

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Heather Fitzenhagen

Case No.: FEC 21-137

TO: Heather Fitzenhagen
1530 Del Rio Dr
Fort Myers, FL 33901

Division of Elections
500 S. Bronough Street, 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 **February 7, 2024 at 9:00 a.m., or as soon thereafter as the parties can be heard**, at the following location: **402 South Monroe Street, 12 HOB, 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
January 19, 2024

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 to 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 21-137

v.

Heather Fitzenhagen,
Respondent.

_____ /

ORDER OF PROBABLE CAUSE

THIS MATTER was heard by the Florida Elections Commission (Commission) at its regularly scheduled meeting on November 15, 2023, in Tallahassee, Florida.

On September 7, 2023, 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 October 10, 2020, Heather Fitzenhagen violated Section 106.141(9), Florida Statutes, when she failed to timely file her 2020 Q3 Office Account Report.

Count 2:

On or about January 10, 2021, Heather Fitzenhagen violated Section 106.141(9), Florida Statutes, when she failed to timely file her 2020 Q4 Office Account Report.

The Commission finds that there is **no probable cause** to charge Respondent with violating Section 106.141(5), Florida Statutes.

DONE AND ORDERED by the Florida Elections Commission on November 15, 2023.



Tim Vaccaro, J.D., Executive Director
For Chad Mizelle, Chairman
Florida Elections Commission

Copies furnished to:
Stephanie J. Cunningham, General Counsel
Heather Fitzenhagen, 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: Heather Fitzenhagen

Case No.: FEC 21-137

TO: Heather Fitzenhagen
1530 Del Rio Dr
Fort Myers, FL 33901-5911

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, **November 15, 2023 at 9:00 a.m., or as soon thereafter as the parties can be heard**, at the following location: **402 South Monroe Street, 12 HOB, 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.

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See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
October 31, 2023

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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: Heather Fitzenhagen

Case No.: FEC 21-137

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 106.141(9), Florida Statutes**, and **no probable cause** to charge Respondent with violating **Section 106.141(5), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on May 12, 2023, the following facts and law support this Staff Recommendation:

1. On February 17, 2021, the Florida Elections Commission (“Commission”) received a referral from the Department of State, Division of Elections (“Division”), alleging that Heather Fitzenhagen (“Respondent”) violated Chapter 106, Florida Statutes.
2. Respondent was re-elected to the office of State Representative, District 78, in 2018. (ROI, p. 1, ¶1; Attachment A)¹
3. By letter dated May 3, 2022, the Executive Director notified Respondent that Commission staff would investigate the following statutory provisions:

Section 106.141(5), Florida Statutes: Respondent may have failed to properly dispose of office account funds upon leaving office, as alleged in the complaint.

Section 106.141(9), Florida Statutes: Respondent failed to file an office account report listing all information required including the amount of any disbursement of funds made, and funds received for the 2020 Q3 and 2020 Q4 reporting periods, as alleged in the complaint.

Alleged Violation: Section 106.141(9), Florida Statutes

4. Complainant alleged that Respondent violated Florida’s election laws by failing to timely file her 2020 Q3 and 2020 Q4 Office Account Reports.
5. Pursuant to Section 106.141(9), Florida Statutes, any candidate who is elected to office and subsequently transfers surplus campaign funds into an office account is required to file quarterly reports with the candidate’s filing officer.

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

6. The *Candidate & Campaign Treasurer Handbook* references the statutory requirement regarding filing office account reports and directs elected candidates to file by way of the Division's office account electronic filing system. (Attachment B) Additionally, the Division publishes the *Office Account Electronic Filing System User's Guide* which shows the process through which to file office account reports with the Division. (Attachment C)

7. Subsequent to her 2016 election, Respondent transferred surplus campaign funds into an office account. (Attachment D)

8. Respondent's 2020 Q3 and 2020 Q4 Office Account Reports were due to be filed by October 10, 2020, and January 10, 2021; however, Respondent failed to timely file the reports. By letter dated October 30, 2020, the Division notified Respondent of the due date for her final Office Account Report. (ROI Exhibit 4) By letters dated October 12, 2020, October 27, 2020, and February 5, 2021, the Division notified Respondent that her reports had not been received. (ROI Exhibit 6) As of April 25, 2023, Respondent had not filed the reports. (ROI Exhibit 7)

9. Respondent stated that Missy Thompson was in charge of filing the office account reports and that she thought her staff member was doing all that was required. (ROI Exhibit 8)

10. Respondent failed to timely file her 2020 Q3 and 2020 Q4 Office Account Reports.

Alleged Violation: Section 106.141(5), Florida Statutes

11. Complainant alleged that Respondent failed to dispose of office account funds upon leaving public office.

12. Pursuant to Section 106.141(5)(g), Florida Statutes, any person who has remaining funds in an office account is required to dispose of said funds upon leaving public office. The disposition of the funds must be used to pay for the preparation of the final financial disclosure by a professional, given to a 501(c)(3) charitable organization, or provided to the state or a political subdivision depending on the elected official's position.

