

FLORIDA ELECTIONS COMMISSION
**** COMMISSION AGENDA RESULTS****
TALLAHASSEE, FLORIDA
TURNBULL CONFERENCE CENTER

Thursday, May 18, 2006, 8:30 a.m. to 5:00 p.m.
Friday, May 19, 2006, 8:30 a.m. to 12:00 p.m

1. CALL TO ORDER

Vote

2. REVIEW OF MINUTES

Minutes of Meeting on
(February 16 & 17, 2006)

Adopted

7-0

3. OLD BUSINESS

Commission Calendar for
2006/2007

List of Commission Members

Chapters 104 & 106, Florida
Statutes.

Commission Attendance

Chance Irvine, Chair
Demetria Merritt-Bell
David Spencer
Claudia Thomas
Beleria Floyd
Jorge Cruz-Bustillo
Gregory King

4. NEW BUSINESS

COMPLAINT CASES

CASE NOS.

INFORMAL HEARINGS

Tim Will

FEC 04-415

Motion to find:
4 counts of violating §106.143(4)(a) &
Dismiss §104.071(1)(c).

5-0

Motion to fine \$100.

5-0

Commissioner Cruz-Bustillo recused himself

Scott Brannon

FEC 04-274

Motion to accept Consent Order.

7-0

Orestes Jimenez (CF)

FEC 05-094

Motion to find:

5-0

FEC 05-118

3 counts of violating §106.07(5),

| | | | |
|------------------|------------|--|-----|
| | | 1 count of violating §106.143(1), 2 counts of violating §106.19(1)(b) & Dismiss §104.071(1)(c). | |
| | | Motion to consolidate cases. | 5-0 |
| | | Motion to fine \$100. | 5-0 |
| | | Commissioner Cruz-Bustillo recused himself. | |
| Frank V. McBride | FEC 05-095 | Motion to find: | 5-0 |
| | FEC 05-140 | 3 counts of violating §106.07(5), 2 counts of violating §106.143(1), 1 counts of violating § 106.19(1)(b) & Dismiss §104.071(1)(c). | |
| | | Motion to consolidate cases. | 5-0 |
| | | Motion to fine \$100. | 5-0 |
| | | Commissioner Cruz-Bustillo recused himself. | |
| Steven Levine | FEC 05-117 | Motion to find: | 5-0 |
| | | 2 counts of violating §106.07(5), 1 count of violating §106.143(1) & Dismiss §104.071(1)(c). | |
| | | Motion to fine \$100. | 5-0 |
| | | Commissioner Cruz-Bustillo recused himself. | |
| Ruben Coto (CF) | FEC 05-110 | Motion to find: | 5-0 |
| | FEC 05-119 | 3 counts of violating §106.07(5), 1 count of violating §106.143(1), & 1 counts of violating §106.19(1)(b) & Dismiss §104.071(1)(c). | |
| | | Motion to consolidate cases. | 5-0 |
| | | Motion to fine \$100. | 5-0 |
| | | Commssioner Cruz-Bustillo recused himself. | |
| Elsa Thompson | FEC 05-164 | Motion to find: | 5-0 |
| | | 1 count of violating §106.143(1)(a), & 1 count of violating §106.143(5). | |
| | | Motion to fine \$500. | 5-0 |
| Mark A. Abbott | FEC 05-165 | Motion to find: | |
| | | 2 counts of violating §106.07(5), | 7-0 |
| | | 1 count of violating §106.09(1), | 6-1 |
| | | 1 count of violating §106.07(5), | 4-3 |
| | | 2 counts of violating §106.11(4), | 6-1 |
| | | 1 count of violating §106.19(1)(d), & | 5-2 |
| | | Dismiss §§104.071(1)(c) & 106.143(1)(a), | 7-0 |
| | | Motion to fine \$300. | 7-0 |
| | | Motion to find: | |
| | FEC 05-167 | 5 counts of violating §106.025(1)(b), | 4-3 |
| | | | 4-3 |

| | | | |
|------------------|------------|--|-----|
| | | 1 count of violating §106.07(5), & Dismiss §106.07(5) Motion to fine \$60. | 4-3 |
| John W. Eastman | FEC 05-247 | Motion to find: 1 count of violating §106.09(1), 2 counts of violating §106.11(4), & 2 counts of violating §106.143(1)(a) & no violation of § 106.19(1)(b). Motion to fine \$250. | 6-1 |
| M. Joel Goldfarb | FEC 05-248 | Motion to find: 1 count of violating §106.09(1), 2 counts of violating §106.11(4), 2 counts of violating §106.143(1)(a), & no violation of §106.19(1)(b) Motion to fine \$250. | 6-1 |
| George Halloran | FEC 05-274 | Motion to find: 3 counts of violating §106.143(1)(a). Motion to fine \$1,500. | 7-0 |

