

Viera Office
2725 Judge Fran Jamleson Way
Bldg. D
Viera, FL 32940
(321) 617-7510

Titusville Office
400 South Street
Suite D
Titusville, FL 32780
(321) 264-6933

Melbourne Office
51 South Nleman Avenue
Melbourne, FL 32901
(321) 952-4617

OFFICE OF THE STATE ATTORNEY
EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA
BREVARD AND SEMINOLE COUNTIES

PHIL ARCHER
STATE ATTORNEY



Seminole County Office
P.O. Box 8006 • 101 Eslinger Way
Sanford, FL 32772-8006
(407) 665-6000

Seminole Juvenile Center
190 Eslinger Way
Sanford, FL 32773
(407) 665-5454

Reply to: Seminole County

January 27, 2023

Inspector Troy Cope
Florida Department of Law Enforcement
Office of Executive Investigations
2331 Phillips Road
Tallahassee, FL 32308

RE: FDLE OEI Case Number EI-32-0088
SAO Case Number 1722SA14340

Dear Inspector Cope:

The Office of the State Attorney for the Eighteenth Judicial Circuit has received your completed investigation into the operation of Floridians for Equality and Justice (FFEAJ), a political committee that provided financial resources that impacted the Florida State Senate District 9 Race in 2020. My review of this matter has focused on four (4) issues that I believe warrant in-depth explanation, and which lead me to the conclusion that our office is unable to file criminal charges in this matter.

Issue #1: FFEAJ filed three (3) campaign treasurer reports reciting a host of information. Was any of that information incorrect, false, or incomplete such that the filer of the report(s) could be charged with a first-degree misdemeanor violation of Fla. Stat. s. 106.07(5)?

No. Stephen Jones was the Chairperson and Treasurer of FFEAJ, and he filed three reports on behalf of FFEAJ while it was recognized as a political committee pursuant to Florida law. Those three reports were the P5 report for the time period of July 18-24, 2020; the P6 report for the time period of July 25-31, 2020; and the P7 report for the time period August 1-13, 2020. I have compared all the financial data submitted on these reports to FFEAJ's financial records, and to the financial records of Victory Blue Group (VBG), which is a single member LLC and disregarded entity run by and sharing a bank account with Stafford Jones (who is Stephen Jones's father) and to which FFEAJ made four (4) payments totaling \$163,500 for what is described as "advertising."

All of FFEAJ's expenditures recited on the three reports reconcile with FFEAJ's financial records, with the exception of the following discrepancies:

- FFEAJ's financial records show a \$112.74 check order fee on July 23, 2020, that was not reported on the P5 report.
- FFEAJ incurred a \$5.00 banking fee on July 24, 2020, and another \$5.00 banking fee on July 27, 2020. While these amounts were correctly recited on the P5 report, one of the dates was reported incorrectly.
- FFEAJ recites its opening balance as \$249,925.54 on July 18, 2020, however my review of FFEAJ's financial records indicates that on that date it had \$238,038.28 in available funds.

Having identified these discrepancies on the reports, I now turn to whether, under Florida law, Stephen Jones can be charged with a crime. Florida State Statutes section 106.07(5), states, in pertinent part, that:

the political committee chair and campaign treasurer of the committee, in the case of a political committee, shall certify as to the correctness of each report; and each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any . . . political committee chair who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

There is no evidence to prove that Stephen Jones willfully certified the correctness of FFEAJ's P5 report (which contained all three errors) knowing that said report was incorrect, false, or incomplete. At first blush, I recognize that an \$11,887.26 discrepancy smacks of impropriety because such an accounting error would be tremendous to an average person, but as I've learned in the past year, Florida politics and the players involved in it operate with tremendous sums of money, shuffling hundreds of thousands of dollars between political committees in an effort to throw support behind candidates and causes. Seen in that scope, an \$11,887.26 discrepancy is not egregious, and given the lack of evidence to counter Jones's anticipated defense that it was a simple accounting error, neither the \$11,887.26 discrepancy, nor the other two recited on the P5 report, are tantamount to a crime.

Issue #2: Were FFEAJ and Stephen Jones, as its chair, required to report FFEAJ's financial activity beyond the time period it was recognized as an operating political committee in Florida?

No. Florida State Statutes section 106.03(1)(a) requires that a political committee file a Statement of Organization with DOS/DOE within 10 days after its organization. Chair Stephen Jones filed FFEAJ's Statement of Organization of Political Committee with DOS/DOE on July 21, 2020. In response, DOS/DOE sent Jones a letter acknowledging receipt of FFEAJ's Statement of Organization and instructing him that FFEAJ's "first campaign treasurer's report will be due on July 31, 2020 . . . [and that the] report will cover the period of July 18-24, 2020 (2020 P5)."