13. On November 3, 2020, Respondent left office. (ROI, p. 1, ¶ 1) By letter dated October 30, 2020, the Division notified Respondent that she had a self-reported outstanding balance of \$940.95 in her office account and that she was required to properly dispose of said balance by January 10, 2021. (ROI Exhibit 4)

14. Respondent's office account bank records show a closing entry and zero balance as of May 1, 2020. (ROI Exhibit 5)

15. Respondent did not fail to dispose of office account funds upon leaving public office.

16. "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).

17. The facts set forth above show that Respondent was re-elected to the office of State Representative, District 78, in 2018. Respondent failed to timely file her 2020 Q3 and 2020 Q4 Office Account Reports. Respondent did not fail to dispose of office account funds upon leaving public office.

Based upon these facts and circumstances, I recommend that the Commission find **no probable cause** to charge Respondent with violating **Section 106.141(5), Florida Statutes**, and find **probable cause** to charge Respondent with violating the following:

Count 1:

On or about October 10, 2020, Heather Fitzenhagen violated Section 106.141(9), Florida Statutes, when she failed to timely file her 2020 Q3 Office Account Report.

Count 2:

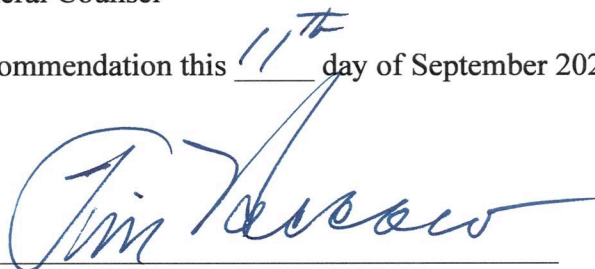
On or about January 10, 2021, Heather Fitzenhagen violated Section 106.141(9), Florida Statutes, when she failed to timely file her 2020 Q4 Office Account Report.

Respectfully submitted on September 7, 2023.



Stephanie J. Cunningham
General Counsel

I reviewed this Staff Recommendation this 11th day of September 2023.



Tim Vaccaro
Executive Director

Candidate Tracking System

2018 General Election

State Representative

District 78

Heather Fitzenhagen

Republican

Incumbent

Address

Post Office Box 9243
Fort Myers, FL 33902

Campaign Treasurer

Eric Robinson
133 Harbor Drive South
Venice, FL 34285-

Phone: (239)839-2402

Status:Elected

Date Filed:08/19/2016

Date Qualified:06/18/2018

Method:Petition method

Campaign Finance Activity

Campaign Documents

Petition Signatures

Candidate & Campaign Treasurer Handbook

FLORIDA
★ DIVISION OF ★
ELECTIONS



Attachment B

Florida Department of State
Division of Elections
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250
850.245.6280

(Rev. 10/03/2019)

Chapter 20: Office Accounts

A candidate elected to office or a candidate who will be elected to office by virtue of them being unopposed may, in addition to disposing of all the funds in the campaign account in accordance with Section [106.141\(4\)](#), Florida Statutes, transfer funds from the campaign account to an office account.

Transfer Limits

- \$50,000 for a candidate for statewide office.
- \$10,000 for a candidate for multi-county office.
- \$10,000 multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.
- \$5,000 multiplied by the number of years in office for which elected, for a candidate for county office or for a candidate for any election on less than a countywide basis.
- \$6,000 for a candidate for retention as a justice of the Supreme Court.
- \$3,000 for a candidate for retention as a judge of a district court of appeal.
- \$3,000 for a candidate for county court judge or circuit judge.

(Section [106.141\(5\)](#), Fla. Stat.)

Using the Office Account

The office account must be separate and apart from any other account, including any other type of “office account” such as a legislative account. Any funds so retained by a candidate must be used only for legitimate expenses in connection with the candidate’s public office, which may include:

1. Travel expenses incurred by the officer or staff member;
2. Personal taxes payable on office account funds by the candidate or elected public official;
3. Professional services provided by a certified public accountant or attorney for preparation of the election public official’s financial disclosure filing pursuant to Section [112.3144](#) or [112.3145](#), Florida Statutes;

4. Costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication as provided in Section [106.011](#), Florida Statutes;
5. Fees or dues to religious, civic, or charitable organizations of which the elected public official is a member;
6. Items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event or family occasion, such as the birth of a child, graduation, wedding, or funeral;
7. Personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or
8. Expenses incurred in the operation of the elected public official's office, including the employment of additional staff.

As the duties and responsibilities of each office are different, what are considered "legitimate expenses in connection with the candidate's public office" will vary. For additional information, please contact the legal or accounting department for your office.

If a candidate is re-elected to office or elected to another office and has funds remaining in the office account, the candidate may transfer surplus campaign funds to the office account. However, at no time may the total funds in the office account exceed the limitation imposed by Section [106.141\(5\)](#), Florida Statutes.

(Section [106.141\(5\)](#), Fla. Stat.)

