CREST DR. FLEMING ISLAND, FL 32003	CHE		
6	SCHMIDT, KENNETH	I		\$50.00
10/01/2023	1834 ROCKY POINTE DR. LAKELAND, FL 33813	CHE		
7	FEARNEY, MICHAEL	I	RETIRED	\$250.00
12/12/2023	734 JESSANDA CIRCLE LAKELAND, FL 33813	CHE		
8	JONES, DAVID	I		\$100.00
12/12/2023	1122 CIRCLE DRIVE LAKE WALES, FL 33853	CHE		

Name: Octavio E. Hernandez

Report: 2023 Q4

Period: 10/01/2023 to 12/31/2023

**** Records in Filed Report ****

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Type	Purpose	Amount Amend
1 10/07/2023	FLORIDA DEMOCRATIC PARTY 201 S MONROE ST. TALLAHASSEE, FL 32301	MON	DONATION	\$60.00
2 10/23/2023	GOOGLE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043	MON	WEBSITE DOMAIN FEE	\$14.40
3 11/02/2023	CITY OF HAINES CITY 620 E MAIN ST. HAINES CITY, FL 33844	MON	LATIN BUSINESS EXPO FEE	\$69.55
4 11/14/2023	GOOGLE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043	MON	WEBSITE DOMAIN FEE	\$14.40
5 11/18/2023	STAPLES 3500 POSNER BLVD DAVENPORT, FL 33837	MON	PRINTING SERVICES AND MATERIALS	\$192.77
6 11/18/2023	PUBLIX 617 US-17 DAVENPORT, FL 33837	MON	CAMPAIGN MATERIALS	\$18.10
7 12/14/2023	GOOGLE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043	MON	WEBSITE DOMAIN FEE	\$14.40
8 12/27/2023	USPS 511 RONALD RAGAN PKWY LOUGHMAN, FL 33858	MON	P.O. BOX	\$149.00
9 11/16/2023	MICHAELS 1600 POSNER BLVD DAVENPORT, FL 33837	MON	T-SHIRTS FOR EVENT	\$39.52
10 11/17/2023	THE UPS STORE #5556 109 AMBERSWEET WAY DAVENPORT, FL 33897	MON	PRINTING SERVICES	\$34.78
11 12/29/2023	ACTBLUE 366 SUMMER STREET SOMERVILLE, ME 02144	PPD	FEES PAID TO COLLECT CONTRIBUTIONS	\$17.12

Name: Octavio E. Hernandez

Report: 2023 Q4

Period: 10/01/2023 to 12/31/2023

** Records in Filed Report **

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Type	Nature of Account	Amount
				Amend

Name: Octavio E. Hernandez

Report: 2023 Q4

Period: 10/01/2023 to 12/31/2023

** Records in Filed Report **

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Recipient	Purpose	Amount Amend
		Type	Related Expenditure	

