



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
(850) 922-4539**

May 20, 2016

Ben Kuehne, Esquire
Law Offices of Ben Kuhne PA
Miami Towers, Suite 3550
100 SE 2nd Street
Miami, FL 33131-2154

RE: Case No.: FEC 11-087; Respondent: Myron J. Rosner

Dear Mr. Kuehne:

The Florida Elections Commission at its last regularly scheduled meeting reviewed and voted to approve the Consent Order agreed to by Respondent and Commission staff.

I have enclosed for your records a copy the Consent Order signed by the Chairman. The Commission appreciates your cooperation and now considers this case closed.

I would also like to add my appreciation for the cooperative manner in which this case was resolved. Please let me know if you have any questions or if I can be of any further assistance.

Sincerely,

/s/ Donna Ann Malphurs

Agency Clerk

/enr

Enclosure: Consent Order

cc: Stephanie Kienzle, Complainant

16 MAY 20 PM 2:10

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Agency Case No. FEC 11-087
F.O. No. FOPEC 16-082W**

**Myron Rosner,
Respondent.**

CONSENT ORDER

Respondent, Myron Rosner, and the Florida Elections Commission (Commission) agree that this Consent Order resolves all of the issues between the parties in this case. The parties jointly stipulate to the following facts, conclusions of law, and order.

FINDINGS OF FACT

1. On January 31, 2014, the staff of the Commission issued a Staff Recommendation, recommending to the Commission that there was probable cause to believe that Respondent violated Chapter 106, Florida Statutes.

2. On December 4, 2015, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

Count 1:

During his 2011 campaign for Mayor of the City of Miami Beach, Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting a contribution in excess of the limits prescribed by Section 106.08, Florida Statutes, when he accepted an in-kind contribution

of at least \$6,352.48 from Martin Outdoor Media for political advertisements on bus benches.

Count 2:

On or about April 15, 2011, Respondent violated Section 106.07(5), Florida Statutes, when he certified that his amended 2011 G2 Report was true, correct, and complete when it was not.

Count 3:

On or about May 23, 2011, Respondent violated Section 106.07(5), Florida Statutes, when he certified that his amended 2011 G2 Report was true, correct, and complete when it was not.

Count 4:

On or about June 9, 2011, Respondent violated Section 106.07(5), Florida Statutes, when he certified that his amended 2011 G2 Report was true, correct, and complete when it was not.

Count 5:

On or about April 15, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information required by Chapter 106, Florida Statutes.

Count 6:

On or about May 23, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information required by Chapter 106, Florida Statutes.

Count 7:

On or about June 9, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information required by Chapter 106, Florida Statutes.

3. Respondent contested the probable cause finding, but expressed a desire to enter into negotiations directed toward reaching a consent agreement in order to bring this matter to a resolution.
4. Respondent and staff stipulate that if the case went to trial, the Commission staff would be able to present evidence of the following facts:
 - A. Respondent was a candidate for re-election for the office of Mayor of the City of Miami Beach during the 2011 election cycle, and he served as his

own campaign treasurer.

- B. During his campaign, Respondent negotiated a contract with Martin Outdoor Media to provide advertisements for the campaign for \$4,500 for a period of thirty days.
- C. Martin Outdoor Media left Respondent's campaign advertisements up until April 15, 2011, which was a period of more than thirty days.
- D. Respondent filed an amended 2011 G2 Report on April 15, 2011, and certified the report was true, correct, and complete when it was not. Respondent disclosed that he received a \$500 in-kind contribution from Martin Outdoor Media, when in fact, the true value of the benefit as determined by Martin Outdoor Media is \$6,352.48.
- E. Respondent filed a second amended 2011 G2 Report on May 23, 2011, and he certified the report was true, correct, and complete when it was not. Respondent disclosed that he received a \$500 in-kind contribution from Martin Outdoor Media, when in fact, the true value of the benefit as determined by Martin Outdoor Media is \$6,352.48.
- F. Respondent filed a third amended 2011 G2 Report on June 9, 2011, and he certified the report was true, correct, and complete when it was not. Respondent disclosed that he received a \$500 in-kind contribution from Martin Outdoor Media, when in fact, the true value of the benefit as determined by Martin Outdoor Media is \$6,352.48.