Reporting Office Account Funds

A candidate is required to file a report on the tenth day following the end of each calendar quarter following the 90-day termination report until the office account is closed.

The officers required to file office account reports with the Division must file reports electronically using the [office account electronic filing system](#).

Unless the county or city has a different process, those candidates required to file with county or city filing officers must file reports using the following forms:

- [Form DS-DE 48](#), Office Account Report.
- [Form DS-DE 48A](#), Office Account Disbursement or Deposit Information.

Upon leaving office, any person who has funds in an office account shall give such funds to:

- A charitable organization or organizations that meet the requirements of Section 501(c)(3) of the Internal Revenue Code;
- In the case of a state officer, to the state to be deposited in the General Revenue Fund;
or
- In the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

Such reports shall be signed by the candidate, certified as true and correct, and filed with the officer before whom campaign reports were filed.

*(Sections [106.141\(5\)](#) and [\(9\)](#), Fla. Stat.;
Division of Elections Advisory Opinion [06-04](#))*

Department of State
Division of Elections

Office Account Electronic Filing System User's Guide



Florida Department of State
Division of Elections
R.A. Gray Building, Room 316
500 S Bronough Street
Tallahassee, FL 32399-0250

HELP LINE: 850-245-6240

July 2011

Introduction

The Office Account Electronic Filing System (OAEFS) is located on the internet at:

<https://doesecure.dos.state.fl.us/OfficeAccountsOnline/> .

Each office account holder required to file reports with the Division of Elections (DOE) is provided an account number and a password. The first time the system is accessed by the user, the system will require the account holder to select a new password, choose a personal identification number (PIN) and set a password recovery question. Filing a report using your chosen PIN is considered to be the same as signing the report under oath and attesting to its validity.

The purpose of this guide is to assist you with filing office account reports required by Section 106.141, Florida Statutes. If you have any questions or comments please contact the Division of Elections at:

Department of State
Division of Elections
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250

HELP LINE: 850-245-6240



Florida Department of State
Division of Elections

Campaign Expenditures

2016 General Election
Heather D. Fitzhagen (REP)
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
2016	TR	06/02/2016	350.00	MEHTA COMMUNICATIONS LLC	5683 SHADDELEE LN W	FORT MYERS	FL	33919	CAMPAIGN ADVERTISING	MON	
2016	TR	06/04/2016	350.00	ROBINSON HANKS YOUNG & ROBERTS	133 HARBOR DR S	VENICE	FL	34285	ACCOUNTING SERVICES	MON	
2016	TR	06/08/2016	1,250.00	STRATEGIC IMAGE MANAGEMENT	PO BOX 2065	DUNEDIN	FL	34697	CONSULTING	MON	
2016	TR	06/09/2016	2.25	PIRYX	401 W 15TH ST	AUSTIN	TX	78701	CREDIT CARD PROCESSING FEE	MON	
2016	TR	06/10/2016	22.50	PIRYX	401 W 15TH ST	AUSTIN	TX	78701	CREDIT CARD PROCESSING FEE	MON	
2016	TR	06/13/2016	33.75	PIRYX	401 W 15TH ST	AUSTIN	TX	78701	CREDIT CARD PROCESSING FEE	MON	
2016	TR	06/14/2016	191.25	PIRYX	401 W 15TH ST	AUSTIN	TX	78701	CREDIT CARD PROCESSING FEE	MON	
2016	TR	06/15/2016	22.50	PIRYX	401 W 15TH ST	AUSTIN	TX	78701	CREDIT CARD PROCESSING FEE	MON	
2016	TR	06/15/2016	2,000.00	TAYLOR PATRICK BEIHL	1016 EAST COLLEGE AVE STE 640	TALLAHASSEE	FL	32301	FUNDRAISING CONSULTING	MON	
2016	TR	07/01/2016	600.00	BLAIR PENNY	PO BOX 9243	FORT MYERS	FL	33901	CONTRACT SERVICE	MON	
2016	TR	07/01/2016	378.68	FITZHENHAGEN HEATHER	1750 MARLYN RD	FORT MYERS	FL	33901	REIMB FOR TRAVEL	RMB	
2016	TR	07/01/2016	936.46	FITZHENHAGEN HEATHER	1750 MARLYN RD	FORT MYERS	FL	33901	MILEAGE	MON	
2016	TR	07/06/2016	1,800.00	CONTRIBUTIONLINK LLC	PO BOX 10549	TALLAHASSEE	FL	32302	VOTER DATA SERVICES	MON	
2016	TR	07/06/2016	500.00	ROBINSON HANKS YOUNG & ROBERTS	133 HARBOR DR S	VENICE	FL	34285	ACCOUNTING SERVICE	MON	
2016	TR	07/06/2016	1,250.00	STRATEGIC IMAGE MANAGEMENT	PO BOX 2065	DUNEDIN	FL	34697	CONSULTING SERVICE	MON	
2016	TR	07/11/2016	25,000.00	REPUBLICAN PARTY OF FLORIDA	420 E JEFFERSON ST	TALLAHASSEE	FL	32301	CONTRIBUTION	DPP	
2016	TR	07/11/2016	500.00	STRICKLAND JONI	5250 CEDARBEND DR APT 4	FORT MYERS	FL	33919	SECRETARIAL SERVICE	MON	
2016	TR	07/12/2016	25.93	ROBINSON HANKS YOUNG & ROBERTS	133 HARBOR DR S	VENICE	FL	34285	REIMB. FOR FED EX	RMB	
2016	TR	07/28/2016	12,000.00	STRATEGIC IMAGE MANAGEMENT	PO BOX 2065	DUNEDIN	FL	34697	CONSULTING SERVICE	MON	
2016	TR	08/02/2016	274.76	KELTNER RITA	11520 OSPREY LANDING WAY	FORT MYERS	FL	33908	REIMB. FOR CAMPAIGN EXPENSE	RMB	
2016	TR	08/02/2016	1,000.00	KELTNER RITA	11520 OSPREY LANDING WAY	FORT MYERS	FL	33906	CONSULTING SERVICE	MON	
2016	TR	08/02/2016	1,000.00	LEE COUNTY REPUBLICAN EXECUTIV	PO BOX 61465	VENICE	FL	34285	ADVERTISING	MON	
2016	TR	08/02/2016	131.72	ROBINSON HANKS YOUNG & ROBERTS	133 HARBOR DR S	VENICE	FL	34285	REIMB. FOR FED EX	RMB	
2016	TR	08/02/2016	1,000.00	SMITH BROWN COMMUNITY FOUNDATI	1052 SW RAINBOW AVE	ARCADIA	FL	34266	CONTRIBUTION	DIS	
2016	TR	08/04/2016	5,471.53	HEATHER FITZHENHAGEN OFFICE ACC	PO BOX 9243	FORT MYERS	FL	33902	TRANSFER TO OFFICE ACCOUNT	TOA	
2016	TR	08/14/2017	-1,000.00	LEE COUNTY REPUBLICAN EXECUTIV	PO BOX 61465	FORT MYERS	FL	33906	REFUND	REF	
2016	TR	04/28/2017	1,000.00	PACE CENTER FOR GIRLS-LEE COUN	3800 EVANS AVE.	FORT MYERS	FL	33901	DONATION	DIS	