FINAL ORDERS/CONSENT ORDERS

| | | | |
|------------------------------|------------|--|-----|
| Miriam M. Oliphant | FEC 02-356 | Motion to remand Final Order and refer case to the Division of Administrative Hearings. | 7-0 |
| John J. Fugate | FEC 03-242 | Motion to follow DCA's instructions. | 7-0 |
| Marie Birts-Cooper | FEC 04-439 | Motion to accept Consent Order with a \$5,500 fine. | 7-0 |
| Walton Association of Voters | FEC 04-275 | Motion to accept Consent Order with a \$15,000 fine. | 7-0 |
| Mark D. Boykin | FEC 05-085 | Motion to accept Consent Orders with a \$350 fine. | 7-0 |
| | FEC 05-175 | Motion to accept Consent Orders with a \$350 fine. | 7-0 |
| Daisy W. Lynam | FEC 05-172 | Motion to accept Consent Order with a \$1,000 fine. | 7-0 |

MINOR VIOLATION CONSENT ORDERS

| | | | |
|---------------|------------|--|-----|
| Horace Felio | FEC 06-019 | Motion to accept Consent Order with a \$400 fine. | 7-0 |
| Roberto Casas | FEC 06-034 | Motion to accept Consent Order with a \$200 fine. | 7-0 |
| Pat Gerard | FEC 06-047 | Motion to accept Consent Order with a \$350 fine. | 7-0 |

| | | | |
|------------------|------------|---|-----|
| Arnold E. Notkin | FEC 06-062 | Motion to accept Consent Order with a \$350 fine. | 7-0 |
| Joseph Graubart | FEC 06-063 | Motion to accept Consent Order with a \$350 fine. | 7-0 |
| Nick Loeb | FEC 06-067 | Motion to accept Consent Order with a \$300 fine. | 7-0 |

MOTIONS

| | | | |
|-----------------|------------|---|-----|
| Thomas L. Wills | FEC 04-256 | Motion to grant Respondent's Motion for Reconsideration. | 7-0 |
| | | Motion to reject staff's previously accepted Exceptions 7, 8 & 9. | 7-0 |
| | | Motion to dismiss case. | 7-0 |
| Frank Serra | FEC 05-016 | Motion to grant Joint Motion to Dismiss. | 7-0 |

PROBABLE CAUSE DETERMINATIONS

Failure to File Cases

| | | | |
|---|------------|---|-----|
| Faith & Patience, Inc., N.P.G.G., and Geneva Huber Smith, Chair | FEC 05-272 | Motion to find PC of: 1 count of violating §106.29(1). | 6-0 |
| Kenneth S. Lunkins | FEC 06-026 | Motion to find PC of: 1 count of violating §106.07(1). | 7-0 |
| Bruce Calvin Trask | FEC 06-028 | Motion to find PC of: 1 count of violating §106.07(1). | 7-0 |
| John Wayne Smith | FEC 06-041 | Motion to find PC of: 1 count of violating §106.07(1). | 7-0 |

Other Cases

| | | | |
|------------------|------------|--|-----|
| Roger Pennington | FEC 05-138 | Motion to find PC of: 1 count of violating §106.03(1), 1 count of violating §106.143(1)(b), 2 counts of violating §106.19(1)(c), & 1 counts of violating §106.19(1)(d). | 7-0 |
| Roger Pennington | FEC 05-158 | Motion to amend charging language for 2 counts of violating §106.19(1)(c). | 7-0 |
| | | Motion to find PC of: 1 count of violating §106.03(1), 2 count of violating §106.143(1)(b), 3 counts of violating §106.19(1)(c), as amended, & 2 count of violating §106.19(1)(d). | 7-0 |