CONCLUSIONS OF LAW

- 5. The Commission has jurisdiction over the parties to and subject matter of this cause, pursuant to Section 106.26, Florida Statutes.
- 6. The Commission staff and the Respondent stipulate that although the violations charged in the Order of Probable Cause may not have been knowingly committed, all elements of the violations can be proven by clear and convincing evidence.

ORDER

- 7. Respondent and the staff of the Commission have entered into this Consent Order voluntarily and upon advice of counsel.
- 8. Respondent shall bear his own attorney's fees and costs that are in any way

associated with this case.

9. The Commission will consider the Consent Order at its next available meeting.
10. Respondent voluntarily waives the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal the Consent Order.
11. This Consent Order is enforceable under Sections 106.265 and 120.69, Florida Statutes. Respondent expressly waives any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida, and Respondent shall be responsible for all fees and costs associated with enforcement.
12. If the Commission does not receive the signed Consent Order and the penalty by **April 15, 2016**, the staff withdraws this offer of settlement and will proceed with the case.
13. Payment of the civil penalty by cashier's check, or money order good for at least 120 days, or attorney trust account check, is a condition precedent to the Commission's consideration of the Consent Order.

PENALTY

WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent has violated the following provisions of Chapter 106, Florida Statutes, and imposes the following fines:

A. Respondent violated Section 106.19(1)(a) Florida Statutes, on one occasion when he accepted an in-kind contribution of at least \$6,352.48 from Martin Outdoor Media as determined by Martin Outdoor Media, in excess of the limits prescribed by Section 106.08, Florida Statutes. Respondent is fined \$1,900 for the violation.

B. Respondent violated Section 106.075 Florida Statutes, on three occasions

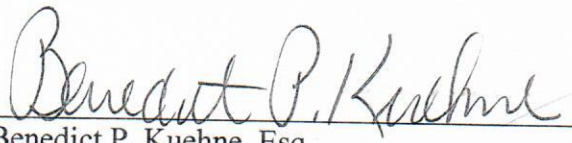
when he certified that his amended 2011 G2 Reports were true, correct, and complete when they were not. Respondent is fined \$100 for each of the three counts for a total of \$300.


C. Respondent violated Section 106.19(1)(c) Florida Statutes, on three occasions for falsely reporting or deliberately failing to include information required by Chapter 106, Florida Statutes, when he filed amended 2011 G2 Reports on April 15, 2011, May 23, 2011, and on June 9, 2011. Respondent is fined \$100 for each of the three counts for a total of \$300.

Therefore it is

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of **\$2,500**, inclusive of fees and costs. The civil penalty shall be paid cashier's check or money order good for at least 120 days, or by attorney trust account check. The civil penalty shall be payable to the Florida Elections Commission, 107 West Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

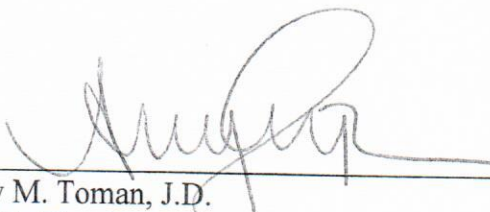
Respondent hereby agrees and consents to the terms of this Consent Order on April 14, 2016.


Benedict P. Kuehne, Esq.
100 SE 2nd Street, Ste. 3550
Miami, FL 33131-2154


Myron Rosner
Exempt pursuant to Chap. 119, F.S.

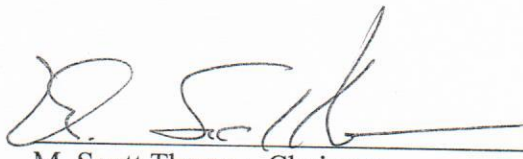
Commission staff hereby agrees and consents to the terms of this Consent Order on

April 15, 2016.



Amy M. Toman, J.D.
Florida Elections Commission
107 West Gaines Street
The Collins Building, Suite 224
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held on
May 18-19, 2016 in Tallahassee, Florida.