56,091.33

27 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 Section 106.141(9), F.S.

Case Number: FEC 21-137

Section 106.141(9), Florida Statutes, failure to file an office account report listing all information required, including the amount of any disbursement of funds made, and funds received.

Respondent: Heather Fitzenhagen

Respondent's Atty: N/A

Division of Elections (Division)

Referral Filed: February 17, 2021

Additional Section(s): 106.141(5), Florida Statutes, failure to properly dispose of office account funds upon leaving office.

I. Preliminary Information:

1. Respondent formerly held the office of State Representative, District 78. Respondent left office on November 3, 2020. Respondent was first elected to that office in 2012. Respondent was subsequently re-elected in 2014, 2016 and 2018.

2. An Appointment of Campaign Treasurer and Designation of Campaign Depository form (DS-DE 9) for Respondent's 2018 campaign was filed on August 19, 2016. Eric Robinson was appointed as campaign treasurer. To review the DS-DE 9, refer to Exhibit 1.

3. Respondent filed a Statement of Candidate with the Division for her 2018 campaign on August 19, 2016, in which Respondent certified she had been provided access to read and understand the requirements of Chapter 106, F.S. To review the Statement of Candidate, refer to Exhibit 2.

4. An acknowledgement letter was mailed to the address provided on the DS-DE 9 on August 19, 2016. The letter advised Respondent that all candidates filing reports with the Division are required to file by means of the Division's electronic filing system (EFS). Respondent was provided with a user identification number and initial password allowing access to the EFS.

5. The acknowledgement letter also 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 3.

II. Alleged Violation of Section 106.141(5), Florida Statutes:

6. I investigated whether Respondent violated this section of the election laws by failing to properly dispose of office account funds upon leaving office.

7. Respondent's term of office ended on November 3, 2020. According to the referral, an apparent balance of \$940.95 in funds remained in the office account.

8. On October 30, 2020, the Division mailed Respondent notice that a final report must be filed showing disposition of remaining funds no later than January 10, 2021. To review the notice, refer to Exhibit 4.

9. Respondent provided a copy of the final statement for her office account. The statement indicated that the account was zeroed out and closed on May 1, 2020, upon withdrawal of the final \$97.59 remaining in the account. To review the closing statement, refer to Exhibit 5.

III. Alleged Violation of Section 106.141(9), Florida Statutes:

10. I investigated whether Respondent violated this section of the election laws by failing to file office account report(s) for the following reporting period(s): 2020 Q3 and 2020 Q4.