Queued Items for 2023-Q4

Account: 84089

STR 051 Octavio E. Hernandez

Rpt Seq: 2

<i>ProcessDescription</i>	<i>Status</i>	<i>Submitter</i>	<i>Created</i>	<i>LastUpdate</i>
Create Pending Report	Processing Complete	84089	1/9/2024 8:40:58 PM	1/9/2024 8:40:58 PM
Recalc Pending Report Total	Processing Complete	84089	1/9/2024 9:53:32 PM	1/9/2024 9:53:32 PM
Recalc Pending Report Total	Processing Complete	84089	1/9/2024 10:18:09 PM	1/9/2024 10:18:09 PM
Recalc Pending Report Total	Processing Complete	84089	1/9/2024 10:20:26 PM	1/9/2024 10:20:26 PM
Review Pending Report	Processing Complete	84089	1/10/2024 4:25:26 PM	1/10/2024 4:25:26 PM
Recalc Pending Report Total	Processing Complete	84089	1/10/2024 4:31:52 PM	1/10/2024 4:31:53 PM
File Pending Report	Processing Complete	84089	1/12/2024 2:58:04 PM	1/12/2024 2:58:04 PM
Review Filed Report	Processing Complete	84089	1/12/2024 2:58:25 PM	1/12/2024 2:58:25 PM
Review Filed Report	Processing Complete	84089	1/17/2024 4:16:11 PM	1/17/2024 4:16:11 PM
Review Filed Report	Processing Complete	84089	2/12/2024 3:14:40 PM	2/12/2024 3:14:40 PM
Amend Filed Report	Processing Complete	84089	2/12/2024 3:15:04 PM	2/12/2024 3:15:04 PM
Review Filed Report	Processing Complete	84089	2/12/2024 3:16:31 PM	2/12/2024 3:16:31 PM
Review Pending Report	Processing Complete	84089	3/7/2024 5:34:57 PM	3/7/2024 5:34:57 PM
File Pending Report	Processing Complete	84089	3/7/2024 5:37:59 PM	3/7/2024 5:37:59 PM
Review Filed Report	Processing Complete	mahart	3/18/2024 10:56:09 AM	3/18/2024 10:56:09 AM
Review Filed Report	Processing Complete	wnbrown	3/18/2024 11:14:31 AM	3/18/2024 11:14:31 AM
Review Filed Report	Processing Complete	wnbrown	3/21/2024 8:36:35 AM	3/21/2024 8:36:35 AM

HISTORY NOTES
Octavio E. Hernandez - 84089

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
81082	3/18/2024 2:23:00 PM		WNBrown
Called treasurer, phone line is disconnected. Called Candidate and left detailed voice message explaining errors and advising that we will allow 1 business day to correct errors. Wb			

**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 24-066**

Respondent: James F. Kelly, Jr.

Complainant: DOE

1. **Date and time:** May 29, 2024 @ 2:40 pm
Name: Respondent
Phone #: (407) 837-7454
Summary: I attempted telephone contact with Respondent to make initial contact with Respondent. The phone wouldn't allow me to leave a message.
Entered by: CKO
2. **Date and time:** June 26, 2024 @ 1:35 pm
Name: Respondent
Phone #: (407) 837-7454
Summary: I attempted telephone contact with Respondent to complete final interview. I was unable to leave a message.
Entered by: CKO
3. **Date and time:** June 26, 2024 @ 1:55 pm
Name: Respondent
Phone #: (407) 837-7454
Summary: I had telephone contact from Respondent in regards to the message I left for his behalf. Respondent advised that he was a first-time treasurer. He acknowledged that he was advised of the election material online. He told me that he had not received any correspondence from the FEC or DOE regarding this matter, hence no amendments have been made. He stated that he moved in June 2023 to 8417 Hemlig Street, Apt #104, Kissimmee, Fl 34747. He informed me that he will go on the DOE website to make the amendments tomorrow, June 27, 2024, when he gets some time. He attested that he had recently filed another report. I went over the investigative process with Respondent to ensure that he was aware of everything. He stated that he didn't have any questions.
Entered by: CKO
4. **Date and time:**
Name:
Phone #:
Summary:
Entered by:

**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 24-066**

Respondent: James F. Kelly, Jr.

Complainant: DOE

1. **Date and time:** May 29, 2024 @ 2:40 pm
Name: Respondent
Phone #: (407) 837-7454
Summary: I attempted telephone contact with Respondent to make initial contact with Respondent. The phone wouldn't allow me to leave a message.
Entered by: CKO
2. **Date and time:** June 26, 2024 @ 1:35 pm
Name: Respondent
Phone #: (407) 837-7454
Summary: I attempted telephone contact with Respondent to complete final interview. I was unable to leave a message.
Entered by: CKO
3. **Date and time:** June 26, 2024 @ 1:55 pm
Name: Respondent
Phone #: (407) 837-7454
Summary: I had telephone contact from Respondent in regards to the message I left for his behalf. Respondent advised that he was a first-time treasurer. He acknowledged that he was advised of the election material online. He told me that he had not received any correspondence from the FEC or DOE regarding this matter, hence no amendments have been made. He stated that he moved in June 2023 to 8417 Hemlig Street, Apt #104, Kissimmee, FL 34747. He informed me that he will go on the DOE website to make the amendments tomorrow, June 27, 2024, when he gets some time. He attested that he had recently filed another report. I went over the investigative process with Respondent to ensure that he was aware of everything. He stated that he didn't have any questions.
Entered by: CKO
4. **Date and time:**
Name:
Phone #:
Summary:
Entered by:



