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STATE OF FLORIDA
ELECTIONS COMMISSION

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Mary C. Irvin,
Respondent.**

**Agency Case No.: FEC 13-178
F.O. No.: FOFEC 15-018W**

FINAL ORDER

THIS MATTER was heard at an informal hearing held before the Florida Elections Commission ("Commission") on February 24, 2015

APPEARANCES

For Commission	Eric M. Lipman General Counsel 107 West Gaines Street Collins Building, Suite 224 Tallahassee, Florida 32399
For Respondent	No Appearance

STATEMENT OF THE ISSUE

Whether Respondent violated Sections 106.07(1) and 106.07(5), Florida Statutes, as alleged in the Commission's Order of Probable Cause

PRELIMINARY STATEMENT

On May 28, 2013, the Commission received a sworn complaint alleging violations of Florida's election laws. Staff of the Commission conducted an investigation to determine

whether the facts alleged in the complaint constituted probable cause to believe that Respondent violated the Florida Election Code.

On September 5, 2014, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On November 21, 2014, the Commission entered an Order of Probable Cause finding that there was probable cause to charge Respondent with the following violations:

Count 1:

On or about April 26, 2013, Respondent violated Section 106 07(1), Florida Statutes, when she failed to file her 2013 Q1 Campaign Report on the due date; and

Count 2:

On or about May 15, 2013, Respondent violated Section 106 07(5), Florida Statutes, when she certified that her 2013 Q1 Campaign Report was true, correct, and complete when it was not.

Respondent did not timely elect to have a formal administrative hearing before an administrative law judge from the Division of Administrative Hearings and, therefore, the matter was set for an informal hearing before the Commission. At the informal hearing, the Commission adopted the undisputed facts set forth in the Staff's Recommendation as its findings of fact.

FINDINGS OF FACT

1. Respondent was a candidate for the North Miami City Council, District 2, in the May 14, 2013 election. Respondent served as her own treasurer. Respondent's filing officer was Mr. Michael Etienne, the North Miami City Clerk ("City Clerk")

2. Respondent's 2013 Q1 Report was due on April 26, 2013. However, Respondent did not file her report until May 15, 2013, 19 days late.

3. Prior to the 2013 Q1 reporting date, the City Clerk's office reminded Respondent

that her 2013 Q1 Report was due on April 26, 2013. The City Clerk's office provided the reminder by telephone and in person.

4. Additionally, when Respondent failed to timely file her 2013 Q1 Report on the due date, the City Clerk's office notified Respondent by telephone and in person that her report had not received.

5. Section 106.07(4)(a), Florida Statutes, mandates that the following information be disclosed on all reports filed during a campaign:

5. The total sums of all loans, in-kind contributions, and other receipts by or for such committee or candidate during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts

* * * * *

9. The total sum of expenditures made by such committee or candidate during the reporting period.

10. The amount and nature of debts and obligations owed by or to the committee or candidate, which relate to the conduct of any political campaign

6. On the cover page of Respondent's 2013 Q1 Report, Respondent listed that she received \$5,555 in cash and checks during the reporting period. Respondent did not provide any other summary information for the reporting period as required by 106 07(4)(a), Florida Statutes.

7. However, the total amount of the individual contributions that Respondent listed added up to \$5,780. Moreover, records from Respondent's campaign account indicate Respondent made \$5,930 in deposits during the reporting period.

8. Respondent's actions were willful. Respondent knew or should have known that she was required to provide all the summary information for the 2013 Q1 reporting period on the

report cover sheet, and that the summary information should match the amount of individually listed financial transactions on her report.

CONCLUSIONS OF LAW

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

10 Respondent committed 1 count of violating Section 106.07(1), Florida Statutes, when she failed to timely file her 2013 Q1 Report; and committed 1 count of violating Section 106.07(5), Florida Statutes, when she certified her 2013 Q1 Report was true, correct, and complete when it was not.

11 In determining the amount of the civil penalty, the Commission considered the mitigating and aggravating circumstances set forth in Section 106 265, Florida Statutes.

ORDER

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

A. Respondent violated Section 106 07(1), Florida Statutes, on 1 occasion for failing to file timely her 2013 Q1 Report. Respondent is fined \$500 for the violation.

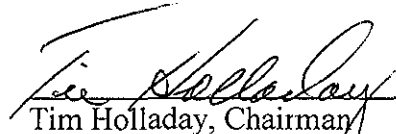
B. Respondent violated Section 106.07(5), Florida Statutes, on 1 occasion for certifying that her 2013 Q1 Report was true, correct, and complete when it was not. Respondent is fined \$500 for the violation

Therefore it is

ORDERED that Respondent shall remit a civil penalty in the amount of \$1,000 inclusive of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, Collins Building, Suite 224, 107 West Gaines Street, Tallahassee, Florida 32399, within 30 days of the

date this Final Order is filed with the Commission and must be paid by money order, cashier's check or attorney trust account check

DONE AND ORDERED by the Florida Elections Commission on February 24, 2015.



Tim Holladay, Chairman
Florida Elections Commission

Copies furnished to:
Eric M Lipman, General Counsel
Mary C. Irvin, Respondent
Stephanie Kienzle, Complainant

NOTICE OF RIGHT TO APPEAL

This order is final agency action. Any party who is adversely affected by this order has the right to seek judicial review pursuant to Section 120.68, Florida Statutes, by filing a notice of administrative appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Florida Elections Commission at 107 West Gaines Street, Suite 224, Collins Building, Tallahassee, Florida 32399-1050 and by filing a copy of the notice of appeal with the appropriate district court of appeal. The party must attach to the notice of appeal a copy of this order and include with the notice of appeal filed with the district court of appeal the applicable filing fees. **The notice of administrative appeal must be filed within 30 days of the date this order is filed with the Commission.** The date this order was filed appears in the upper right-hand corner of the first page of the order.