11. The Division sent correspondence to Respondent notifying Respondent that office account report(s) for the following reporting period(s) had not been filed: 2020 Q3 and 2020 Q4. The correspondence reiterated the date(s) on which the report(s) were due. To review the failure to file correspondence, refer to Exhibit 6.

12. In an email dated April 25, 2023, Division staff stated that Respondent had not filed the 2020 Q3 and 2020 Q4 office account reports. To review the email from Division staff, refer to Exhibit 7.

13. Respondent did not respond to the referral.

14. I called Respondent for the purpose of providing an opportunity to discuss the allegations made in the referral. Respondent stated that a staff member (Missy Thompson)¹ was responsible for filing office account reports. Respondent stated she thought her staff member was doing all she needed to do with regard to filing office account reports in 2020. Respondent stated she was not aware the reports had not been filed and did not know why her staff member had stopped filing them. Respondent stated that the office account closed on May 1, 2020. Respondent stated that she had read Chapter 106, Florida Statutes, and the *Candidate and Campaign Treasurer Handbook* when she first began to run for office in 2012. To review the phone log, refer to Exhibit 8.



SIGNATURE OF INVESTIGATOR:

Date: May 12, 2023

¹ Melissa Thompson's name was listed on Respondent's office account. Refer to Exhibit 5.

FLORIDA ELECTIONS COMMISSION
REPORT OF INVESTIGATION
21-137 -- FEC Heather Fitzenhagen

LIST OF EXHIBITS	
Exhibits #s	Description of Exhibits
Exhibit 1	Appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9)
Exhibit 2	Statement of Candidate (DS-DE 84)
Exhibit 3	Acknowledgement Letter
Exhibit 4	Notice to File from Division
Exhibit 5	Closing Account Statement
Exhibit 6	Failure to File Letters
Exhibit 7	Email to Division
Exhibit 8	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
2016 AUG 19 AM 10:06
COMMISSION OF ELECTIONS

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)
HEATHER D. FITZENHAGEN

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

Post Office Box 9243
Fort Myers, FL 33902

4. Telephone
(239) 839-2402

5. E-mail address
ELECTHEATHER@AOL.CO

6. Office sought (include district, circuit, group number)
FLORIDA STATE REPRESENTATIVE - DIST 78

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 REPUBLICAN Party candidate.

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

10. Name of Treasurer or Deputy Treasurer
ERIC ROBINSON

11. Mailing Address
133 HARBOR DRIVE SOUTH

12. Telephone
(941) 488-7794

13. City 14. County 15. State 16. Zip Code 17. E-mail address
VENICE SARASOTA FLORIDA 34285 ERIC@ROBINSONHANKS.COM

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

19. Name of Bank 20. Address
SUNTRUST BANK 200 SOUTH NOKOMIS AVENUE

21. City 22. County 23. State 24. Zip Code
VENICE SARASOTA FLORIDA 34285

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
8/16/16

26. Signature of Candidate
 Heather D. Fitchenhagen

27. **Treasurer's Acceptance of Appointment** (fill in the blanks and check the appropriate block)
I, ERIC ROBINSON, do hereby accept the appointment
(Please Print or Type Name)

designated above as: Campaign Treasurer Deputy Treasurer.
8/18/16 *Eric Robinson*
Date Signature of Campaign Treasurer or Deputy Treasurer

**STATEMENT OF
CANDIDATE**

(Section 106.023, F.S.)
(Please print or type)

RECEIVED
OFFICE USE ONLY
DEPARTMENT OF
2016 AUG 19 AM 10:06
DIVISION OF ELECTIONS

I, HEATHER D. FITZENHAGEN,

candidate for the office of FLORIDA STATE REPRESENTATIVE - DIST 78 ;

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

X *Heather D. Fitzenhagen*
Signature of Candidate

8/14/16
Date

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



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 19, 2016

Heather D. Fitzenhagen
Post Office Box 9243
Fort Myers, Florida 33902

Dear Ms. Fitzenhagen:

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 August 19, 2016. Your name has been placed on the 2018 active candidate list.

Campaign Treasurer's Reports

Your first campaign treasurer's report will be due on **September 12, 2016**. The report will cover the period of August 1-31, 2016 (M8). All candidates who file reports with the Division of Elections are required to file by means of the Division's Electronic Filing System (EFS).

Credentials and Sign-ons

Below is the web address to access the EFS and your user identification number. The enclosed sealed envelope contains your initial password. Once you have logged in using the initial password, you will be immediately prompted to change it to a confidential sign-on. You, your campaign treasurer, and deputy treasurers are responsible for protecting this password from disclosure and are responsible for all filings using these credentials, unless the Division is notified that your credentials have been compromised.

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

Identification Number: 69384

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/



Heather Fitzenhagen
August 19, 2016
Page Two

Pin Numbers

Pin numbers are confidential secure credentials that allow you to submit reports and update personal information. The enclosed sealed envelope contains confidential pin numbers for you. By copy of this letter, a confidential pin number to access the EFS was sent to your treasurer.