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-6596

Telephone: (850) 922-4539 · Facsimile: (850) 921-0783

FEC@myfloridalegal.com · www.fec.state.fl.us



May 28, 2024

James F. Kelly, Jr.
234 Santana Place
Davenport, FL 33897

RE: Case No.: FEC 24-066; Respondent: James F. Kelly, Jr.

Dear Mr. Kelly:

On March 27, 2024, the Florida Elections Commission received a complaint alleging that you 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 106.07(2)(b)1., Florida Statutes: Respondent, treasurer for Octavio Eduardo Hernandez, a 2024 candidate for State Representative, District 51, failed to timely make necessary amendments to the 2023 Q4 report, as alleged in the complaint.

When we conclude the investigation, a copy of the Report of Investigation (ROI) will be mailed to you at the above address. Based on the results of the investigation, a staff attorney will prepare and present a written Staff Recommendation (SR) to the Commission as to whether there is probable cause to charge you, the Respondent, with violating Chapters 104 or 106, Florida Statutes. You will have an opportunity to respond to both the ROI and the SR. The Commission will then hold one or more hearings to determine whether the alleged violation occurred and, if so, the amount of the fine to be imposed upon you. Notice will be mailed to you and the Complainant at least 14 days before any hearing at which your case is to be considered.

Pursuant to Section 106.25(4)(i)3., Florida Statutes, the Commission may enter into a consent agreement with a Respondent to settle a complaint prior to a finding of probable cause. If you are interested in entering negotiations directed towards reaching a consent agreement to resolve this matter, please contact the Commission and request to speak with the attorney assigned to this case.

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

Pursuant to Section 106.25, Florida Statutes, complaints, investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 or 106, Florida Statutes, are

James F. Kelly, Jr.
May 28, 2024
Page 2
FEC 24-066

confidential until the Commission finds probable cause or no probable cause, unless the Respondent files a written waiver of confidentiality with the Commission. The confidentiality provision does not apply to the Complainant or the Respondent.

Should 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.

For additional information, please refer to the "Frequently Asked Questions" section of the Commission's website.

If you have additional questions, please contact **Cedric Oliver**, the investigator assigned to this case, by phone at (850) 922-4539 or by email at Cedric.Oliver@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/jd

DIVISION OF ELECTIONS FEC NOTICE FORM

To FEC from Division of Elections

Candidate: Octavio Eduardo Hernandez

Account Number: 84089

Treasurer: James F. Kelly Jr.

The Division of Elections hereby provides this notice to the Florida Elections Commission pursuant to sections 106.22(7) and 106.25, Florida Statutes. An apparent violation of Chapter 106, Florida Statutes, has occurred based upon a failure to file addendums after notice as required by section 106.07(2)(b)1., Florida Statutes, for the following report(s):

2023 Q4

- Octavio Eduardo Hernandez (84089) is a 2024 candidate for the office of State Representative.
- On July 17, 2023, Mr. Hernandez filed the Appointment of Campaign Treasurer and Designation of Campaign Depository with the Division appointing James F. Kelly Jr. as treasurer.
- On January 31, 2024, the Division mailed Mr. Kelly notification that one or more campaign treasurer's reports were incomplete.
- On February 27, 2024, the Division mailed Mr. Kelly final notification with delivery confirmation that one or more campaign treasurer's reports were incomplete. (See attached letter and delivery confirmation.)
- As of March 25, 2024, one or more campaign treasurer's reports remain incomplete.