Jones filed the required P5 report which recited a “starting balance” of \$249,925.54, along with three (3) expenditures to VBG for \$65,500, \$16,000, and \$50,000, and two expenditures for bank service charges in the amount of \$5.00 each. Jones also filed a P6 report which didn’t recite any contributions, expenditures, fund transfers, or itemized distributions for the reporting period of July 25-31, 2020.

On August 10, 2020, DOS/DOE received a letter from Jones in which he requested “that the certification of the political committee entitled Floridians for Equality and Justice be terminated, effective immediately.” In response, DOS/DOE sent Jones a letter acknowledging receipt of said letter and instructing him that FFEAJ’s “final report (2020 P7) may be filed at any time but is due no later than August 14, 2020.” Jones filed the required P7 report which recited one (1) expenditure to VBG for \$32,000 and one expenditure for a bank service charge in the amount of \$5.00.

The letters sent by DOS/DOE to Jones clearly instructed him to file reports for the time period beginning July 18, 2020 and ending on August 13, 2020. The question that looms is whether FFEAJ’s operations were such that it constituted a “political committee” under Florida law beyond that time period, thus requiring that it register as a “political committee” and further account for its financial transactions beyond that window of time. To that issue, we turn to the definition of “political committee” which is found in Fla. Stat. s. 106.011(16)(a) and reads, in pertinent part:

‘Political committee’ means:

1. A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:
 - a. Accepts contributions for the purpose of making contributions to any candidate, political committee, affiliated party committee, or political party;
 - b. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;
 - c. Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or
 - d. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, affiliated party committee, or political party

Floridians for Equality and Justice accepted contributions and made expenditures in excess of \$500 beyond the time frame at issue, but under Florida law, FFEAJ didn’t constitute a “political committee” until those actions were done for the express, identifiable purposes that are recited in the statute. I recognize that whether something is done for a particular purpose can be subjective, but relying upon the evidence adduced in your investigation, I find that FFEAJ’s first action that was done to advocate for the election or defeat of a candidate was on July 16, 2020, when FFEAJ transferred \$15,000 to Go Big Media.

The date of July 16, 2020, is within ten (10) days of DOS/DOE's receipt of FFEAJ's Statement of Organization of Political Committee, which was July 21, 2020. Given that Florida law requires that a Statement of Organization of Political Committee be filed with DOS/DOE within ten (10) days of a political committee's organization, I find that FFEAJ complied with Florida law when it filed its Statement of Organization on July 21, 2020. As to whether FFEAJ truly ceased to operate as a political committee on August 10, 2020, which is the date DOS/DOE received Stephen Jones's letter announcing FFEAJ's disbandment, I note that all of FFEAJ's financial transactions after August 10, 2020 were payments to an electioneering consultant or law firms, none of which constitute actions for the express purpose of advocating for the election or defeat of a candidate or the passage or defeat of an issue. Accordingly, I find that FFEAJ did not operate as a political committee beyond the dates it was registered as such with DOS/DOE, and that neither FFEAJ, nor Stephen Jones as its chair, were required to report financial activity that occurred prior to July 18, 2020, or after August 13, 2020.

Issue #3: Was FFEAJ required to report the source of the contributions it received before it became a "political committee" under Florida law?

No. Pursuant to FFEAJ's financial records, it received two contributions from a registered 501(c)(4) corporation named Foundation for a Safer Environment (FFASE), before FFEAJ was required to register as a political committee. The first contribution FFEAJ received from FFASE was on April 20, 2020, in the amount of \$3,100 and the second was on July 9, 2020, in the amount of \$250,000. As I've previously explained, FFEAJ was not required to register as a political committee before it did so on July 21, 2020, because none of its activities were for the express purpose of advocating for the election or defeat of a candidate or the passage or defeat of an issue, prior to that date. Upon registering FFEAJ as a political committee, Stephen Jones was instructed by DOS/DOE that FFEAJ's "first campaign treasurer's report will be due on July 31, 2020 . . . [and that the] report will cover the period of July 18-24, 2020 (2020 P5)." Jones then submitted the P5 report for that time period listing FFEAJ's starting balance as \$249,925.54, a figure that included both of the contributions FFEAJ received from FFASE before July 18, 2020.

The law in the State of Florida does not currently require political committees to retroactively report their financial activity, including the source of contributions. Our Florida Legislature did away with that requirement when, in 2011, it amended Fla. Stat. s. 106.0703, removing the provision which had read, "(8) An electioneering communications organization shall, within 2 days after receiving its initial password or secure sign-on from the Department of State allowing confidential access to the department's electronic campaign finance filing system, electronically file the periodic reports that would have been required pursuant to this section for reportable activities that occurred since the date of the last general election."

Based upon the instructions provided by DOS/DOE and current Florida law, neither FFEAJ nor Stephen Jones were required to retroactively report FFEAJ's financial activity, including the source of contributions it received, prior to July 18, 2020.

Issue #4: Did Stephen Jones fail to report or deliberately fail to include information in any filing required by Chapter 106, such that he committed a first-degree misdemeanor violation of Fla. Stat. s. 106.19(1)?

