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**CLOSE-OUT MEMORANDUM**

**To:** File  
**From:** Christopher Killoran *CK*  
**Re:** Fort Lauderdale City Commissioner Robert McKinzie – SP16-08-079  
**Date:** October 23, 2018

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**Reason for Close-out:**

This matter was presented to the Broward State Attorney's Office Special Prosecutions Unit by the Broward County Office of Inspector General to determine whether any of the allegations against Fort Lauderdale City Commissioner Robert McKinzie ("McKinzie") were criminal and whether there was enough evidence to support any criminal charges. After a thorough investigation, the State has determined that there is a lack of sufficient evidence to charge McKinzie for his actions as it related to the 2015 election for Fort Lauderdale City Commission.

This investigation arose concerning a multitude of different allegations, some criminal in nature while others were strictly civil. This investigation dealt strictly with the criminal allegations set forth below in regards to possible misconduct as it related to handling campaign funds. The criminal allegations primarily dealt with McKinzie's Campaign Treasure Reports ("CTR") and irregularities/falsehoods contained in the documents.

The first criminal allegation dealt with a \$250 cashier's check contribution to McKinzie's campaign. Campaign finance laws mandate that any contribution of more than \$50 by cash or cashier's check is a first degree misdemeanor. In this instance, McKinzie did accept a \$250 cashier's check from "D. Walsh". The rest of the information about "D. Walsh" was not reported on the CTR. OIG investigators spoke with McKinzie, and the Undersigned took a voluntary sworn statement from him on November 27, 2017. To both the Undersigned and Investigators, McKinzie explained that he did not know cashier's checks fell under the rubric of the \$50 limit. He stated that he believed they were to be treated as checks, not cash. McKinzie's excuse of confusion to how the donation was to be treated lends itself to a reasonable hypothesis of innocence as it relates to this allegation. McKinzie was notified by the Undersigned at the sworn statement that in the future any CTR's need to be meticulously kept and the finance rules must be adhered to or else there could be ramifications in the future. McKinzie operated as his own Treasurer for a time during his campaign, and also had Johnnie Smith ("Smith") as his designated Treasurer after a time. McKinzie attributed this oversight, as well as others, to both

the transition in who acted as Treasurer as well as a misunderstanding of the rules involving CTR's. The incorrect CTR was amended to reflect the correct information once McKinzie was notified of the discrepancy.

The second criminal allegation dealt with \$400 cash being withdrawn from campaign treasury funds to pay a campaign worker. This allegation dealt with a campaign worker "V.T". The allegation is that V.T. was paid with cash for their campaign work as opposed to paid by check. According to campaign finance laws, all payments, except for an exception dealing with an established petty cash fund, must be paid in check. The ATM withdrawals made in regards to paying V.T. were on the CTR's, but were incorrectly categorized as "MON" (money), which would be a check. Investigators spoke with V.T. who stated they did work for McKinzie and had been paid but could not recall if it was done via check or cash. This transaction does not comport with the laws surrounding CTR's; however, the explanation offered by McKinzie via a proffer from his attorney (done before the voluntary sworn statement) was that \$400 cash was paid to Keith Thorpe and Jeffrey Rowe for work they did on the campaign. McKinzie believed the CTR to be accurate because he put the information about the payment on the CTR. Once again, this appeared to be a misunderstanding of the pertinent campaign finance laws as it relates to accurate accounting. The State cannot show any intentional actions to hide money nor reason behind paying cash as opposed to check because ultimately the information was accurately stated on the CTR.

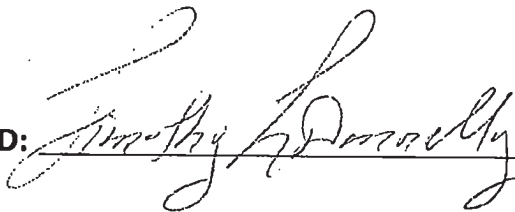
The third criminal allegation dealt with McKinzie failing to properly document debit card expenditures including seven (7) gas station purchases totaling approximately \$1,200. This allegation revolved around gas cards purchased using campaign funds. The investigation was to see if McKinzie utilized these cards after the campaign (which would be illegal) and to determine why gas cards were purchased in the first place. The Undersigned was unable to show any sort of malfeasance in regards to McKinzie using campaign funds related to the gas cards for his own personal use. Rather, information was procured that show that McKinzie utilized these gas cards to compensate campaign workers. According to his sworn statement, he gave the cards to a campaign worker, Helen Hinton, to distribute to other campaign workers as compensation for canvassing purposes. The issue here is that receipts were not kept in regards to the purchases of the gift cards. Once again, it appears that sloppy accounting not in accordance with the CTR laws in that the receipts were not provided to OIG. The rationale behind the purchase of the cards, as well as the usage of them lends itself to a reasonable hypothesis of innocence in regards to this allegation. Once again, this appeared to be a misunderstanding of the pertinent campaign finance laws as it relates to accurate accounting. According to information gathered, the gas cards appear to be used for legitimate campaign purposes in that the workers utilized the cards to perform their duties. The State cannot show any intentional actions to hide money nor reason behind paying workers with gift cards as opposed to check because ultimately the information was accurately stated on the CTR. The State cannot show any tangible misuse of any of these funds.

The fourth criminal allegation dealt with funds being kept in regards to a FPL post-campaign refund. On December 4, 2014 McKinzie established an account with FPL to have electricity at his campaign office. On May 5, 2015 FPL issued a check to McKinzie for \$194.58 to refund a credit to his account as of April 18, 2015 which was the last day of service. A copy of

the check shows it was endorsed and cashed on June 26, 2015. This money, according to procured records, was never put back into the retitled office account and this amount was not documented on the Amended Termination Report filed on August 31, 2015. According to McKinzie, as he stated in the sworn statement given to the Undersigned, FPL refunded the money to him and he received the check but because the campaign was over by the time he received the check, he did not know what to do with the money. He stated that he still is in possession of the money and he was trying to figure out what to do with the money. His rationale behind not reporting the money and not knowing what to do with it goes part and parcel with many other allegations in this investigation.

It is abundantly clear from this investigation that the accounting and money handled for this campaign was not done so in accordance with the mandated requirements, but the State would be hard pressed to prove any of this was done intentionally or with any nefarious intent. Between the sworn statement, the thorough investigation by OIG and the paperwork itself, it appears that the accounting done was slipshod and led to multiple inaccuracies on the CTR's. However, based upon the available evidence coupled with McKinzie's explanation, any criminal prosecution would be tenuous at best given a reasonable hypothesis of innocence as it relates to the CTR's and the sloppy accounting. While McKinzie did sign the CTR's to attest to their accuracies, his understating of the rules, as well as McKinzie and Smith's record keeping, lend itself to careless accounting as opposed to intentional criminal conduct. As such, SP16-08-079 is hereby closed and will be referred back to OIG and/or the Election Commission for any administrative issues.

**APPROVED:**



**DATE:**

10-23-2018