Sent By: Donna S. Brown

Date: March 25, 2024

wb



FLORIDA DEPARTMENT OF STATE

Cord Byrd
Secretary of State

DIVISION OF ELECTIONS

FINAL NOTICE

Delivery Confirmation:

USPS TRACKING # **9488 8178 9820 3243 6218 67**
FOR TRACKING GO TO USPS.COM

February 27, 2024

James F. Kelly Jr, Treasurer for
Candidate Octavio Eduardo Hernandez
234 Santana Place
Davenport, FL 33897

Re: CAN 84089

Dear Mr. Kelly:

You have previously been advised that one or more campaign treasurer's reports are incomplete for the reasons noted in the attached error report.

Pursuant to Section 106.07(2), Florida Statutes, you have 7 days from receipt of this letter to correct errors or provide missing information. If the audit states that a written explanation is required, provide the division with a signed letter of explanation addressing the errors noted in the report(s). Your explanation should (1) reference the specific error(s) that occurred; (2) describe how you corrected the errors (example: refunded excess contribution and reported the refund in 2021 M8 report); and (3) list the report(s) and sequence number(s) that were amended to reflect the corrections. Please be advised that if you fail to comply with this request, the Division will forward this matter to the Florida Elections Commission for further action. Section 106.265(1), Florida Statutes, authorizes the Florida Elections Commission to impose civil penalties of up to \$1,000 per violation.

If you need assistance in filing an amendment, please contact Whitney Brown at (850) 245-6280.

Sincerely,

Donna S. Brown, Chief
Bureau of Election Records

Attachment

cc: Octavio Ecluardo Hernandez, Candidate

Compliance Report

Candidate: Octavio Eduardo Hernandez

Office: STR

Report: 2023 Q4 (2) Covering Period: 10/1/23 - 12/31/23

Account: 84089

Overall

Contributions

Expenditures

Expenditure

<u>Statute</u>	<u>FAC</u>	<u>Description</u>	<u>Seq</u>	<u>Date</u>	<u>Name</u>	<u>City</u>	<u>Type</u>	<u>Amount</u>
106.011(10)		Invalid expenditure - written explanation required	1	10/7/2023	FLORIDA DEMOCRATIC PARTY		MON	\$60.00
1S-2.017 F		Incorrect Expenditure Type	11	12/29/2023	ACTBLUE		PPD	\$17.12

Fund Transfers

Other Distributions

Tracking Number:

Remove X

9488817898203243621867

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your item was delivered in or at the mailbox at 11:20 am on March 6, 2024 in KISSIMMEE, FL 34747.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, In/At Mailbox