Each candidate is required to provide the Division of Elections with confidential personal information that may be used to allow access in the event this password is forgotten or lost. When you enter the campaign account screen, there will be a drop down box where you pick a question (such as *What is your mother's maiden name?*) and supply an answer. All passwords and answers to questions are stored as encrypted data and cannot be viewed by Division staff and given out over the phone. Please notify the Division if your credentials have been compromised.

Timely Filing

All reports filed must be completed and filed through the EFS not later than midnight 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.

Any candidate failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25% 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.

Heather Fitzenhagen
August 19, 2016
Page Three

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 <http://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,



Kristi Reid Bronson, Chief
Bureau of Election Records

KRB/zjs

Enclosures

pc: Eric Robinson, Treasurer



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

October 30, 2020

The Honorable Heather Fitzenhagen
2120 Main Street, Suite 208
Fort Myers, Florida 33901

Dear Representative Fitzenhagen:

Pursuant to Section 106.141(5), Florida Statutes, upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall give such funds to a charitable organization or organizations which meet the requirements of s. 501(c)(3) of the Internal Revenue Code or to the state to be deposited in the General Revenue Fund.

Our records reflect an outstanding balance of \$940.95. A final report must be filed with our office showing disposition of remaining funds no later than **January 10, 2021**.

Your prompt attention to this matter is greatly appreciated. If you need assistance, please contact the Division at (850) 245-6240.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records

KRW/eal



Date 5/08/20
Account Number

Page 1

Heather D. Fitzenhagen
Melissa A.E. Thompson
Office Account
2120 Main Street Ste 208
Fort Myers FL 33901

***** DEPOSIT ACCOUNT *****

Account Title: Heather D. Fitzenhagen
Melissa A.E. Thompson
Office Account

e-green Checking		Number of Enclosures	0
Account Number		Statement Dates	4/13/20 thru 5/10/20
Previous Balance	97.59	Days in the statement period	28
Deposits/Credits	.00	Average Daily Balance	62.73
1 Checks/Debits	97.59	Average Collected	62.73
Service Charge	.00		
Interest Paid	.00		
Ending Balance	.00		

*****DEBITS AND WITHDRAWALS*****

5/01 Closing entry - zero balance 97.59-

*****DAILY BALANCE INFORMATION*****

Date	Balance	Date	Balance
4/13	97.59	5/01	.00



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

October 12, 2020

Heather Fitzenhagen
State Representative, District 78
2120 Main St., Suite 208
Fort Myers, FL 33901-3901

Re: OA 9901031

Dear Representative Fitzenhagen:

A review of our records indicates that you have not filed the office account report due October 10, 2020, pursuant to Sections 106.0705(1) and 106.141(9), Florida Statutes. Your prompt attention to this matter is appreciated.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

October 27, 2020

Heather Fitzenhagen
State Representative, District 78
2120 Main St., Suite 208
Fort Myers, FL 33901-3901

Re: OA 9901031

Dear Representative Fitzenhagen:

A review of our records indicates that you have not filed the office account report due October 10, 2020, pursuant to Sections 106.0705(1) and 106.141(9), Florida Statutes. Your prompt attention to this matter is appreciated.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

February 5, 2021

Heather Fitzenhagen
State Representative, District 78
2120 Main St., Suite 208
Fort Myers, FL 33901-3901

Re: OA 9901031

Dear Representative Fitzenhagen:

A review of our records indicates that you have not filed the office account report due January 10, 2021, pursuant to Sections 106.0705(1) and 106.141(9), Florida Statutes. Your prompt attention to this matter is appreciated.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records

Brian Ayres

From: Elect-FEC <Elect-FEC@Dos.myflorida.com>
Sent: Tuesday, April 25, 2023 4:33 PM
To: Brian Ayres
Cc: Brown, Donna S.
Subject: RE: Account #9901031 (Office Account) Fitzenhagen - Q3 and Q4 Office Reports Request

Hello,

Mr. Howard was able to look up the Office Account reports this afternoon April 25, 2022. Representative Fitzenhagen has not filed her 2020 Q3 and 2020 Q4 to date.

Best Regards,
Sharon

From: Brian Ayres <Brian.Ayres@myfloridalegal.com>
Sent: Tuesday, April 25, 2023 11:31 AM
To: Elect-FEC <Elect-FEC@Dos.myflorida.com>
Subject: Account #9901031 (Office Account) Fitzenhagen - Q3 and Q4 Office Reports Request

EMAIL RECEIVED FROM EXTERNAL SOURCE

Good Morning,

Has Representative Fitzenhagen filed her 2020 Q3 and 2020 Q4 office reports? If she has, could I please have them?

