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STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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ELECTIONS COMMISSION

In Re: Andrew Singer

Case No.: FEC 01-253

F.O. No.: DOSFEC 02-074 W

ORDER OF NO PROBABLE CAUSE

THIS CAUSE came on to be heard by the Florida Elections Commission at its regularly scheduled meeting held on May 9 and 10, 2002, in Miami, Florida

After considering the Statement of Findings and the recommendations of counsel, the Commission finds that there is no probable cause to believe that the Respondent violated:


Section 106.143(1), Florida Statutes, failure of a person to mark all political advertisements as a "pd. pol adv." or a "paid political advertisement" and to identify the sponsor;

Section 106.143(4)(a), Florida Statutes, failure of a person to state on a political advertisement by a candidate that the content of the advertisement was approved by the candidate and the identity of the person who paid for the advertisement; and

Section 106.143(5), Florida Statutes, failure of a person in a political advertisement of a candidate who is not the incumbent to use the word "for" between the candidate's name and the office for which the candidate is running

Therefore, it is **ORDERED** that this case is **DISMISSED**.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on May 20, 2002, in Tallahassee, Florida



Susan A. MacManus, Chairman
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 120.68, Florida Statutes, the Respondent may appeal the Commission's final order to the appropriate district court of appeals by filing a notice of appeal both with the Clerk of the Florida Elections Commission and the Clerk of the district court of appeals. The notice must be filed within 30 days of the date this final order was filed with the Clerk of the Commission and must be accompanied by the appropriate filing fee.

Copies furnished to:

Phyllis Hampton, General Counsel
Arthur Razor, Attorney for Respondent
Andrew Singer, Respondent
Charles Grob, Complainant
Hallandale Beach City Clerk, Filing Officer

Attachment: Statement of Findings

FLORIDA ELECTIONS COMMISSION
STATEMENT OF FINDINGS
Case Number: FEC 01-253

Respondent: Andrew Singer

Complainant: Charles Grob

On September 28, 2001, the Florida Elections Commission received a sworn complaint alleging that the Respondent violated Chapter 106, Florida Statutes. The Commission staff investigated the allegations and based on the facts and conclusions of law contained in the Complaint, the Report of Investigation, and this statement, the staff recommends that there is no probable cause to charge the Respondent with violating:

Section 106.143(1), Florida Statutes, failure of a person to mark all political advertisements as a "pd. pol adv." or a "paid political advertisement" and to identify the sponsor;

Section 106.143(4)(a), Florida Statutes, failure of a person to state on a political advertisement by a candidate that the content of the advertisement was approved by the candidate and the identity of the person who paid for the advertisement; and

Section 106.143(5), Florida Statutes, failure of a person in a political advertisement of a candidate who is not the incumbent to use the word "for" between the candidate's name and the office for which the candidate is running.

Summary of Facts and Conclusions of Law

1. Respondent was one of nine candidates for the Hallandale Beach City Commission. Respondent received 49 votes of the 2,457 votes cast and finished eighth in the October 9, 2001 election. Respondent has been a registered voter in Broward County since 1992 and was a first-time candidate.

2. Complainant was also a candidate in the same race. He finished in seventh place with 82 votes. Complainant has been a registered voter in Broward County since 1995 and was a first-time candidate.¹

¹ Complainant was the Respondent in FEC 01-276, and the Respondent was the Complainant in that case. Mr. Grob paid a fine under the Commission's Minor Violations Rules.

3. Respondent was also the Complainant in five other Commission cases.² All six complaints filed by the Respondent concern political disclaimers used by candidates on political advertising

I. Section 106.143(1), (4)(a), & (5), Florida Statutes.

5. Commission staff investigated whether Respondent violated the political disclaimer requirements of Section 106.143, Florida Statutes, when he published political advertisements that were not designated as a "pd. pol. adv." or a "paid political advertisement" and did not identify the sponsor; did not state that the content of the advertisement was approved by the candidate and the identity of the person who paid for the advertisement; and failed to use the word "for" between the candidate's name and the office for which he was running.

