

FLORIDA ELECTIONS COMMISSION

REVIEW OF COMPLAINT FOR LEGAL SUFFICIENCY			
~~~ PRELIMINARY INFORMATION ~~~			
Date Received: 6/21/24	Reviewer: Cole	Case #: 24-130	<input checked="checked" type="checkbox"/> ORIGINAL <input type="checkbox"/> AMENDED
Complainant: <b>Robert Burns</b>		Respondent: <b>Randy Fine</b>	
<b>Complainant:</b>	Complainant is a resident of Palm Bay, FL, in Brevard County.		
<b>Respondent:</b>	Respondent is a 2024 candidate for State Senator, District 19.		
<b>Background:</b>	Respondent is represented by Richard E. Coates.		
~~~ VIOLATIONS ~~~			
Violations in complaint:	106.0701(2), 106.11(4)		
Violations for CMS:	106.0701(1), 106.19(1)(d) – tracking purposes		
~~~ COMPLAINT ISSUES ~~~			
1. Respondent failed to comply with Section 106.0701, F.S.			
2. Respondent made prohibited expenditures.			
~~~ REVIEW OF COMPLAINT ISSUES ~~~			
1.	Complainant alleged Respondent failed to file a Statement of Solicitation (DS-DE 102) in compliance with Section 106.0701(1), F.S., relative to his involvement with Friends of Randy Fine, a political committee registered with the Division of Elections, during his 2024 campaign for State Senator, District 19. Section 106.0701(1), F.S., states: “The Governor, Lieutenant Governor, members of the Cabinet, state legislators, or candidates for such offices who directly or indirectly solicit, cause to be solicited, or accept any contribution on behalf of an organization that is exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, which such individuals, in whole or in part, establish, maintain, or control, shall file a statement with the division within 5 days after commencing such activity on behalf of the organization. The statement shall contain the following information: (a) The name of the person acting on behalf of the organization. (b) The name and type of the organization. (c) A description of the relationship between the person and the organization.” [emphasis added] However, Section 106.0701, F.S., does not apply to political committees. Rather, it applies to an “organization that is exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code.” Filing paperwork to register as a political committee with the Division of Elections does not also make the registering political committee a tax-exempt organization registered with the IRS. Complainant did not provide evidence based on personal information or information other than hearsay with the complaint that Friends of Randy Fine is or was such a tax-exempt entity. Therefore, Section 106.0701(1), F.S., has no applicability to this case. See Section 106.25(2), F.S.		

Though not provided with or referenced by the complaint, the Division of Elections profile for Respondent's 2024 campaign includes a copy of a dated DS-DE 102 relative to the Friends of Randy Fine that was filed by Respondent with the Division of Elections on August 16, 2019. This form appears to have been emailed to the Division by Complainant on July 22, 2024, after this complaint was filed, as part of a public records request. I believe the DS-DE 102 and Complainant's email to the Division were uploaded to Respondent's 2024 campaign profile in error by the Division.

While the DS-DE 102 selected the drop-down box 527 for organization type, that was likely a prompt of the form and does not mean in and of itself that the political committee was a tax-exempt organization registered with the IRS. I searched the IRS tax-exempt organization database and did not find Friends of Randy Fine. The form dates from 2019 and thus is not evidence that Friends of Randy Fine was a registered tax-exempt organization within two years of the date this complaint was filed. See Section 106.25(2), F.S.

Complainant noted that Respondent is Chairperson of Friends of Randy Fine. Complainant acknowledged that the political committee is used for Respondent campaign but alleged that Respondent "also uses the PAC for activities beyond his direct campaign. These activities include funding and receiving funding for other PACs and making community donations and other expenditures, which are not directly related to his election efforts. Since the PAC is being used for these broader purposes, [Respondent] is required to file the DS-DE 102 form..."

However, a political committee is not required to make expenditures only in support of a particular candidate, even if that candidate's name happens to be in the name of the political committee. It may make other expenditures, including making contributions to other candidates, political committees, and political parties. Even if a political committee makes expenditures that are prohibited by Chapter 106, F.S., making those expenditures does not turn a political committee into a registered tax-exempt organization or trigger a requirement to file a DS-DE 102.

Friends of Randy Fine's most recent Statement of Organization was filed on August 19, 2019, and specified its area, scope, and jurisdiction as: "State political committee to support or oppose candidates for statewide, multi-county, legislative, county and municipal office and other activities not prohibited by Chapter 106 F.S." Therefore, the political committee's scope was not limited to supporting Respondent.

Complainant attached a list of reported expenditures made by Friends of Randy Fine from October 1, 2023, through March 29, 2024. He only highlighted two of them, which were for "legal services." However, as noted above, even if one or more of these reported expenditures were prohibited by Chapter 106, F.S., that would not turn the committee into a registered tax-exempt organization or trigger a requirement to file a DS-DE 102.

Respondent did not respond to the complaint.

Based on the above, Respondent was not required to file a DS-DE 102 relative to Friends of Randy Fine for his 2024 election.

Legally Insufficient

2.	Complainant essentially alleged that Respondent, as Chairperson of Friends of Randy Fine, a political committee registered with the Division of Elections, made or authorized prohibited expenditures by the political committee. Specifically, Complainant alleged the “PAC has been used for activities not directly related to [Respondent’s] campaign. Those activities include contributions to other PACs and donations to community organizations.” Complainant attached a list of reported expenditures made by Friends of Randy Fine from October 1, 2023, through March 29, 2024. I did not see anything unusual or indicative of a prohibited expenditure. Complainant only highlighted two of the expenditures, which were to the Law Firm of Alan Landman for “legal services” in November 2023 and January 2024. Complainant alleged “These payments were used for personal legal services, specifically to file an Emergency Motion for Protective Order on December 12, 2023 and handle related legal issues, as evidenced by court documents.” Complainant provided a series of documents from a legal action against Complainant and involving a Motion for Protective Order. The documents were signed and filed by attorney Alan Landman as Respondent’s legal representative in November 2023, December 2023, and March 2024. However, Complainant’s allegation that the two expenditures to the Law Firm of Alan Landman must have been related to those legal documents or services is based upon speculation. A political committee might make expenditures for legal services for any number of reasons, and they are free to utilize the firm of their choice. Complainant also provided police reports from November 2023, regarding a “harassment investigation” of someone allegedly harassing Respondent. These reports appear to have no bearing on the allegations of the complaint. Complainant further speculated, “If the funds were reported as legitimate campaign expenses while being used for personal legal services, this may also violate reporting requirements under Florida’s campaign finance laws, which require accurate disclosure of the purpose for which campaign funds are expended.” This allegation is based on speculation. Legally Insufficient
~~~ REVIEWER’S RECOMMENDATION AND COMMENTS ~~~	
I recommend the complaint is Legally Insufficient for the reasons stated above.	