M. Scott Thomas, Chairman
Florida Elections Commission

Copies furnished to:
Amy M. Toman, Executive Director
Benedict P. Kuehne, Esq., Respondent's Attorney
Stephanie Kienzle, Complainant

BENEDICT P. KUEHNE, P.A.
IOTA TRUST ACCOUNT
100 SE 2ND STREET STE 3550
MIAMI, FL 33131-2154

SABADELL UNITED BANK
MIAMI, FL
63-964/670

0983

4/14/2016

PAY TO THE ORDER OF Florida Elections Commission

\$ **3,000.00

Three Thousand and 00/100*****

DOLLARS

Florida Elections Commission
107 West Gaines Street, Suite 224,
Tallahassee, FL 32399-1050.

MEMO

FEC 11-087 & FEC 11-089


AUTHORIZED SIGNATURE

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FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
(850) 922-4539

May 20, 2016

Ben Kuehne, Esquire
Law Offices of Ben Kuhne PA
Miami Towers, Suite 3550
100 SE 2nd Street
Miami, FL 33131-2154

RE: Case No.: FEC 11-089; Respondent: Myron J. Rosner

Dear Mr. Kuehne:

The Florida Elections Commission at its last regularly scheduled meeting reviewed and voted to approve the Consent Order agreed to by Respondent and Commission staff.

I have enclosed for your records a copy the Consent Order signed by the Chairman. The Commission appreciates your cooperation and now considers this case closed.

I would also like to add my appreciation for the cooperative manner in which this case was resolved. Please let me know if you have any questions or if I can be of any further assistance.

Sincerely,

/s/ Donna Ann Malphurs

Agency Clerk

/enr

Enclosure: Consent Order

cc: Stephanie Kienzle, Complainant

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**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Agency Case No. FEC 11-089
F.O. No.: FOFEC 16-083W**

**Myron Rosner,
Respondent.**

_____ /

CONSENT ORDER

Respondent Myron Rosner, and the Florida Elections Commission (Commission) agree that this Consent Order resolves all of the issues between the parties in this case. The parties jointly stipulate to the following facts, conclusions of law, and order.

FINDINGS OF FACT

1. On January 31, 2014, the staff of the Commission issued a Staff Recommendation, recommending to the Commission that there was probable cause to believe that Respondent violated Chapter 106, Florida Statutes.
2. On December 4, 2015, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

Count 1:

On or about January 25, 2011, Respondent violated Section 106.11(4), Florida Statutes, when he authorized an expense or signed a check drawn on the primary campaign account without sufficient funds on deposit in the primary depository account.

Count 2:

On or about January 25, 2011, Respondent violated Section 106.19(1)(d), Florida Statutes, when he made or authorized an expenditure in violation of Section 106.11(4), Florida Statutes, or any other expenditure prohibited by Chapter 106, Florida Statutes.

Count 3:

On or about April 1, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information required by Chapter 106, Florida Statutes, when he filed his original 2011 G2 Report.

3. Respondent contested the probable cause finding, but expressed a desire to enter into negotiations directed toward reaching a consent agreement in order to bring this matter to a resolution.

4. Respondent and staff stipulate that if the case went to trial, the Commission staff would be able to present evidence of the following facts:

- A. Respondent was a candidate for re-election for the office of Mayor of the City of Miami Beach during the 2011 election cycle, and he served as his own campaign treasurer.
- B. On January 25, 2011, Respondent negotiated a contract and wrote a check to Martin Outdoor Media to provide bus bench advertisements for Respondent's campaign for \$4,500 for a period of thirty days.
- C. On April 1, 2011, Respondent filed his original 2011 G2 Report and certified the report was true, correct, and complete. However, Respondent failed to disclose the \$4,500 expenditure made to Martin Outdoor Media on January 25, 2011 for his bus bench advertisements.
- D. On January 25, 2011, Respondent authorized a \$4,500 check to Martin Outdoor Media for advertising without having sufficient funds on deposit in his campaign depository. Bank records indicated Respondent only had \$2,781.67 of unencumbered funds available for his campaign.

CONCLUSIONS OF LAW

5. The Commission has jurisdiction over the parties to and subject matter of this cause, pursuant to Section 106.26, Florida Statutes.

