

OFFICE OF THE STATE ATTORNEY

SEVENTH JUDICIAL CIRCUIT OF FLORIDA
VOLUSIA, FLAGLER, PUTNAM & ST. JOHNS COUNTIES

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SUMMARY STATEMENT

The Florida Election laws strike a balance between creating a fair and transparent election process while encouraging citizens to support candidates and campaign for political office. Local political parties and candidates typically consist of people interested in serving their communities and being involved with the political process, but who are not Election Law professionals.

The County Supervisor of Elections, the Florida Division of Elections, and the Florida Elections Commission provide guidance and voluntary training opportunities to candidates and campaign workers. These Agencies and Institutions work with those involved in the political process to avoid violating the election law statutes. Filing deadlines are sometimes missed and the reports are sometimes inadvertently inaccurate or incomplete. These mistakes or misunderstandings can be amended or if the subject matter is more serious it can be referred to the Florida Elections Commission where a fine can be levied when appropriate.

Where there is criminal intent to violate the election laws criminal prosecutions are appropriate. Transparent elections are critical to the integrity of the election process. Elections laws must ensure transparency and also encourage support for and participation of candidates in elections for public office. While election laws are there to propagate fair and transparent elections, questionable allegations of misconduct are sometimes used to benefit one political candidate over another. Thus, allegations of election law violations must be thoroughly and diligently investigated in fairness to the candidates and all the citizens of the 7th Circuit.

Substantial resources were committed by the State Attorneys Office and our partners to address allegations of wrongdoing regarding the Waverly principals. More specifically, in the Waverly investigation a total of 65 individuals were interviewed, some several times, for a total of 85 personal interviews. A total of 186 typed investigative reports were completed and there is a total of over 15,000 pages of investigative documents. Two State Attorney Investigators worked on the Waverly investigation full time with the FDLE, FBI, and the U. S. Attorneys Office until the case was closed. Three of our prosecutors also worked with the investigators during the pendency of the investigation.

There are those who intentionally violate Florida Election laws for personal gain or advantage. This is sometimes accomplished by individuals who seek to contribute in excess of the statutory maximums. This may be accomplished in several ways. First, contributors may funnel excess contributions to straw-men who in turn provide the contributions to the candidate. Second, contributors may inflate the value of their in kind contributions which is sometimes called "puffing" or "stuffing". Our investigation revealed that Mr. Sotolongo engaged in both practices during the 2012 election cycle. Our investigation did not reveal that any of the candidates who received excessive or inflated contributions were aware of the criminal violations.

Due to the ongoing simultaneous federal investigation of Sotolongo, Garrett, and Musslewhite, some aspects of the Election law violations were forced to be delayed. This was done to avoid compromising the mortgage/bank fraud, real estate and tax violation investigations. Not surprisingly, these investigations shared some of the same witnesses and suspects.

The federal law violations involved millions of dollars over a significant time period and carry a much greater penalty upon conviction than the State election Law violations. In the interests of justice and judicial economy it was agreed that the prosecution of the federal and State allegations would be pursued in stages, with our partners in the United States Attorney's Office going first with the crimes containing the greatest possible criminal sanctions. Consequently, Indictments and convictions were obtained for Mr. Sotolongo and subordinates who are now scheduled to be sentenced in Federal court this September.

The investigation with our partners at the United States Attorney's Office and the Federal Bureau of Investigation successfully dismantled a significant criminal enterprise operating within our community. The frauds, thefts, and elections law violations were identified, investigated and prosecuted preventing further criminal activity. Jim Brown who was the main participant with Mr. Sotolongo in the election law

violations, was charged by this office in state court, entered a plea, was sentenced. Brown then cooperated with the investigations. His cooperation and the information he provided gives us an insider's view of how Sotolongo and his subordinates manipulated and violated State and Federal laws. Mr. Brown was gravely ill and has since passed away. Mr. Sotolongo and others face significant prison time in Federal Court for the mortgage/bank fraud convictions obtained there earlier this summer. The alleged tax law violations are still pending.

Sotolongo and his subordinates inserted themselves within our community and within many formal and informal political, banking and real estate groups. They established and used media companies, bus bench advertising companies, real estate companies, real estate title companies and others to circumvent Florida Election Laws. While Mr. Sotolongo and subordinates "puffed and stuffed" their way through elections there is no credible evidence that any candidates were knowing participants in the unlawful contributions scam. The investigation did not reveal any knowing acceptance of unlawful contributions by candidates or their treasurers, or any wrongful official conduct taken by a candidate as a result of a real or imagined contribution.

The genesis of the State investigation grew from irregularities and inconsistencies noted by Volusia County Supervisor of Elections. Supervisor Ann McFall noticed questionable entries in reports of in kind and monetary contributions given to candidates. Her observations led to the investigation, prosecution and plea by Jim Brown. Sotolongo's criminal enterprise did not keep accurate records, but investigation revealed that their activities included; excessive campaign contributions via straw-men contributors; sham in-kind bus bench advertisements to unsuspecting candidates; billing of candidates for non-existent bus bench advertisements; sham political party contributions aimed at specific candidates; bank/mortgage fraud, failure to pay bed taxes, and failure to account for revenue owed local governments under the bus bench contracts.

The good news for our community is that our investigation did not reveal any compelling evidence of intentional unlawful violations of the Election laws or quid pro quo actions taken by candidates in complicity with Mr. Sotolongo and his subordinates. Candidates were often lied to or given misleading information, or left in the dark about Mr. Sotolongo's campaign activities. In fact it appears some candidates paid for bus bench campaign ads they did not receive while other candidates favored by Mr. Sotolongo received bus campaign ads that were listed as in kind contributions from fictitious or unknowing donors. In both instances the actual candidates believed they

were complying with Election laws, were receiving what they had purchased, or that the in kind donations as given were lawful.

We have attached to this report the thousands of documents, interviews and records obtained during the investigation. Some information will remain confidentially held by our federal partners as part of the federal Grand Jury that was conducted during the investigation. Mr. Sotolongo and some of his subordinates currently await sentencing in Federal Court.

In this case the efforts of the candidates and political parties to lawfully comply with the Election law reporting requirements helped lead this investigation to uncover and reveal the unlawful conduct of Mr. Sotolongo and subordinates. Other candidates have amended reports when advised of the errors and still others have been advised of technical or inadvertent mistakes. The tax case still proceeds pending completion of that portion of the investigation. The election law portion is concluded. No law can be crafted which will prevent some individuals from unlawful attempts to circumvent and manipulate Florida Elections Laws.

Ultimately, it is critical that the balance between lawful, fair, transparent elections and personal freedoms to participate in those elections be maintained.