KISSIMMEE, FL 34747

March 6, 2024, 11:20 am

See All Tracking History

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates

USPS Tracking Plus®

Product Information

See Less ^

Track Another Package

Enter tracking or barcode numbers

Queued Items for 2023-Q4

Account: 84089

STR 051 Octavio Eduardo Hernandez

Rpt Seq: 2

<i>ProcessDescription</i>	<i>Status</i>	<i>Submitter</i>	<i>Created</i>	<i>LastUpdate</i>
Create Pending Report	Processing Complete	84089	1/9/2024 8:40:58 PM	1/9/2024 8:40:58 PM
Recalc Pending Report Total	Processing Complete	84089	1/9/2024 9:53:32 PM	1/9/2024 9:53:32 PM
Recalc Pending Report Total	Processing Complete	84089	1/9/2024 10:18:09 PM	1/9/2024 10:18:09 PM
Recalc Pending Report Total	Processing Complete	84089	1/9/2024 10:20:26 PM	1/9/2024 10:20:26 PM
Review Pending Report	Processing Complete	84089	1/10/2024 4:25:26 PM	1/10/2024 4:25:26 PM
Recalc Pending Report Total	Processing Complete	84089	1/10/2024 4:31:52 PM	1/10/2024 4:31:53 PM
File Pending Report	Processing Complete	84089	1/12/2024 2:58:04 PM	1/12/2024 2:58:04 PM
Review Filed Report	Processing Complete	84089	1/12/2024 2:58:25 PM	1/12/2024 2:58:25 PM
Review Filed Report	Processing Complete	84089	1/17/2024 4:16:11 PM	1/17/2024 4:16:11 PM
Review Filed Report	Processing Complete	84089	2/12/2024 3:14:40 PM	2/12/2024 3:14:40 PM
Amend Filed Report	Processing Complete	84089	2/12/2024 3:15:04 PM	2/12/2024 3:15:04 PM
Review Filed Report	Processing Complete	84089	2/12/2024 3:16:31 PM	2/12/2024 3:16:31 PM
Review Pending Report	Processing Complete	84089	3/7/2024 5:34:57 PM	3/7/2024 5:34:57 PM
File Pending Report	Processing Complete	84089	3/7/2024 5:37:59 PM	3/7/2024 5:37:59 PM
Review Filed Report	Processing Complete	mahart	3/18/2024 10:56:09 AM	3/18/2024 10:56:09 AM
Review Filed Report	Processing Complete	wnbrown	3/18/2024 11:14:31 AM	3/18/2024 11:14:31 AM
Review Filed Report	Processing Complete	wnbrown	3/21/2024 8:36:35 AM	3/21/2024 8:36:35 AM

**FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS
CAMPAIGN TREASURER'S REPORT SUMMARY**

(1) Octavio Eduardo Hernandez (2) 84089
Candidate, Committee or Party Name I.D. Number

(3) 136 Seville Drive Davenport FL 33837
Address (number and street) City State Zip Code
☐ Check box if address has changed since last report

(4) Check appropriate box(es):
☒ Candidate (office sought):
☐ Political Committee ☐ Check If PC has DISBANDED
☐ Committee of Continuous Existence ☐ Check If CCE has DISBANDED
☐ Party Executive Committee

(5) REPORT IDENTIFIERS

Cover Period: From 10/01/2023 To 12/31/2023 Report Type: Q4
☐ Original ☒ Amendment ☐ Special Election Report

(6) CONTRIBUTIONS THIS REPORT

Cash & Checks	\$775.00
Loans	\$0.00
<i>Total Monetary</i>	<i>\$775.00</i>
In-Kind	\$0.00

(7) EXPENDITURES THIS REPORT

Monetary Expenditures	\$624.04
Transfers to Office Account	\$0.00
<i>Total Monetary</i>	<i>\$624.04</i>

(8) Other Distributions

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

Name of ☐ Treasurer ☐ Deputy Treasurer

X
Signature

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

Name of ☒ Candidate ☐ Chairman (PC/PTY Only)

X
Signature

Name: Octavio Eduardo Hernandez

Report: 2023 Q4

Period: 10/01/2023

to 12/31/2023

** Records in Filed Report **

Seq #	Full Name (Last, Suffix, First, Middle)	Contributor	Occupation	Amount
Date	Street Address & City, State, Zip	Type	In-Kind Description	Amend
1	NIETO, IRWING	I		\$25.00
12/27/2023	3605 TURKEY CREEK ROAD PLANT CITY, FL 33567	CAS		
2	NIETO, IRWING	I		\$25.00
11/27/2023	3605 TURKEY CREEK ROAD PLANT CITY, FL 33567	CHE		
3	NIETO, IRWING	I		\$25.00
10/27/2023	3605 TURKEY CREEK ROAD PLANT CITY, FL 33567	CHE		
4	MURRAY, MICHAEL	I	RETIRED	\$250.00
11/14/2023	9350 PURPLE MARTIN DR. LAKELAND, FL 33810-4375	CHE		
5	WILGER, MICHERLIE	I		\$50.00
10/28/2023	1793 EAGLE CREST DR. FLEMING ISLAND, FL 32003	CHE		
6	SCHMIDT, KENNETH	I		\$50.00
10/01/2023	1834 ROCKY POINTE DR. LAKELAND, FL 33813	CHE		
7	FEARNEY, MICHAEL	I	RETIRED	\$250.00
12/12/2023	734 JESSANDA CIRCLE LAKELAND, FL 33813	CHE		
8	JONES, DAVID	I		\$100.00
12/12/2023	1122 CIRCLE DRIVE LAKE WALES, FL 33853	CHE		

