

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JULIE TOWBIN, through her mother and
next friend, Debbie Hammer,

Plaintiff,

Case No.: 9:12cv80069

v.

MICHAEL F. McAULIFFE, in his official
capacity as State Attorney for the Fifteenth
Judicial Circuit in and for Palm Beach County,
Florida; TIM HOLLADAY, JOSE LUIS
RODRIGUEZ, ALIA S. FARAJ-JOHNSON,
G. GREGORY KING, E. LEON JACOBS, JR.
and BRIAN M. SEYMOUR, in their official
capacities as Commissioners of the Florida
Elections Commission,

Defendants.

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

This is an action for declaratory and injunctive relief. Plaintiff Julie Towbin is under the age of eighteen and unemancipated.¹ Plaintiff is expressly precluded from making a contribution in excess of \$100 to any candidate for state or local office, or to any political committee supporting one or more candidates under penalty of imprisonment, or fine, pursuant to Fla. Stat. § 106.08(1)(b)(2) (2011). This prohibition is a violation of Plaintiff's rights under the First Amendment to the United States Constitution. Plaintiff seeks declaratory and injunctive relief.

¹ Plaintiff waives the privacy protection afforded to her by Fed.R.Civ.P. 5.2(a). See Fed.R.Civ.P. 5.2(h).

JURISDICTION AND VENUE

1. Plaintiff's claim arises under the Constitution and laws of the United States. This Court has jurisdiction over the claim pursuant to 28 U.S.C. §§ 1331, 1343(a), and has authority to grant declaratory and injunctive relief under 28 U.S.C. § 2201-2202 and Fed.R.Civ.P. 57 and 65. The federal rights asserted by Plaintiff are enforceable under 42 U.S.C. § 1983.

2. Venue is proper in this Court under 28 U.S.C. § 1391(e) as Plaintiff resides in Palm Beach County, Florida, within the Southern District of Florida, Palm Beach Division and her Constitutional rights are being deprived in Palm Beach County. In addition, Defendants McAuliffe, Rodriguez, and Seymour reside in the Southern District of Florida.

PARTIES

3. Plaintiff is a seventeen year old citizen of the United States and resident of Palm Beach County, Florida. She brings this action through her mother and next friend, Debbie Hammer.

4. Defendant Michael F. McAuliffe is the State Attorney for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida. As the State Attorney, Defendant McAuliffe is expressly vested with the duty to investigate and prosecute violations of state law, including election laws that occur in Palm Beach County, pursuant to Fla. Stat. §§ 27.02 and 106.25(6). Defendant McAuliffe is sued in his official capacity for prospective injunctive and declaratory relief.

5. Defendants Tim Holladay, Jose Luis Rodriguez, Alia S. Faraj-Johnson, Gregory King, E. Leon Jacobs, Jr. and Brian M. Seymour are duly appointed members of the Florida Elections Commission (“FEC Defendants”). Pursuant to Fla. Stat. § 106.25, the Florida Elections Commission is expressly vested with the authority to investigate and determine campaign finance violations. The FEC Defendants are sued in their official capacity only for prospective injunctive and declaratory relief. The FEC Defendants regularly investigate and administratively prosecute violations of § 106.08, and the Commission has done so for more than 30 years.

FACTS

6. Julie Towbin is currently 17 years old and will turn 18 in September 2012. She is not emancipated and resides with her parents in their home. Plaintiff is in her senior year of high school, is registered to vote and intends to vote in the November 2012 local, state and national elections.

7. During the spring semester of Ms. Towbin’s junior year of high school (in 2011), she was appointed to the House Page program in Washington D.C. The House Page program paid Ms. Towbin more than \$7,000 for the time she spent working on the floor of the House of Representatives and in the halls of the Capital. Ms. Towbin saved most of this money and deposited it in her own bank account in Palm Beach County.

8. Ms. Towbin’s father is a co-signer on her bank account because she is too young to have a bank account solely in her name; however, this money belongs

solely to Ms. Towbin and neither of her parents has ever attempted to access Ms. Towbin's money from this account.