| | | | |
|-----------------------|------------|--|-----|
| Jacques A. Despinosse | FEC 05-159 | Motion to find PC of: 1 count of violating §106.07(5), 8 counts of violating §106.19(1)(c), & NPC of violating §§106.11(5), & 106.19(1)(d). | 7-0 |
| John Sykes | FEC 05-194 | Motion to find: 6 counts of violating §106.07(5), 1 count of violating §106.09(1), & 1 count of violating §106.11(4), & NPC of violating §§106.071(1), 106.19(1)(c), & 106.19(1)(d). | 7-0 |
| Vanessa Bravo-Garcia | FEC 05-201 | Motion to find: 3 counts of violating §106.07(5), 1 count of violating §106.075(1), 1 count of violating §106.08(3)(b), 5 counts of violating §106.11(4), 5 counts of violating §106.19(1)(a), 4 counts of violating §106.19(1)(b), & 1 count of violating §106.19(1)(d), & NPC of §106.19(1)(c). | 6-1 |
| Case #6 | | Confidential | |
| Peter D. Schorsch | FEC 05-230 | Motion to find PC of: 4 counts of §106.07(5), 1 count of violating §106.071(2), 1 count of violating §106.09(1), 7 counts of violating §106.11(4), 1 count of violating §106.19(1)(a), 3 counts of violating §106.19(1)(b), 16 counts of violating §106.19(1)(c), & 7 counts of violating §106.19(1)(d). Commissioner Thomas recused herself. | 6-0 |
| Dennis E. Mulder | FEC 05-253 | Motion to find PC of: 3 counts of violating §106.07(5), 10 counts of violating §106.09(1), 34 counts of violating §106.11(4), 9 counts of violating §106.143(1)(a), & 8 counts of violating §106.19(1)(b), & NPC of §106.19(1)(d). | 7-0 |
| Dennis E. Mulder | FEC 05-257 | Motion to find PC of: 1 count of violating §106.07(5), 17 counts of violating §106.11(4), 1 count of violating §106.143(1)(a), 1 count of violating §106.19(1)(a), & 5 counts of violating §106.19(1)(b), & NPC | 7-0 |

| | | | |
|---|------------|---|-----|
| | | of §§106.08(5)(b) & 106.19(1)(d). | |
| Terrance M. Whelan | FEC 05-273 | Motion to find PC: 1 count of violating §106.11(4), & NPC of §106.07(5). | 7-0 |
| United Citizens of Old Butler Bay, Inc. | FEC 05-281 | Motion to find PC of: 2 counts of violating §106.143(1)(b). | 7-0 |
| Priyanshu Adathakkar | FEC 05-282 | Motion to find PC of: 1 count of violating §106.07(5), & 2 counts of violating §106.143(1)(b). | 7-0 |
| Margaret Bell | FEC 05-283 | Motion to find PC of: 1 count of violating §106.07(5), & 1 count of violating §106.143(1)(b). | 7-0 |
| Carl Shechter | FEC 05-285 | Motion to find PC of: 4 counts of violating §106.021(1)(a), & 1 count of violating §106.07(5) & NPC of §106.12(3). | 6-0 |
| Paul Zimmerman | FEC 05-289 | Motion to find PC of: 1 count of violating §106.143(3). | 5-2 |
| Howard Alan Pohl | FEC 06-021 | Motion to find PC of: 3 counts of violating §106.07(5), 1 count of violating §106.11(1), 2 counts of violating §106.12(2), & 2 counts of violating §106.12(3), & NPC of violating §§106.12(3) & 106.19(1)(d). | 4-3 |

NO PROBABLE CAUSE DETERMINATIONS

| | | | |
|--------------------|------------|---|-----|
| Dean Ray | FEC 05-055 | Motion to find NPC of violating §§ 104.011(1) & 104.011(2). | 7-0 |
| Michael Mattice | FEC 05-298 | Motion to find NPC of violating §§ 106.071(2), 106.143(1)(b) & 106.1437. | 6-0 |
| David Tatum | FEC 05-252 | Motion to find NPC of violating §§ 104.31(1)(a), 104.051(2) & 104.0515(2)(b). | 7-0 |
| Mary Beth McDonald | FEC 05-295 | Motion to find NPC of violating § 104.31(1)(a). | 6-0 |