6. The Commission staff and the Respondent stipulate that although the violations

charged in the Order of Probable Cause may not have been knowingly committed, all elements of the violations can be proven by clear and convincing evidence.

ORDER

7. Respondent and the staff of the Commission have entered into this Consent Order voluntarily and upon advice of counsel.
8. Respondent shall bear his own attorney's fees and costs that are in any way associated with this case.
9. The Commission will consider the Consent Order at its next available meeting.
10. Respondent voluntarily waives the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal the Consent Order.
11. This Consent Order is enforceable under Sections 106.265 and 120.69, Florida Statutes. Respondent expressly waives any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida, and Respondent shall be responsible for all fees and costs associated with enforcement.
12. If the Commission does not receive the signed Consent Order and the penalty by **April 15, 2016**, the staff withdraws this offer of settlement and will proceed with the case.
13. Payment of the civil penalty by cashier's check, or money order good for at least 120 days, or attorney trust account check, is a condition precedent to the Commission's consideration of the Consent Order.

PENALTY

WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission

finds that the Respondent has violated the following provisions of Chapter 106, Florida Statutes, and imposes the following fines:

A. Respondent violated Section 106.11(4) Florida Statutes, on one occasion when he authorized a \$4,500 expenditure to Martin Outdoor Media without having sufficient funds on deposit in the campaign depository. Respondent is fined \$250 for the violation.

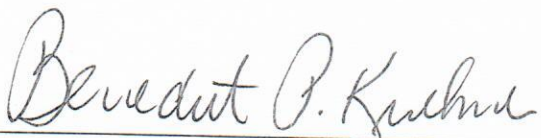
B. Respondent violated Section 106.19(1)(d), Florida Statutes, on one occasion when he authorized an expenditure in violation of Section 106.11(4), Florida Statutes. Respondent is fined \$250 for the violation.

C. The violation alleged in Count 3 above has been addressed in companion case FEC 11-087 and will not be pursued further in this matter. Respondent is fined \$0 for the violation.


Therefore it is

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of **\$500**, inclusive of fees and costs. The civil penalty shall be paid by cashier's check or money order good for at least 120 days, or attorney trust account check. The civil penalty shall be payable to the Florida Elections Commission, 107 West Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

Respondent hereby agrees and consents to the terms of this Consent Order on April 14, 2016.



Benedict P. Kuehne, Esq.
100 SE 2nd Street, Ste. 3550
Miami, FL 33131-2154

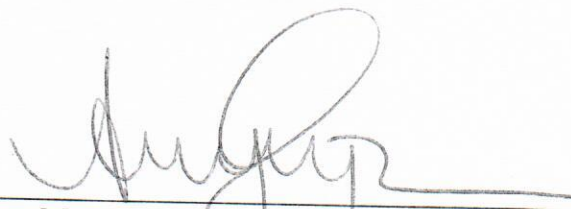


Myron Rosner
Exempt pursuant to Chap. 119, F.S.

Commission staff hereby agrees and consents to the terms of this Consent Order on

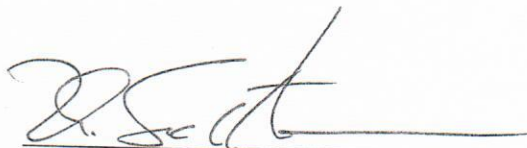
April 15

, 2016.



Amy M. Toman, J.D.
Florida Elections Commission
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The Collins Building, Suite 224
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held on
May 18-19, 2016 in Tallahassee, Florida.



M. Scott Thomas, Chairman
Florida Elections Commission

Copies furnished to:

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Benedict P. Kuehne, Esq, Respondent's Attorney
Stephanie Kienzle, Complainant

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MIAMI, FL 33131-2154

SABADELL UNITED BANK
MIAMI, FL
63-964/670

0983

4/14/2016

PAY TO THE ORDER OF Florida Elections Commission

Three Thousand and 00/100

\$ **3,000.00

DOLLARS

Florida Elections Commission
107 West Gaines Street, Suite 224,
Tallahassee, FL 32399-1050.

MEMO

FEC 11-087 & FEC 11-089

Benedict P. Kuehne
AUTHORIZED SIGNATURE

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