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STATE OF FLORIDA
ELECTIONS COMMISSION

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Allen J. Mack,
Respondent.**

**Agency Case No.: FEC 13-091
F.O. No.: FOFEK 15-016W**

FINAL ORDER

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

APPEARANCES

For Commission	Jaakan A. Williams 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 Section 104.011(1), Section 104.011(2), and Section 104.15, Florida Statutes, as alleged in the Order of Probable Cause.

PRELIMINARY STATEMENT

On March 4, 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 June 23, 2014, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On October 28, 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 October 1, 2012, Allen J. Mack violated Section 104.011(1), Florida Statutes, when he submitted a voter registration application in which he affirmed that he was not a convicted felon or, if he was, that his right to vote had been restored; and that he was qualified to register as an elector.

Count 2:

On or about November 2, 2012, Allen J. Mack violated Section 104.011(1), Florida Statutes, when he signed the signature pad of an (EVID), affirming that he was a qualified elector in order to cast a ballot in the November 6, 2012 general election

Count 3:

On or about October 1, 2012, Allen J. Mack violated Section 104.011(2), Florida Statutes, when submitted a voter registration application in which he affirmed that he was not a convicted felon or, if he was, that his right to vote had been restored; and that he was qualified to register as an elector.

Count 4:

On or about November 2, 2012, Allen J. Mack violated Section 104.15, Florida Statutes, when he voted in the November 6, 2012 general election

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.

Respondent did not appear at the informal hearing.

FINDINGS OF FACT

1. Respondent was convicted of a 2nd degree felony offense in 1991 in Putnam County, Florida.

2. On October 1, 2012, Respondent completed and submitted a Florida Voter Registration Application for the 2012 general election. Respondent placed a hand-written "X" mark in the box next to the statement, "I affirm that I am not a convicted felon, or if I am, my right to vote has been restored."

3. On November 2, 2012 while at his polling place, Respondent signed an oath on the EVID affirming that he was a qualified elector in the 2012 election and that he was a registered voter of Putnam County, Florida.

4. Despite being a convicted felon and not having his civil rights restored, Respondent voted in the 2012 general election on November 2, 2012.

5. Upon further investigation, staff determined that Respondent may be illiterate and he also indicated that someone at the voting [precinct] completed the application [for him, he just signed it.]

6. According to the Florida Parole Commission, Office of Executive Clemency's prisoner database, Respondent has not had his civil rights restored, and Respondent does not have an application for clemency currently pending before the Commission.

CONCLUSIONS OF LAW

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

8. Respondent's conduct was not willful. Respondent did not commit 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.

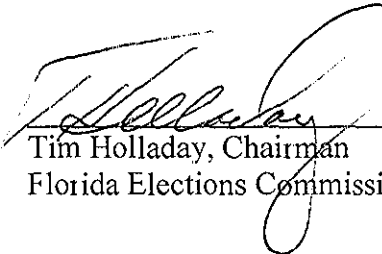
ORDER

The Commission finds that Respondent has not violated Section 104.011(1), Section 104.011(2), and Section 104.15, Florida Statutes, as alleged in the Order of Probable Cause

Therefore it is

ORDERED that this matter is hereby **DISMISSED**.

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



Tim Holladay, Chairman
Florida Elections Commission

Copies furnished to:
Jaakan A. Williams, Assistant General Counsel
Allen J. Mack, Respondent
Putnam County Supervisor of Elections, 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 of 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.