



Florida Elections Commission

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July 25, 2022

Stephanie Kienzle
7535 SW 26th Court
Davie, FL 33314

RE: Case No.: FEC 21-364; Respondent: Andrise Bernard

Dear Ms. Kienzle:

The Florida Elections Commission has received your complaint alleging violation of Florida's election laws.

In the original complaint, which was sworn on May 23, 2021, and filed on June 7, 2021, Complainant alleged that Respondent failed to assess automatic fines against a candidate for late-filed campaign treasurer reports. With the amended complaint, Complainant attached seven letters from Respondent to the candidate at issue imposing fines for late-filed reports. The letters were all dated May 7, 2021. She also attached a letter dated May 28, 2021, rescinding the fines.

Complainant explained she did not have the letters when she filed the original complaint, to which she had attached public records requests to Respondent that had allegedly not been fulfilled. Complainant did not state the date on which she came into possession of the letters; however, Complainant provided copies of the letters with her complaint in FEC 21-407, which was sworn on July 28, 2021, and filed on August 3, 2021.

In the amended complaint for FEC 21-364, Complainant noted that Section 106.07(8)(b), F.S. requires the filing officer to "**immediately notify** [emphasis added by Complainant] the candidate...as to the failure to file a report by the designated due date and that a fine is being assessed for each day late." She further stated that "...it was not my responsibility to continuously remind..." Respondent to issue such letters to the candidate and she essentially alleged that Respondent was "...derelict in her duties..." by not timely issuing the letters.

In response to the amended complaint, Respondent stated that the only new information provided was a series of letters from Respondent imposing fines for late-filed reports and a letter announcing that the fines were rescinded based upon legal advice. Respondent reiterated that the fines were withdrawn based upon legal advice from the Office of City Attorney. Respondent stated that the letter rescinding the fines that was provided with the amended complaint shows that Respondent acted in reliance on legal advice. Respondent attached a memorandum from the City Attorney counseling Respondent to withdraw the fines based upon his legal analysis.

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Respondent was not a candidate for office and undertook no actions related to campaign financing or general election code irregularities. Respondent is not an elected official. Essentially, the complaint takes issue with the manner in which a city employee performed her job. It is questionable as to whether the Florida Elections Commission has jurisdiction to take action against a city employee under the alleged circumstances.

Nevertheless, Complainant's additional documentation demonstrates that Respondent did, in fact, impose automatic fines for at least seven reports. Section 106.07(8)(b), F.S., requires the filing officer to determine the amounts of fines that are due upon receipt of late-filed reports and to notify the candidate; however, there is no specification of a timeframe for such notification. Neither does the statute prohibit a filing officer from rescinding automatic fines once imposed or require them to collect unpaid fines.

Finally, it appears that Respondent acted under the guidance of the City Attorney regarding the reports and fines in question. Therefore, the evidence does not support any allegation as to whether Respondent violated a provision of Chapter 104 or 106, F.S. Therefore, Complaint has failed to correct the stated ground of legal insufficiency set forth in the Executive Directors initial letter of legal insufficiency, as require by Rule 2B-1.0025(5), F.A.C.

For these reasons, I find the complaint to be Legally Insufficient, and this case is hereby closed.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/mw
cc: Ron Meyer, Attorney for Respondent