Name: Octavio Eduardo Hernandez

Report: 2023 Q4

Period: 10/01/2023

to 12/31/2023

** Records in Filed Report **

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Type	Purpose	Amount Amend
1 10/07/2023	FLORIDA DEMOCRATIC PARTY 201 S MONROE ST. TALLAHASSEE, FL 32301	MON	DONATION	\$60.00
2 10/23/2023	GOOGLE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043	MON	WEBSITE DOMAIN FEE	\$14.40
3 11/02/2023	CITY OF HAINES CITY 620 E MAIN ST. HAINES CITY, FL 33844	MON	LATIN BUSINESS EXPO FEE	\$69.55
4 11/14/2023	GOOGLE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043	MON	WEBSITE DOMAIN FEE	\$14.40
5 11/18/2023	STAPLES 3500 POSNER BLVD DAVENPORT, FL 33837	MON	PRINTING SERVICES AND MATERIALS	\$192.77
6 11/18/2023	PUBLIX 617 US-17 DAVENPORT, FL 33837	MON	CAMPAIGN MATERIALS	\$18.10
7 12/14/2023	GOOGLE 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043	MON	WEBSITE DOMAIN FEE	\$14.40
8 12/27/2023	USPS 511 RONALD RAGAN PKWY LOUGHMAN, FL 33858	MON	P.O. BOX	\$149.00
9 11/16/2023	MICHAELS 1600 POSNER BLVD DAVENPORT, FL 33837	MON	T-SHIRTS FOR EVENT	\$39.52
10 11/17/2023	THE UPS STORE #5556 109 AMBERSWEET WAY DAVENPORT, FL 33897	MON	PRINTING SERVICES	\$34.78
11 12/29/2023	ACTBLUE 366 SUMMER STREET SOMERVILLE, ME 02144	PPD	FEES PAID TO COLLECT CONTRIBUTIONS	\$17.12

ID:

CAMPAIGN TREASURER'S REPORT – ITEMIZED FUND TRANSFERS

Page 1 of 1

Name: Octavio Eduardo Hernandez

Report: 2023 Q4

Period: 10/01/2023

to 12/31/2023

**** Records in Filed Report ****

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Type	Nature of Account	Amount
				Amend

ID:

CAMPAIGN TREASURER'S REPORT – ITEMIZED DISTRIBUTIONS

Page 1 of 1

Name: Octavio Eduardo Hernandez

Report: 2023 Q4

Period: 10/01/2023 to 12/31/2023

** Records in Filed Report **

Seq # Date	Full Name (Last, Suffix, First, Middle Street Address & City, State, Zip	Recipient	Purpose	Amount
		Type	Related Expenditure	Amend

Account/Seq840892

Octavio Eduardo Hernandez

Election/Type
20241105-GEN
CAN

Status/Reviewer	Mailed	Type/Recd	R E S P O N S E
REF WNBrown	1st: 1/31/2024		
1/30/24 8:48 am	2nd:	3/6/2024	
	3rd: 2/27/2024		

NOTES: 3/21/2024 No corrections made, referred to FEC. wb

3/18/2024 Called treasurer, phone line is disconnected. Called Candidate and left detailed voice message explaining errors and advising that we will allow 1 business day to correct errors. Wb

2/26/2024 No corrections made, mailing final notice. Wb

HISTORY NOTES
Octavio Eduardo Hernandez - 84089

Unique ID	Date Recorded	Last Edited Date	Originally Recorded By
81082	3/18/2024 2:23:00 PM		WNBrown
Called treasurer, phone line is disconnected. Called Candidate and left detailed voice message explaining errors and advising that we will allow 1 business day to correct errors. Wb			