9. Ms. Towbin is active in local politics and in 2011 was invited to attend a local political event organized by the Palm Beach County Democratic Executive Committee ("PBCDEC"). The ticket price for the event was \$150 and Ms. Towbin was told by the organizers that that the purchase of a ticket constituted a contribution to the PBCDEC. Curious about contribution limits, Ms. Towbin researched Florida law to see if she was restricted in any way. She found Fla. Stat. § 106.08(1)(b)(2) and was concerned that it applied to the contribution to the PBCDEC. She called the Florida Elections Commission to ask about the statute and was told that there were criminal and civil penalties for violating the statute. She also talked with a couple of people she knew from the PBCDEC who suggested that she contact the ACLU about the contribution restrictions on her ability to purchase a ticket given the concern that she could be in violation of the statute if she purchased the ticket. Ms. Towbin wanted to go to the event and was willing and able to purchase a ticket with her own money; however, since she was under 18 and unemancipated, Ms. Towbin believed that if she bought the ticket she would be knowingly violating state law.²

² In fact, Ms. Towbin could have purchased the ticket without running afoul of the challenged statute. *See* Fla. Stat. § 106.011(2)(b) (a county executive committee of a political party is not considered a political committee for purposes of Chapter 106). However, her intended political contributions, described *infra*, would violate the statute.

10. Consequently, Ms. Towbin did not purchase a ticket and did not attend this political event in Palm Beach County. Ms. Towbin was sincerely afraid that if she purchased the ticket she would be criminally prosecuted, or fined, for violating Fla. Stat. § 106.08(1)(b)(2).

11. Since 2012 is an election year, Ms. Towbin continues with her intention of contributing more than \$100 to the campaign account of a local candidate, or candidates, of her choice, including a local school board candidate.

12. Ms. Towbin has not contributed to any candidate's campaign, as she is sincerely afraid that if she contributes in excess of \$100 to a candidate, she will be criminally prosecuted, or fined, for knowingly violating Fla. Stat. § 106.08(1)(b)(2). But for the statute, Ms. Towbin would contribute more than \$100 to a Palm Beach County School Board candidate.

13. Once Ms. Towbin became aware of the existence and direct impact of Fla. Stat. § 106.08(1)(b)(2) on her intentions to make political contributions in 2012, she wrote to Susan Bucher, Palm Beach County Supervisor of Elections,³ to determine if the statute was still in force and if her proposed political contribution(s) would put her at risk of prosecution, or fine. Her correspondence to Supervisor Bucher is attached as Exhibit A.

14. Supervisor Bucher, responded in writing to Ms. Towbin and attached a copy of Fla. Stat. § 106.08(1)(b)(2). The Supervisor confirmed that "current law prohibits contributions to political committees from a person under the age of 18

³ Supervisor Bucher has not been named as a defendant because she has no enforcement responsibilities with regard to the challenged statute.

exceeding \$100.00.” The correspondence from Supervisor Bucher is attached as Exhibit B.

15. Ms. Towbin also wrote to Palm Beach County State Attorney, Defendant Michael F. McAuliffe, to determine if Fla. Stat. § 106.08(1)(b)(2) was still in force and if her proposed political contributions would put her at risk of prosecution, or fine. Her correspondence to Defendant McAuliffe is attached as Exhibit C.

16. Defendant McAuliffe responded in writing, sending Ms. Towbin a copy of the challenged statute. Defendant McAuliffe refused to provide her with an “advisory opinion.” The correspondence from Defendant McAuliffe is attached as Exhibit D.

17. Ms. Towbin also wrote to the FEC Defendants to determine if the challenged statute was still in force and whether her proposed political contributions would put her at risk of criminal prosecution, or fine. Her correspondence to the FEC Defendants is attached as Exhibit E.

18. The FEC Defendants, through their legal counsel, declined to provide Ms. Towbin with any advice or opinion. The correspondence from the FEC Defendants is also attached as Exhibit E.

19. Ms. Towbin also wrote to the Florida Attorney General to determine if the challenged statute was still in force and whether her proposed political contributions would put her at risk of criminal prosecution, or fine. Her correspondence to the Attorney General is attached as Exhibit F.