REVIEW OF COMPLAINT

| | | | |
|-----------------|------------|---|-----|
| Loren Granoff | FEC 05-279 | Motion to accept Consent Order with a \$1,000 fine. | 6-1 |
| John G. Wolbert | FEC 06-023 | Motion to uphold ED's determination that complaint is legally insufficient. | 6-1 |

| | | | |
|------------|------------|---|-----|
| Ed Stanton | FEC 06-057 | Motion to uphold ED's determination that complaint is legally insufficient. | 7-0 |
|------------|------------|---|-----|

AUTOMATIC FINES CASES

HEARINGS

| | | | |
|-----------------------------------|------------|--|-----|
| Stan Jordan | FEC 06-042 | Motion to find unusual circumstances. Fine waived in full. | 6-1 |
| Committee for Fair Representation | FEC 06-073 | Motion to find timely filed. | 7-0 |

WRITTEN APPEALS

Discussion

| | | | |
|--|--|---|-----|
| Advocates for Children & Teachers In Our Neighborhoods | FEC 05-265 | Motion to unusual circumstances. Fine waived in full. | 6-0 |
| Floridians Against Inequities in Rates (FAIR) | FEC 06-032 | Motion to find timely filed. | 6-0 |
| Don Davis | FEC 06-053 | Motion to find no unusual circumstances. Fine \$1125. | 5-1 |
| Oral Majority | FEC 06-071 | Motion to find timely filed. | 7-0 |
| Earl Lennard | FEC 06-082 | Motion to find unusual circumstances. Fine waived in full. | 7-0 |
| Karl Dickey | FEC 06-085 FEC 06-086 FEC 06-087 | Motion to find no unusual circumstances. Total of fines \$413.73. | 6-1 |

Consent

| | | | |
|------------------------------|------------|--|-----|
| Donna Clarke | FEC 06-036 | Motion to find no unusual circumstances. Fine \$1,590.63. | 6-1 |
| Libertarian Party of Florida | FEC 06-043 | Motion to find unusual circumstances. Fine waived in full. | 4-3 |
| Frank Talerico | FEC 06-054 | Motion to find no unusual circumstances. Fine \$836.25. | 6-1 |
| CHIRO-PAC | FEC 06-058 | Motion to find no unusual circumstances. Fine \$50. | 7-0 |
| Betty Reed | FEC 06-072 | Motion to find no unusual circumstances. Fine \$650.25. | 6-1 |

REVOCATIONS

CASE NOS.

HEARINGS

5. OTHER BUSINESS

1. *Shin v. FEC*, ___So.2d ___ (1st DCA 2006) Denied Motion for Rehearing, mandate issued April 28, 2006.
2. *Guetzloe v. FEC*, ___So.2d ___ (5th DCA 2006), Pending Motion for Rehearing and Clarification and Motion to Certify Questions. Rehearing denied.
3. *Fugate v. FEC*, ___So.2d ___ (1st DCA 2006) Denied Motion for Rehearing.
4. *Citizens for Lower Taxes, Inc., and Enwall v. FEC*, 920 So.2d 1216 (1st DCA 2006)
5. DOE Opinion 06-04
Disposition of Surplus Funds By a Non-Partisan Municipal Candidate
6. Opinion Requests from DOE:
 - A. Can a committee of continuous existence (CCE) make a contribution to an electioneering communications organizations?
 - B. When must a candidate report an expenditure made by a political consultant to purchases goods or services for the candidate's campaign?
 - C. A candidate can only spend petty cash for office supplies, transportation expenses, and other necessities. What are "other necessities?"
 - D. Is a candidate required to include on his political advertisement the exact phrase contained in the statute: "Political advertisement paid for and approved by (name of candidate), (party affiliation), for (office sought)."
 - E. Are CCEs permitted to use its funds for any other purpose than to pay for administrative costs of the CCE and to contribute to a candidate through its campaign treasurer?

Are CCEs permitted to use its funds to pay for the normal living expenses of a candidate?

Are candidates permitted to accept goods or services from CCEs for normal living expenses?

Motion to send request to Division of Elections on the issues listed above plus the issue of whether CCE can use credit cards.

6-0

7. Newsclips

- 8. Memorandum on rule defining “willfulness” in Chapter 104.
 - Motion to Notice for Rule Development 7-0
 - Motion to Notice for Rule Making w/proposed language in memorandum. 6-0

- 9. Senate Bills 716 & 2660.
 - Motion to write letter to Division of Elections and ask them to continue to advise candidates and committees how to file the campaign report. 7-0