Thank you,

Brian Ayres

Investigation Specialist

Florida Elections Commission

107 W Gaines St., #224

(850) 404-5616

Brian.Ayres@myfloridalegal.com

**FLORIDA ELECTIONS COMMISSION
PHONE LOG
Case No.: FEC 21-137**

Respondent: Heather Fitzenhagen

Complainant: Division of Elections

1. **Date and time:** February 21, 2023 @ 8:53 am
Name: Heather Fitzenhagen – Respondent
Phone #: 239-839-2402
Summary: I called Respondent based on her 2018 DS-DE 9 for her 2018 State Representative campaign. Respondent did not answer and I left a voicemail asking for her to call me back.
Entered by: Brian Ayres

2. **Date and time:** February 21, 2023 @ 8:55 am
Name: Eric Robinson – Designated Treasurer
Phone #: 941-488-7794
Summary: I called the Designated treasurer on R’s 2016 DS-DE 9 when she ran for office in the 2018 election. Mr. Robinson was confused about my question if Ms. Fitzenhagen set up an office account. To the best of his knowledge R never set up an office account and if she did, it was not by his actions. T was confused if it was for her state senate run or if it was after her State representative time. I clarified with him it was after her 2018 campaign in which the division has records of an office account being created. My intended purpose of the call was to ascertain which bank the office account was housed under.
Entered by: Brian Ayres

3. **Date and time:** February 21, 2023 @9:05am
Name: Heather Fitzenhagen - Respondent
Phone #: 239-281-3127
Summary: I called Respondent’s address provided in her 2020 DS-DE 9 run for state senator. The call was unsuccessful. I left a message for her to call me back and followed up with an email as well to her designated email address.
Entered by: Brian Ayres

4. **Date and time:** February 21, 2023 @ 11:55 a.m.
Name: Heather Fitzenhagen – Respondent
Phone #: 239-281-3127
Summary: Respondent called me back and stated that she had no idea where her office account was located. She said that a lady in her staff named Missy Thompson was in charge of filing the office reports but Missy has since left Florida and lost contact with Rep. Fitzenhagen. Respondent stated she will attempt to track down where her office account was after I explained I would need to know their status in reference to the two reports needing to be filed with the Division. I followed up with an email that had the referral to assist Respondent in the dates to help her memory.
Entered by: Brian Ayres

5. **Date and time:** March 28, 2023 @ 9:53 AM
Name: Heather Fitzenhagen
Phone #: 239-281-3127
Summary: I called Respondent back for an update on her bank records. I left a voicemail for her to call me back. I will follow up with an email.
Entered by: Brian Ayres
6. **Date and time:** March 28, 2023 @ 2:15 pm
Name: Heather Fitzenhagen – Respondent
Phone #: 239-281-3127
Summary: Respondent called me back. She stated she has her final statement from her office account and will send it my way. She asked what the investigation entailed and that the person responsible for reporting these reports “Fell down on the job” (stopped doing the job). The account was closed on 05/01/2020
Entered by: Brian Ayres
7. **Date and time:** April 3, 2023 @ 2:15 pm
Name: Heather Fitzenhagen – Respondent
Phone #: 239-281-3127
Summary: I called Respondent, the call went to her voicemail and I left a message detailing what I was calling about.
Entered by: Brian Ayres
8. **Date and time:** April 3, 2023 @ 9:45 am
Name: Heather Fitzenhagen – Respondent
Phone #: 239-281-3127
Summary: I called R at 9:30, she called back at 9:45. I discussed the final steps of the investigation and whether she referred to chapters 104 and 106, Florida statutes, or the Candidate and Campaign Treasurer Handbook. Respondent stated that this felt like a small issue and wanted it to be known she thought her staff member was doing all she needed to be doing to file the office account reports in 2020.
Entered by: Brian Ayres

RESPONDENT INTERVIEW MEMO – Call details at #4

- Where was your office account set up at?
Unknown but will find it
- Is the account still open?
Unknown but will find it
- When was the last office account report filed?
Unknown but will find it
- Who was filing the office account reports?
Missy Thompson

RESPONDENT INTERVIEW MEMO – Call details at #4

- Have you ever run for public office? If so, please name each office you ran for and state what year each election occurred.

Yes – since 2012

- Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name each such candidate, the office each ran for, and state what year each election occurred.

no

- Have you ever held the office of chairperson, treasurer, or other similar position for a political committee or electioneering communications organization? If so, please name each committee, state the office you held for each, and state when you held each office.

no

- Have you ever prepared or signed a campaign treasurer's report? If so, please state the name of the candidate or committee whose report you prepared or signed.

yes

- What action have you taken to determine your responsibilities under Florida's election laws?
- Do you possess a copy of Chapter 106, Florida Statutes? If so, when did you first obtain it? Have you read it?

Yes – it was a long time ago when she first began to run for office ~ 2012

- Do you possess a copy of the *Candidate and Campaign Treasurer Handbook*? If so, when did you first obtain it? Have you read it?

Yes – it was a long time ago when she first began to run for office ~ 2012

- *If a section of Chapter 104 is listed in the LS letter, ask:* Do you possess a copy of Chapter 104, Florida Statutes? If so, when did you first obtain it? Have you read it?

Yes – it was a long time ago when she first began to run for office ~ 2012

- Did you receive any other materials from your filing officer? If so, please describe them.

