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STATE OF FLORIDA  
ELECTIONS COMMISSION

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,  
Petitioner,**

v.

**Agency Case No.: FEC 14-091  
F.O. No.: FOFEC 15-121W**

**Jean Rodrigue Marcellus,  
Respondent.**

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**FINAL ORDER**

**THIS MATTER** was heard at an informal hearing held before the Florida Elections Commission (Commission) on May 20, 2015.

**APPEARANCES**

For Commission      Stephanie J. Cunningham  
Assistant General Counsel  
107 West Gaines Street  
Collins Building, Suite 224  
Tallahassee, FL 32399

For Respondent      No Appearance

**STATEMENT OF THE ISSUE**

Whether Respondent violated Sections 106.11(4), and 106 19(1)(d), Florida Statutes, as alleged in the Order of Probable Cause.

**PRELIMINARY STATEMENT**

On March 31, 2014, 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 January 23, 2015, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On February 25, 2015, 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 January 29, 2013, Jean Rodrigue Marcellus violated Section 106.11(4), Florida Statutes, when he signed a check drawn on the primary campaign account without sufficient funds on deposit to pay the full amount of the authorized expense.

**Counts 2-34:**

On or about March 1, 2013, through on or about March 25, 2013, Jean Rodrigue Marcellus violated Section 106.11(4), Florida Statutes, when he authorized expenses and signed checks drawn on the primary campaign account without sufficient funds on deposit to pay the full amount of the authorized expenses.

**Count 35:**

On or about January 29, 2013, Jean Rodrigue Marcellus violated Section 106.19(1)(d), Florida Statutes, when he made an expenditure in violation of Section 106.11(4), Florida Statutes.

**Counts 36-68:**

On or about March 1, 2013, through on or about March 25, 2013, Jean Rodrigue Marcellus violated Section 106.19(1)(d), Florida Statutes, when he made expenditures in violation of Section 106.11(4), Florida Statutes.

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.

The Respondent did not appear at the hearing.

### **FINDINGS OF FACT**

1. Respondent was a 2013 candidate for the office of Mayor for the City of North Miami.

2. Between January 29-31, 2013, and March 1-25, 2013, Respondent authorized expenses and signed checks drawn on the primary campaign account when there were not sufficient funds on deposit to pay the full amount of the authorized expenses on 34 occasions.

3. Between January 29-31, 2013, and March 1-25, 2013, Respondent made expenditures in violation of Section 106.11(4), Florida Statutes, on 34 occasions.

### **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. Respondent's conduct was willful. Respondent committed the acts while knowing that, or showing reckless disregard for whether, the acts were prohibited, or failed to commit an act while knowing that, or showing reckless disregard for whether, the acts were required.

6. Respondent committed 34 counts of violating Section 106.11(4), Florida Statutes, when he authorized expenses and signed checks drawn on the primary campaign account without sufficient funds on deposit to pay the full amount of the authorized expenses.

7. Respondent committed 34 counts of violating Section 106.19(1)(d), Florida Statutes, when he made expenditures in violation of Section 106.11(4), Florida Statutes.

8. 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:

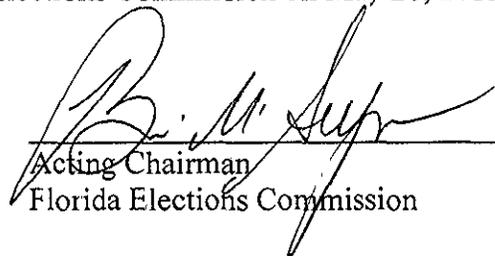
A. Respondent violated Section 106.11(4), Florida Statutes, on 34 occasions. Respondent is fined \$100.00 for each of the 34 counts for a total of \$3,400.00.

B. Respondent violated Section 106.19(1)(d), Florida Statutes, on 34 occasions. Respondent is fined \$100.00 for each of the 34 counts for a total of \$3,400.00.

Therefore it is

**ORDERED** that Respondent shall remit a civil penalty in the amount of \$6,800.00, 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 May 20, 2015

  
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Acting Chairman  
Florida Elections Commission

Copies furnished to:  
Stephanie J. Cunningham, Assistant General Counsel  
Jean Rodrigue Marcellus, Respondent  
Ruth Ogen, 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.