20. The Attorney General forwarded Ms. Towbin's letter to the Department of State which responded affirmatively that Fla. Stat. § 106.08(1)(b)(2) "remains applicable for contributions to candidates or political committees from unemancipated children." The correspondence from the Department of State is attached as Exhibit G.

21. The Department of State further informed Ms. Towbin that there were "criminal penalties for violation" of § 106.08(1)(b)(2) and directed her to Fla. Stat. §§ 106.08(7) and (8) for those penalties. *See* Exhibit G.

22. All Defendants and Supervisor Bucher were provided with the opportunity to expressly advise Ms. Towbin that they would not enforce Fla. Stat. § 106.08(1)(b)(2) if she made a political contribution in excess of \$100, as a minor. None were willing to advise or assure Ms. Towbin that she would not be prosecuted or fined for violating this statute.

23. The Department of State expressly informed Ms. Towbin that the statute would apply to her contributions and that there were criminal penalties for violation of the statute. *See* Exhibit G.

24. Any person possessing information of an alleged violation by Ms. Towbin of this provision may file a sworn complaint against her with the FEC Defendants. Fla. Stat. § 106.25(2). A sworn complaint will automatically trigger an investigation and probable cause determination against Ms. Towbin. *Id.* If probable cause is found, it may lead to a hearing before the FEC Defendants, or a referral to

Defendant McAuliffe, for further investigation and potential criminal prosecution.
Fla. Stat. §§ 106.25(4), (6).

25. Ms. Towbin has a definite, and serious, desire and intention to contribute in excess of \$100 to a political committee and/or candidates of her choice in 2012. She reasonably fears that if she contributes more than \$100 to any political candidate, or committee, in violation of Fla. Stat. § 106.08(1)(b)(2), she will be prosecuted, or threatened with prosecution, that could result in criminal penalties, including imprisonment, or administrative fines. Any one of these would seriously jeopardize Ms. Towbin's future educational and employment opportunities.

26. Consequently, as a direct result of the statute's applicability to Ms. Towbin's planned contributions, she has not made such contributions and is continuing to refrain from making such contributions pending the outcome of this litigation.

27. At all times material to this action, Defendants were acting under color of state law.

28. Ms. Towbin has no adequate remedy at law because the denial of Plaintiff's constitutional rights cannot be remedied through legal relief.

29. Unless Fla. Stat. § 106.08(1)(b)(2) is declared unconstitutional by the Court, and its enforcement is enjoined, Plaintiff will continue to be deprived of her First Amendment right to make contributions in excess of \$100 to political candidates or committees.

CAUSE OF ACTION

30. Fla. Stat. § 106.08(1)(b)(2) is unconstitutional on its face and as applied to Plaintiff, in violation of her rights under the First and Fourteenth Amendments to the U.S. Constitution. This violation may be redressed pursuant to 42 U.S.C. § 1983.

REQUEST FOR RELIEF

Wherefore, Plaintiff respectfully requests the following relief:

- a. A declaration that Fla. Stat. § 106.08 (1)(b)(2) is unconstitutional on its face as a matter of law;
- b. A declaration that Fla. Stat. § 106.08 (1)(b)(2) is unconstitutional as applied to Plaintiff;
- c. A preliminary and permanent injunction enjoining Defendants from enforcing Fla. Stat. § 106.08 (1)(b)(2);
- d. An award to Plaintiff of her costs, litigation expenses and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- e. Such other and further relief as this Court deems appropriate.

Respectfully submitted,

/s Randall C. Marshall

Randall C. Marshall (Fla. Bar No. 181765)
ACLU Foundation of Florida, Inc.
4500 Biscayne Blvd., Suite 340
Miami, FL 33137
Tel: (786) 363-2700
Fax: (786) 363-3108
rmarshall@aclufl.org

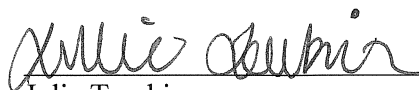
James K. Green (Fla. Bar No. 229466)
James K. Green, P.A.
Suite 1650, Esperanté
222 Lakeview Ave.
West Palm Beach, FL 33401
Tel: (561) 659-2029
Fax: (561) 655-1357
jameskgreen@bellsouth.net

Cooperating Attorney for the American Civil
Liberties Union Foundation of Florida, Inc.

