



**FLORIDA ELECTIONS COMMISSION**

**107 W. Gaines Street,  
Suite 224 Collins Building  
Tallahassee, Florida 32399-1050  
Telephone: (850) 922-4539  
Fax: (850) 921-0783**

May 19, 2017

Phyllis Smith  
Steven A. Geller, Esquire  
Greenspoon Marder  
200 East Broward Blvd., Suite 1800  
Ft. Lauderdale, FL 33301

**RE: Case No.: FEC 15-468; Respondent: Phyllis Smith**

Dear Ms. Smith:

The Florida Elections Commission at its last regularly scheduled meeting considered the above referenced case and issued the order that is enclosed. Please read the order carefully.

Please let me know if you have any questions.

Sincerely,

*Donna Ann Malphurs*

Agency Clerk

/dam

Enclosure: Order

cc: Stephanie Kienzle, Complainant w enclosures

FILED  
17 MAY 19 AM 10:13  
STATE OF FLORIDA  
ELECTIONS COMMISSION

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

In Re: Phyllis Smith

Case No.: FEC 15-468

F.O. No.: FOPEC 17-122W

CONSENT FINAL ORDER

Respondent, **Phyllis Smith**, 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 November 4, 2015, the Commission received a complaint alleging that Respondent violated Florida's election laws.
2. Respondent has expressed a desire to enter into negotiations directed toward reaching a consent agreement.
3. Respondent and the staff stipulate to the following facts:
  - a. Respondent was a candidate for the City of North Miami Beach Council, Group 3, in the May 19, 2015 election.
  - b. During her campaign, Respondent certified campaign reports were true, correct, and complete when they were not.

- c. Respondent falsely reported information on campaign reports.

### **CONCLUSIONS OF LAW**

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

5. Section 106.25(4)(i)3., Florida Statutes, allows the Commission to approve a consent agreement with a Respondent prior to the Commission finding probable cause that a violation of the election laws occurred. The consent agreement has the same force and effect as a consent agreement reached after the Commission finds probable cause.

6. The Commission staff and Respondent stipulate that staff could prove all the facts in paragraph three by clear and convincing evidence and to the Commission's ability to impose a civil penalty in the case.

### **ORDER**

7. The Respondent and the staff of the Commission have entered into this Consent Order voluntarily and upon advice of counsel.

8. The parties shall each bear its 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. The Respondent voluntarily waives confidentiality upon approval of the Consent Order by the Commission, the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal the Consent Order.

11. Any factual stipulations made by either party in this matter are for this Consent Order only and shall not be considered as admissions against interest for any other purpose or in any other proceeding.

12. 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.

13. If the Commission does not receive the signed Consent Order by **March 27, 2017**, the staff withdraws this offer of settlement and will proceed with the case.

14. Payment of the civil penalty by cashier's check, 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**

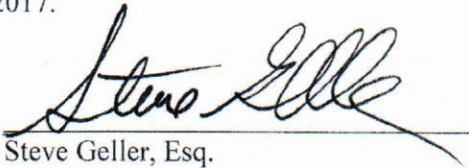
**WHEREFORE**, based upon the foregoing facts and conclusions of law, the Commission finds that Respondent has violated Section 106.07(5), Florida Statutes, and Section 106.19(1)(c), Florida Statutes, and imposes a \$1,400 civil penalty, for the violations. The \$1,400 civil penalty is the complete and full penalty to resolve the issues in this case between the parties.

Therefore it is

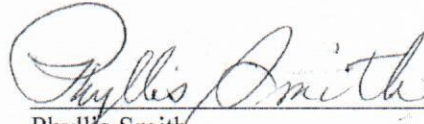
**ORDERED** that the Respondent shall remit to the Commission a civil penalty in the amount of **\$1,400**, inclusive of fees and costs. The civil penalty shall be paid by cashier's check, money order, good for at least 120 days, or attorney trust account check. The civil penalty should be made payable to the Florida Elections Commission and sent to 107 West Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

Respondent hereby agrees and consents to the terms of this Order on March 20,

2017.



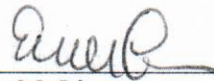
Steve Geller, Esq.  
Geller Law Firm, P.A.  
110 East Broward Boulevard, Suite 1700  
Fort Lauderdale, Florida 33301



Phyllis Smith  
3254 NE 167 Street  
North Miami Beach, Florida 33160

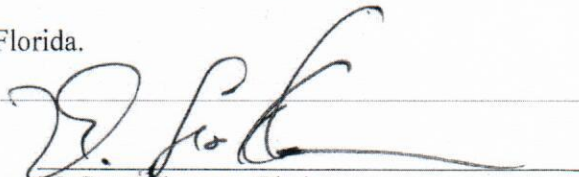
Commission staff hereby agrees and consents to the terms of this Consent Order on

~~March~~ <sup>April</sup> 4, 2017.



Eric M. Lipman  
General Counsel  
Florida Elections Commission  
107 West Gaines Street  
Collins Building, Suite 224  
Tallahassee, Florida 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held  
on May ~~16~~ and 17, 2017, in Tallahassee, Florida.



M. Scott Thomas, Chairman  
Florida Elections Commission

Copies furnished to:  
Eric M. Lipman, General Counsel  
Steve Geller, Attorney for Respondent  
Stephanie Kienzle, Complainant

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

# OFFICIAL CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



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52-0133  
112

RE: PHYLLIS S SMITH

DATE: 03/14/2017

PAY TO THE ORDER OF

FLORIDA ELECTIONS COMMISSION  
One Thousand Four Hundred AND 00/100

\$1,400.00



DRAWER: TD BANK, N.A.



AUTHORIZED SIGNATURE