No. I have reviewed all the documents Stephen Jones filed with DOS/DOE regarding FFEAJ, and I have determined that there are two points of information included within them that warrant analysis: the address Jones recited for FFEAJ and his failure to identify a candidate FFEAJ was supporting.

Jones recited FFEAJ's "Mailing Address" and "Street Address" as 1421 SW 107th Ave #132 Miami, FL 33174-2526. Your investigation determined that said address was a UPS store in Miami, that the mailbox was originally rented in February 2020 by an individual associated with attorney Juan-Carlos Planas, and that the mailbox was operational until at least December, 2021. There were several items of correspondence sent to this mailbox that were returned, but there is evidence that at least two items of correspondence sent to that address were received. Specifically, there appears to have been one (1) DOS/DOE item of correspondence that was sent to the mailbox in question and not returned, and one (1) August 5, 2020, letter sent by the Florida Elections Commission (FEC) to Jones at the mailbox, that was sent certified mail and not returned.¹ Accordingly, I find that FFEAJ did receive correspondence at that address, albeit intermittently.

Additionally, it's important to note that while the DOS/DOE Statement of Organization required that Stephen Jones recited FFEAJ's "Mailing Address" and "Street Address", those terms are not defined in Chapter 106. An entity can certainly use the same location for both, especially if it does not occupy a true brick and mortar location for its operation, as is more common in this day of remote work. Given these factors, I find that Stephen Jones's recitation of the Miami mailbox does not constitute a deliberate failure to include information required by Chapter 106, Florida State Statutes.

The second point of information I reviewed was whether Jones, when asked to "List by Name, Address, Office Sought and Party Affiliation Each Candidate or Other Individual that this Committee is Supporting", committed a crime when he wrote "To be determined." The FEC reviewed this issue in 2020 when it received the aforementioned complaint and resolved the matter by leveling a \$250.00 civil penalty against Jones. I note that Jones defended his actions during the proceedings before the FEC by claiming that he "reviewed numerous filings of other political committees and thought he had filed the organizing documents correctly."

There is no evidence to support a theory that Jones deliberately failed to include this information on the Statement of Organization, especially when the actions of FFEAJ clearly supported one candidate (Rick Ashby) and the defeat of another candidate (Patricia Sigman), as evidenced by the numerous mailers that FFEAJ was responsible for during the 2020 Primary

¹ The FEC received a complaint on August 3, 2020, which recited the same points that were the launching point for your criminal investigation into FFEAJ's operations. The FEC determined that only one of the five issues brought before it was legally sufficient, the issue of whether Stephen Jones violated Fla. Stat. s. 106.03(2) when he "failed to include required information in the Statement of Organization of Political Committee, namely, the candidates whom the committee supported." The FEC and Jones resolved the matter by entering into a Consent Order whereby Jones paid a civil penalty in the amount of \$250.00.

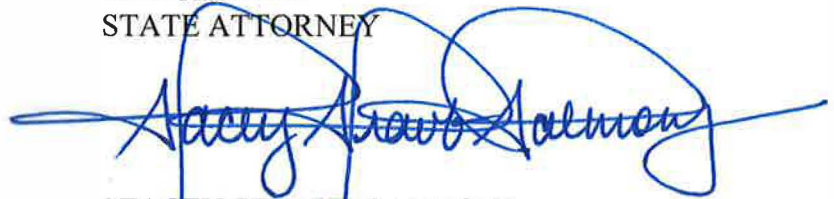
Election for Florida Senate District 9. Given the totality of these factors, I find that Stephen Jones's recitation of "To be determined" on the candidate disclosure portion of FFEAJ's Statement of Organization does not constitute a deliberate act constituting a first-degree misdemeanor crime.

In conclusion, while this Office has ultimately determined that the actions of FFEAJ and Stephen Jones are not criminal, they are nonetheless troubling. A tremendous amount of money was raised and spent for the express purpose of advocating for the election of one candidate, and the defeat of another, in the 2020 Florida State Senate District 9 primary election. As explained, neither FFEAJ nor its chairperson were legally required to report FFEAJ's financial activity beyond the time FFEAJ was officially recognized as a political committee. The interplay between current Florida law and the creative formation and management of political committees in this state creates a loophole within which the sources of financial contributions to political committees may not need to be legally reported. This practice divests our electorate of the opportunity to be well-informed and it creates an environment where special interests are permitted to cloak, in secrecy, their financial contributions to support or oppose candidates and issues in our Florida elections. Floridians deserve to know whether special interests are at play in their elections. Floridians deserve better.

Thank you for the time and attention you have paid to this investigation and for the opportunity you have provided this Office to review it.

Sincerely,

PHIL ARCHER
STATE ATTORNEY



STACEY STRAUB SALMONS
Chief Assistant State Attorney
Florida Bar No. 0351430
101 Eslinger Way
P.O. Box 8006
Sanford, FL 32772-8006
(407) 665-6410
ssalmons@sa18.org