6. Complainant included a political advertisement from the Respondent's campaign. The ad is 8½" by 11" and states the following:

Andrew Singer

**FOR HALLANDALE BEACH COMMISSION SEAT (954) 457-7319
Election Day: Tuesday, October 9, 2001**

Dear Registered Hallandale Beach Voter:

As you know, the City of Hallandale Beach will hold a Special Municipal Election on Tuesday, October 9, 2001, to fill one vacant seat on the City Commission. I qualified to run for Hallandale Commissioner. Your vote and your views on the issues are of great importance to me. Only one out of six Hallandale Beach residents votes. I will be honored to enthusiastically represent you.

MY PROPOSALS FOR HALLANDALE BEACH ARE:

1. Reduce crime; I favor longer prison sentences;
2. Increase jobs; bring more business to Hallandale;
3. Increased Aid to the Elderly in Crisis;
4. Education: encourage our students to graduate;
5. Election Reform: Touch-Screen Computer Voting.

Most people know that I rescued many people by pumping out Lakeshore Mobile Home Park when it flooded on June 9, 1999. I removed 7.6 million gallons of contaminated water. My efforts prevented potential injuries to over 100 families and saved their homes. I encourage your participation in this election. You may contact me at the telephone number above to discuss your views.

When you are in the Hallandale Library, please take note of the "Liberty Collection" showcase in the lobby which I prepared to honor our proud heritage as Americans. The exhibit is on display from September 17, through October 17, 2001.

Very truly yours,

(signed)

Andrew Singer
213 SW 3rd Avenue
Hallandale Beach, Florida 33009

pd. pol. adv

² The five other cases are FEC 01-269, FEC 01-270, FEC 01-271, FEC 01-272, and FEC 01-292.

7. Respondent did not submit a written response to the complaint, but he completed and returned a questionnaire affidavit. Respondent enclosed a "corrected" version of the ad with the appropriate disclaimer that stated "'pd. pol. adv.' Paid for by Andrew Singer Campaign, approved by Andrew Singer (no party affiliation)."

8. In a telephone interview with Commission staff, Respondent said that he corrected the ad immediately when the filing officer notified him. The municipal filing officer, Ann Harper, sent a copy of a memo she wrote to the file concerning the lack of an appropriate disclaimer on the ads and the lack of the word "for." The memo is dated September 26, 2001, fourteen days prior to the October 9, 2001 election.

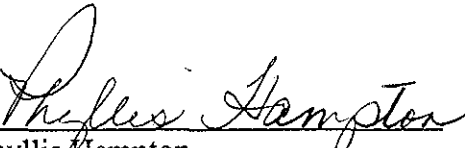
9. Respondent also included copies of two returned envelopes from the mailing. Both were marked "Return to sender/unable to forward," and both were postmarked September 28, 2001. In the upper left hand corner of the front of the envelope is Respondent's return address and a disclaimer: "'pd. pol. adv.' Paid for by Andrew Singer Campaign. Approved by Andrew Singer (No Party Affiliation)."

II. Conclusion.

10. The Division of Elections has not issued a formal opinion on the issue of whether an envelope and the contents of the envelope must both contain political disclaimers when a political advertisement is mailed, according to Connie Evans, Bureau Chief for the Bureau of Elections Records. However, Ms. Evans advises that when bureau staff has asked the Division of Elections legal staff this question, they have been told that only one item must contain the disclaimer. Ms. Evans said that her staff also cautions people making this inquiry, that if the envelope contains the disclaimer and an accompanying flier does not, and the flier is later used by itself, it must contain a correct disclaimer.

11. Under these circumstances, I recommend that the Commission find that the Respondent did not violate Section 106.143, Florida Statutes, since the envelope in which the ad was mailed contained a proper disclaimer.

Respectfully submitted on 3/13/02,


Phyllis Hampton
General Counsel

Copy furnished to:
Barbara M. Linthicum, Executive Director
Faye Basari, Investigator Specialist