- Do you have anything else to add for the Commission's consideration regarding the charges specified in the letter of legal sufficiency in this case?

Was not aware of it not being filed. It came out of the blue this did not get done. Did not know why she stopped. One time minor thing being overlooked. Not a lot of severity.



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 3, 2022

The Honorable Heather Fitzenhagen
1530 Del Rio Dr
Ft. Myers, FL 33901

RE: Case No.: FEC 21-137; Respondent: Heather Fitzenhagen

Dear Representative Fitzenhagen:

On February 17, 2021, 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 violations:

Section 106.141(5), Florida Statutes: Respondent may have failed to properly dispose of office account funds upon leaving office, as alleged in the complaint

Section 106.141(9), Florida Statutes: Respondent failed to file an office account report listing all information required including the amount of any disbursement of funds made, and funds received for the 2020 Q3 and 2020 Q4 reporting periods, 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 violations 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.

The Honorable Heather Fitzenhagen
May 3, 2022
Page 2
FEC 21-137

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 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 **Chuck Mellow**, the investigator assigned to this case, by phone at (850) 922-4539 or by email at Charles.Mellow@myfloridalegal.com.

Sincerely,

A handwritten signature in blue ink that reads "Tim Vaccaro". The signature is written in a cursive, flowing style.

Tim Vaccaro
Executive Director

TV/mw

DIVISION OF ELECTIONS FEC NOTICE FORM

To FEC from Division of Elections

Name	Account Number
Heather Fitzenhagen	9901031

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 a report and dispose of all funds in the office account upon leaving public office as required by section 106.141(5) and (9), Florida Statutes. The following reports are outstanding:

2020 Q3

2020 Q4

- Heather Fitzenhagen (9901031) was elected to the office of State Representative in 2012, 2014, 2016, and 2018. She maintained an office account throughout all terms.
- The 2020 Q3 office account report was due on October 10, 2020. On October 12, 2020, the Division mailed Representative Fitzenhagen notification that the 2020 Q3 office account report had not been filed.
- On October 27, 2020, the Division mailed Representative Fitzenhagen notification that the 2020 Q3 office account report had not been filed.
- Representative Fitzenhagen's term of office ended on November 3, 2020. At such time, \$940.95 in funds remained in this office account. On October 30, 2020, the Division mailed Representative Fitzenhagen notification that a final report must be filed showing disposition of remaining funds no later than January 10, 2021.
- The 2020 Q4 office account report was due on January 10, 2021. On February 5, 2021, the Division mailed Representative Fitzenhagen notification that the 2020 Q4 office account report had not been filed.
- As of February 15, 2021, Representative Fitzenhagen has not filed the 2020 Q3 and 2020 Q4 office account reports.

Sent By: Kristi Reid Willis
Date: February 15, 2021
mcc

KRW



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

October 12, 2020

Heather Fitzenhagen
State Representative, District 78
2120 Main St., Suite 208
Fort Myers, FL 33901-3901

Re: OA 9901031

Dear Representative Fitzenhagen:

A review of our records indicates that you have not filed the office account report due October 10, 2020, pursuant to Sections 106.0705(1) and 106.141(9), Florida Statutes. Your prompt attention to this matter is appreciated.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

October 27, 2020

Heather Fitzenhagen
State Representative, District 78
2120 Main St., Suite 208
Fort Myers, FL 33901-3901

Re: OA 9901031

Dear Representative Fitzenhagen:

A review of our records indicates that you have not filed the office account report due October 10, 2020, pursuant to Sections 106.0705(1) and 106.141(9), Florida Statutes. Your prompt attention to this matter is appreciated.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

October 30, 2020

The Honorable Heather Fitzenhagen
2120 Main Street, Suite 208
Fort Myers, Florida 33901

Dear Representative Fitzenhagen:

Pursuant to Section 106.141(5), Florida Statutes, upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall give such funds to a charitable organization or organizations which meet the requirements of s. 501(c)(3) of the Internal Revenue Code or to the state to be deposited in the General Revenue Fund.

Our records reflect an outstanding balance of \$940.95. A final report must be filed with our office showing disposition of remaining funds no later than **January 10, 2021**.

Your prompt attention to this matter is greatly appreciated. If you need assistance, please contact the Division at (850) 245-6240.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records

KRW/eal



FLORIDA DEPARTMENT OF STATE

Laurel M. Lee
Secretary of State

DIVISION OF ELECTIONS

February 5, 2021

Heather Fitzenhagen
State Representative, District 78
2120 Main St., Suite 208
Fort Myers, FL 33901-3901

Re: OA 9901031

Dear Representative Fitzenhagen:

A review of our records indicates that you have not filed the office account report due January 10, 2021, pursuant to Sections 106.0705(1) and 106.141(9), Florida Statutes. Your prompt attention to this matter is appreciated.

If you have any questions, please contact the help desk at (850) 245-6280.

Sincerely,

A handwritten signature in black ink that reads "Kristi Reid Willis".

Kristi Reid Willis, Chief
Bureau of Election Records