Attorneys for Plaintiff Julie Towbin

PLAINTIFF'S VERIFICATION OF FACTUAL ALLEGATIONS

I declare under penalty of perjury that the foregoing factual allegations are true and correct. Executed in Palm Beach County, Florida this 25 day of January, 2012.


Julie Towbin

PLAINTIFF'S
EXHIBIT A

Pre-Reg Dem

JULIE TOWBIN

23028 Old Inlet Bridge Drive
Boca Raton, Florida 33433
SUPERVISOR OF ELECTIONS

Phone: 561-674-2906
E-mail: julietowbin@aol.com

2011 OCT -6 PM 12: 25
PALM BEACH COUNTY, FL

Susan Bucher
Palm Beach County Supervisor of Elections
P.O. Box 22309
West Palm Beach, FL 33416-2309

10/4/2011

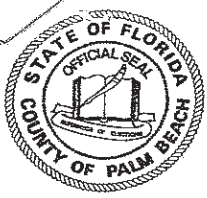
Dear Ms.Bucher,

My name is Julie Towbin. I am 17 years old, but will turn 18 before the November 2012 elections. I live with my parents in Palm Beach County. I am active in local politics and was recently invited to attend a local political event. The ticket price for the event was \$150. I have earned money from several jobs and I have saved this money in my own personal bank account. When I went to purchase the ticket I was told by the organizers that the ticket purchase constitutes a contribution to our local political committee. I was also told that since I was under 18, if I bought the ticket, I would be contributing more than \$100 to the local political committee in violation of a Florida Statute. I think it was Section 106.08(1)(b)(2). I was unable to attend this political event because I was afraid that if I purchased the ticket I could get in trouble for violating this law.

Since this is an election year, I want to contribute more than a hundred dollars to a particular candidate for school board. However, I am now very concerned that if I do so, I may be prosecuted for violating the law. Can you tell me if Section 106.08(1)(b)(2) is still a valid law and, if it is, whether, as a 17 year old, my proposed contribution of more than a hundred dollars to the candidate of my choice could put me at any risk of criminal prosecution, or a fine?

Thank you for your time and your prompt response,
Julie Towbin

**PLAINTIFF'S
EXHIBIT B**



Palm Beach County

240 SOUTH MILITARY TRAIL
WEST PALM BEACH, FL 33416
POST OFFICE BOX 22309
WEST PALM BEACH, FL 33416

SUSAN BUCHER
Supervisor of Elections

TELEPHONE: (561) 656-6200
FAX NUMBER: (561) 656-6287
WEBSITE: www.pbcelections.org

October 7, 2011

Ms. Julie Towbin
23028 Old Inlet Bridge Drive
Boca Raton, FL 33433

Dear Ms. Towbin:

I am in receipt of your letter regarding contributions to political committees.

It is admirable that you are a pre-registered voter and you have already begun to participate in your community.

I am sorry to inform you that you are correct, current law prohibits contributions to political committees from a person under the age of 18 exceeding \$100.00. I have attached a copy of the law for your information.

I would suggest that you go back to the political committee and explain your difficulty. Many organizations allow for discounted event tickets in order to accommodate individuals like you. Additionally, there are many other ways to show your support. I am certain any organization would be excited to have someone with your enthusiasm working with them.

If I may provide you with any additional information, please do not hesitate to contact me again.

Sincerely,

A handwritten signature in cursive script that reads "Susan Bucher".

Susan Bucher

Attachment

Select Year:

The 2011 Florida Statutes

Title IX
ELECTORS AND ELECTIONS

Chapter 106
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.08 Contributions; limitations on.—

(1)(a) Except for political parties or affiliated party committees, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of \$500 to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection, an unemancipated child under the age of 18 years of age may not make a contribution in excess of \$100 to any candidate or to any political committee supporting one or more candidates.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the primary election and general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election.

