

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA ELECTIONS COMMISSION,)	
)	
Petitioner,)	
)	
vs.)	Case No. 10-9927
)	
BRIAN PITTS, TREASURER,)	
JUSTICE-2-JESUS,)	
)	
Respondent.)	
_____)	

SUMMARY FINAL ORDER

On August 19, 2010, an Order of Probable Cause was entered by Petitioner, Florida Elections Commission (the "Commission"), holding that Respondent, Brian Pitts, Treasurer, Justice-2-Jesus ("Pitts"), violated chapter 106, Florida Statutes (2009), by failing to file a quarterly report of all contributions received by the entity known as Justice-2-Jesus ("J2J"), a political committee.

Pitts did not file a request for a formal or informal hearing. Pursuant to section 106.25(5), Florida Statutes (2010), Pitts is entitled to a formal administrative hearing conducted by an Administrative Law Judge. The matter was assigned to the undersigned for purposes of conducting the final hearing.

The Commission propounded discovery on Pitts, including Requests for Admissions. Pitts never responded to the discovery. Based upon the admissions set forth as Findings of Fact below, the Commission filed a Motion for Summary Final Order. Pitts did not respond to the motion.

FINDINGS OF FACT

Based upon the foregoing and in consideration of Pitts' failure to timely respond to Requests for Admissions, the following Findings of Fact are made in this matter:

1. On or about December 12, 2007, J2J filed a form entitled, "Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees and Electioneering Communication Organizations" with the Florida Division of Elections (the "Division"). The form designated Pitts as the chairman and treasurer of J2J.

2. The Division then sent Pitts a letter dated December 14, 2007, providing directions concerning the filing of a Committee Campaign Treasurer's Report ("Report") by J2J in accordance with the campaign financing requirements set forth in chapter 106, Florida Statutes (2007). Pitts received the letter from the Division.

3. By letter dated April 13, 2009, the Division notified Pitts that J2J had failed to file the Report which had been due

on April 10, 2009. Pitts received the letter from the Division concerning the overdue Report.

4. The Division sent a follow-up letter to Pitts dated April 27, 2009, concerning the delinquent Report. Pitts received the letter from the Division.

5. As of the date of its Motion for Summary Final Order, the Division had not received the Report from Pitts. J2J is in violation of the campaign financing requirements for political committees in Florida.

6. The Division deems Pitts' failure to file the Report for J2J to be a willful violation of the Florida campaign financing laws.

CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over this matter pursuant to sections 120.57(1) and 106.25(5), Florida Statutes (2010), the latter of which states:

Unless a person alleged by the Elections Commission to have committed a violation of this chapter or chapter 104 elects, within 30 days after the date of filing of the commission's allegations, to have a formal or informal hearing conducted before the commission, or elects to resolve the complaint by consent order, such person shall be entitled to a formal administrative hearing conducted by an administrative law judge in the Division of Administrative Hearings. The administrative law judge in such proceedings shall enter a final order subject to appeal as provided in s 120.68.

8. Statutory changes that relate only to procedure or remedy generally apply to all pending cases. Gupton v. Village Key and Saw Shop, Inc., 656 So. 2d 475 (Fla. 1995). The changes to section 106.25(5), Florida Statutes, made by the 2007 Florida Legislature were procedural and, thus, apply to the instant matter.

9. Florida Rules of Civil Procedure Rule 1.370(b), which is adopted in Florida Administrative Code Rule 28-106.206, provides:

Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission.

10. Pitts has not filed any motion seeking to withdraw or amend the admissions set forth in the propounded requests for admissions.

11. Section 106.07(1), Florida Statutes (2009), states:

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made

during the calendar quarter which have not otherwise been reported pursuant to this section.

Neither Pitts, nor J2J, filed the requisite Report listing all contributions received and expenditures made by the entity.

11. Section 106.265, Florida Statutes (2009), provides that persons violating the campaign financing statute can be fined up to \$1,000 for each violation committed. The alleged violator bears the burden of presenting evidence of circumstances which might mitigate the amount of the fine. Pitts provided no such evidence. The Commission, not the Administrative Law Judge, has the authority to impose the fine against a violator. See Fla. Elections Comm'n v. Davis, 44 So. 3d 1211 (Fla. 1st DCA 2010).

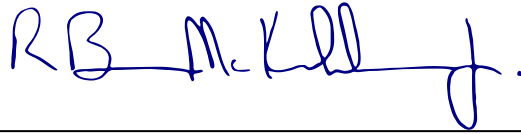
12. The Commission has conclusively established that Pitts violated the campaign financing statutes as set forth above.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that Respondent, Brian Pitts, Treasurer, Justice-2-Jesus, is in violation of section 106.07(1), Florida Statutes (2009). Petitioner, Florida Elections Commission, shall impose the appropriate fine commensurate with the violation.

DONE AND ORDERED this 3rd day of January, 2011, in
Tallahassee, Leon County, Florida.



R. BRUCE MCKIBBEN
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of January, 2011.

COPIES FURNISHED:

Rosanna Catalano, Executive Director
Florida Elections Commission
Collins Building
107 West Gaines Street, Suite 224
Tallahassee, Florida 32399-1050

Patricia Rushing, Clerk
Florida Elections Commission
Collins Building
107 West Gaines Street, Suite 224
Tallahassee, Florida 32399-1050

Joshua B. Moye, Esquire
Florida Elections Commission
Collins Building
107 West Gaines Street, Suite 224
Tallahassee, Florida 32399-1050

Brian Pitts
Justice-2-Jesus
1119 Newton Avenue South
St. Petersburg, Florida 33705

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Administrative Appeal with the agency clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the appellate district where the party resides. The Notice of Administrative Appeal must be filed within 30 days of rendition of the order to be reviewed.