(2)(a) A candidate may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, which contributions in the aggregate exceed \$50,000.

(b) A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of the political party, or affiliated party committees, which contributions in the aggregate exceed \$250,000. Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits of paragraph (a) or this paragraph. Any item not expressly identified in this paragraph as nonallocable is a contribution in an amount equal to the fair market value of the item and must be counted as allocable toward the contribution limits of paragraph (a) or this paragraph. Nonallocable, in-kind contributions must be reported by the candidate under s. 106.07 and by the political party or affiliated party committee under s. 106.29.

(3)(a) Any contribution received by a candidate with opposition in an election or by the campaign treasurer or a deputy campaign treasurer of such a candidate on the day of that election or less than 5 days prior to the day of that election must be returned by him or her to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

PLAINTIFF'S
EXHIBIT C

JULIE TOWBIN

23028 Old Inlet Bridge Drive
Boca Raton, Florida 33433

Phone: 561-674-2906
E-mail: julietowbin@aol.com

Michael F. McAuliffe
State Attorney
401 North Dixie Highway
West Palm Beach, Florida 33401

Dear Mr.McAuliffe:

My name is Julie Towbin. I am 17 years old, but will turn 18 before the November 2012 elections. I live with my parents in Palm Beach County. I am active in local politics and was recently invited to attend a local political event. The ticket price for the event was \$150. I have earned money from several jobs and I have saved this money in my own personal bank account. When I went to purchase the ticket I was told by the organizers that the ticket purchase constitutes a contribution to our local political committee. I was also told that since I was under 18, if I bought the ticket, I would be contributing more than \$100 to the local political committee in violation of a Florida Statute. I think it was Section 106.08(1)(b) (2). I was unable to attend this political event because I was afraid that if I purchased the ticket I could get in trouble for violating this law.

Since this is an election year, I want to contribute more than a hundred dollars to a particular candidate for school board. However, I am now very concerned that if I do so, I may be prosecuted for violating the law. Can you tell me if Section 106.08(1)(b)(2) is still a valid law and, if it is, whether, as a 17 year old, my proposed contribution of more than a hundred dollars to the candidate of my choice could put me at any risk of criminal prosecution, or a fine?

Thank you for your time and your prompt response,
Julie Towbin

PLAINTIFF'S
EXHIBIT D



OFFICE OF THE STATE ATTORNEY

FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY

MICHAEL F. McAULIFFE
STATE ATTORNEY



October 18, 2011

Ms. Julie Towbin
23028 Old Inlet Bridge Drive
Boca Raton, FL 33433

Dear Ms. Towbin:

This letter is to acknowledge receipt of your correspondence dated October 4, 2011, regarding F.S. 106.08(1)(b)(2) (limits to campaign contributions). I have attached the current statute for your review. I hope the language of the statute provides some direction.

Our office does not issue advisory opinions. Instead, your inquiries and requests for legal opinions should be directed to the Attorney General's Office in Tallahassee.

Regardless, there are ways to support candidates of your choice other than financial contributions. Until your eighteenth birthday, you may wish to pursue other avenues of support.

Thank you for taking the time to communicate with this office.

Sincerely,


Michael F. McAuliffe
State Attorney

Fifteenth Judicial Circuit in and for
Palm Beach County, Florida

Select Year:

The 2011 Florida Statutes

[Title IX](#)
ELECTORS AND ELECTIONS

[Chapter 106](#)
CAMPAIGN FINANCING

[View Entire Chapter](#)

106.08 Contributions; limitations on.—

¹(1)(a) Except for political parties or affiliated party committees, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of \$500 to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection, an unemancipated child under the age of 18 years of age may not make a contribution in excess of \$100 to any candidate or to any political committee supporting one or more candidates.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the primary election and general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. [106.011\(15\)](#). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election.

¹(2)(a) A candidate may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, which contributions in the aggregate exceed \$50,000.

(b) A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of the political party, or affiliated party committees, which contributions in the aggregate exceed \$250,000. Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits of paragraph (a) or this paragraph. Any item not expressly identified in this paragraph as nonallocable is a contribution in an amount equal to the fair market value of the item and must be counted as allocable toward the contribution limits of paragraph (a) or this paragraph. Nonallocable, in-kind contributions must be reported by the candidate under s. [106.07](#) and by the political party or affiliated party committee under s. [106.29](#).

(3)(a) Any contribution received by a candidate with opposition in an election or by the campaign treasurer or a deputy campaign treasurer of such a candidate on the day of that election or less than 5 days prior to the day of that election must be returned by him or her to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(b) Except as otherwise provided in ²paragraph (c), any contribution received by a candidate or by

the campaign treasurer or a deputy campaign treasurer of a candidate after the date at which the candidate withdraws his or her candidacy, or after the date the candidate is defeated, becomes unopposed, or is elected to office must be returned to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

¹(4) Any contribution received by the chair, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than 5 days prior to the day of that election may not be obligated or expended by the committee until after the date of the election.

¹(5)(a) A person may not make any contribution through or in the name of another, directly or indirectly, in any election.

(b) Candidates, political committees, affiliated party committees, and political parties may not solicit contributions from any religious, charitable, civic, or other causes or organizations established primarily for the public good.

(c) Candidates, political committees, affiliated party committees, and political parties may not make contributions, in exchange for political support, to any religious, charitable, civic, or other cause or organization established primarily for the public good. It is not a violation of this paragraph for:

1. A candidate, political committee, affiliated party committee, or political party executive committee to make gifts of money in lieu of flowers in memory of a deceased person;
2. A candidate to continue membership in, or make regular donations from personal or business funds to, religious, political party, affiliated party committee, civic, or charitable groups of which the candidate is a member or to which the candidate has been a regular donor for more than 6 months; or
3. A candidate to purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, affiliated party committee, or charitable groups.

¹(6)(a) A political party or affiliated party committee may not accept any contribution that has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. Funds contributed to an affiliated party committee shall not be deemed as designated for the partial or exclusive use of a leader as defined in s. 103.092.

(b)1. A political party or affiliated party committee may not accept any in-kind contribution that fails to provide a direct benefit to the political party or affiliated party committee. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party or affiliated party committee.

2.a. An in-kind contribution to a state political party may be accepted only by the chairperson of the state political party or by the chairperson's designee or designees whose names are on file with the division in a form acceptable to the division prior to the date of the written notice required in sub-subparagraph b. An in-kind contribution to a county political party may be accepted only by the chairperson of the county political party or by the county chairperson's designee or designees whose names are on file with the supervisor of elections of the respective county prior to the date of the written notice required in sub-subparagraph b. An in-kind contribution to an affiliated party committee may be accepted only by the leader of the affiliated party committee as defined in s. 103.092 or by the leader's designee or designees whose names are on file with the division in a form acceptable to the division prior to the date of the written notice required in sub-subparagraph b.

b. A person making an in-kind contribution to a state or county political party or affiliated party

committee must provide prior written notice of the contribution to a person described in sub-subparagraph a. The prior written notice must be signed and dated and may be provided by an electronic or facsimile message. However, prior written notice is not required for an in-kind contribution that consists of food and beverage in an aggregate amount not exceeding \$1,500 which is consumed at a single sitting or event if such in-kind contribution is accepted in advance by a person specified in sub-subparagraph a.

c. A person described in sub-subparagraph a. may accept an in-kind contribution requiring prior written notice only in a writing that is dated before the in-kind contribution is made. Failure to obtain the required written acceptance of an in-kind contribution to a state or county political party or affiliated party committee constitutes a refusal of the contribution.

d. A copy of each prior written acceptance required under sub-subparagraph c. must be filed at the time the regular reports of contributions and expenditures required under s. 106.29 are filed by the state executive committee, county executive committee, and affiliated party committee. A state executive committee and an affiliated party committee must file with the division. A county executive committee must file with the county's supervisor of elections.

e. An in-kind contribution may not be given to a state or county political party or affiliated party committee unless the in-kind contribution is made as provided in this subparagraph.

¹(7)(a) Any person who knowingly and willfully makes or accepts no more than one contribution in violation of subsection (1) or subsection (5), or any person who knowingly and willfully fails or refuses to return any contribution as required in subsection (3), commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, committee of continuous existence, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$1,000 and not more than \$10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political party, affiliated party committee, political committee, committee of continuous existence, electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who knowingly and willfully makes or accepts two or more contributions in violation of subsection (1) or subsection (5) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, committee of continuous existence, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$10,000 and not more than \$50,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political committee, committee of continuous existence, political party, affiliated party committee, or electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or

participates in a violation of any provision punishable under this paragraph commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(8) Except when otherwise provided in subsection (7), any person who knowingly and willfully violates any provision of this section shall, in addition to any other penalty prescribed by this chapter, pay to the state a sum equal to twice the amount contributed in violation of this chapter. Each campaign treasurer shall pay all amounts contributed in violation of this section to the state for deposit in the General Revenue Fund.

(9) This section does not apply to the transfer of funds between a primary campaign depository and a savings account or certificate of deposit or to any interest earned on such account or certificate.

(10) Contributions to a political committee or committee of continuous existence may be received by an affiliated organization and transferred to the bank account of the political committee or committee of continuous existence via check written from the affiliated organization if such contributions are specifically identified as intended to be contributed to the political committee or committee of continuous existence. All contributions received in this manner shall be reported pursuant to s. [106.07](#) by the political committee or committee of continuous existence as having been made by the original contributor.

History.—s. 8, ch. 73-128; s. 6, ch. 74-200; s. 1, ch. 77-174; s. 48, ch. 77-175; s. 1, ch. 78-403; s. 9, ch. 79-365; s. 5, ch. 79-378; s. 7, ch. 85-226; s. 4, ch. 86-134; s. 12, ch. 89-256; ss. 33, 46, ch. 90-315; s. 9, ch. 90-338; s. 11, ch. 91-107; s. 642, ch. 95-147; s. 3, ch. 97-13; s. 8, ch. 99-355; s. 27, ch. 2002-17; s. 3, ch. 2002-197; s. 1, ch. 2002-281; s. 68, ch. 2005-277; s. 46, ch. 2005-278; s. 25, ch. 2005-286; s. 1, ch. 2005-360; s. 9, ch. 2006-300; s. 44, ch. 2007-30; s. 26, ch. 2010-167; ss. 14, 30, ch. 2011-6; s. 62, ch. 2011-40; HJR 7105, 2011 Regular Session.

¹**Note.**—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

²**Note.**—Repealed by s. 62, ch. 2011-40.

PLAINTIFF'S
EXHIBIT E

-----Original Message-----

From: Eric Lipman [mailto:Eric.Lipman@myfloridalegal.com]
Sent: Tuesday, October 04, 2011 8:20 PM
To: julie towbin
Subject: Re: Letter to Eric Lipman

Hi Ms. Towbin,

Thank you for your email.

Unfortunately, our office is not able to provide legal advice or "opinions" to members of the public.

You may want to try speaking with someone at the Palm Beach County Supervisor of Elections office (561) 656-6200 or the Division of Elections (850) 245-6240 about your question.

Eric M. Lipman
General Counsel
Florida Elections Commission
(850) 922-4539

From: "julie towbin" <julietowbin@aol.com>
To: <eric.lipman@myfloridalegal.com>
Date: 10/04/2011 06:47 AM
Subject: Letter to Eric Lipman

Dear Mr. Lipman,
My name is Julie Towbin. I am 17 years old, but will turn 18 before the November 2012 elections. I live with my parents in Palm Beach County. I am active in local politics and was recently invited to attend a local political event. The ticket price for the event was \$150. I have earned money from several jobs and I have saved this money in my own personal bank account. When I went to purchase the ticket I was told by the organizers that the ticket purchase constitutes a contribution to our local political committee. I was also told that since I was under 18, if I bought the ticket, I would be contributing more than \$100 to the local political committee in violation of a Florida Statute. I think it was Section 106.08 (1)(b)(2). I was unable to attend this political event because I was afraid that if I purchased the ticket I could get in trouble for violating this law.

Since this is an election year, I want to contribute more than a hundred dollars to a particular candidate for school board. However, I am now very concerned that if I do so, I may be prosecuted for violating the law. Can you tell me if Section 106.08(1)(b)(2) is still a valid law and, if it is, whether, as a 17 year old, my proposed contribution of more than a hundred dollars to the candidate of my choice could put me at any risk of criminal prosecution, or a fine?

Thank you for your time and your prompt response, Julie Towbin

Please note that Florida has a broad public records law, and that all correspondence to me via email may be subject to disclosure.

PLAINTIFF'S
EXHIBIT F

JULIE TOWBIN

23028 Old Inlet Bridge Drive
Boca Raton, Florida 33433

Phone: 561-674-2906
E-mail: julietowbin@aol.com

Pam Bondi
Attorney General
The Capitol PL-01
Tallahassee, FL
32399-1050

Dear Ms.Bondi,

My name is Julie Towbin. I am 17 years old, but will turn 18 before the November 2012 elections. I live with my parents in Palm Beach County. I am active in local politics and was recently invited to attend a local political event. The ticket price for the event was \$150. I have earned money from several jobs and I have saved this money in my own personal bank account. When I went to purchase the ticket I was told by the organizers that the ticket purchase constitutes a contribution to our local political committee. I was also told that since I was under 18, if I bought the ticket, I would be contributing more than \$100 to the local political committee in violation of a Florida Statute. I think it was Section 106.08(1)(b)(2). I was unable to attend this political event because I was afraid that if I purchased the ticket I could get in trouble for violating this law.

Since this is an election year. I want to contribute more than a hundred dollars to a particular candidate for school board. However, I am no very concerned that if I do so, I may be prosecuted for violating the law. Can you tell me if Section 106.08 (1)(b)(2) is still a valid law and, if it is, whether, as a 17 year old, my proposed contribution of more than a hundred dollars to the candidate of my choice could put me at any risk of criminal prosecution, or a fine?

Thank you for your time and your prompt response,

Julie Towbin

PLAINTIFF'S
EXHIBIT G

Dear Ms. Towbin:

The Attorney General forwarded your request for an opinion about the applicability of s. 106.08(1)(b)2., Florida Statutes, to the Department of State. That particular section of law remains applicable for contributions to candidates or political committees from unemancipated children. It reads:

Notwithstanding the limits provided in this subsection, an unemancipated child under the age of 18 years of age may not make a contribution in excess of \$100 to any candidate or to any political committee supporting one or more candidates.

The criminal penalties for violation of that provision are contained in subsections (7) and (8) of s. 106.08, Florida Statutes, which you may find at: http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0106/Sections/0106.08.html.

In your letter to the Attorney General, you state you will turn 18 before the November 2012 elections. Upon turning age 18, you may make contributions up to the limit of \$500, per election, to any candidate or any political committee supporting or opposing candidates, as set forth in s. 106.08, Florida Statutes.

I trust you find this reply responsive to your request to the Attorney General.

Sincerely,

Gary J. Holland
Assistant General Counsel
Florida Department of State
R.A. Gray Building, 500 S. Bronough Street
Tallahassee, FL 32399-0250
Phone: 850-245-6536
Fax: 850-245-6127

Note: This response is provided for reference only and does not constitute a formal legal opinion or representation from the Department of State or the Division of Elections. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult an attorney to represent their interests before drawing any legal conclusions or relying upon the information provided.

Florida has a very broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, this email and any that you sent that generated this response may be subject to public disclosure.

The Department of State is leading the commemoration of Florida's 500th anniversary in 2013. For more information, please go to www.fl500.com.

Secretary of State Kurt Browning is committed to maintaining a high level of service in all areas of the Department of State. If you have feedback on your service, please take the department's Customer Satisfaction Survey. Thank you in advance for your participation.

[DOS Customer Satisfaction Survey](#)