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STATE OF FLORIDA  
ELECTIONS COMMISSION

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**FLORIDA ELECTIONS COMMISSION,  
PETITIONER,**

**V.**

**AGENCY CASE No.: FEC 04-403  
F.O. No.: DOSFEC 06-113 W**

**ROBERT ANDERSON,  
RESPONDENT.**

\_\_\_\_\_ /

**CONSENT FINAL ORDER**

The Respondent, Robert Anderson, 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. The Respondent, Robert Anderson, is a resident of Lehigh Acres Florida. Respondent is politically active and maintains the *Lehigh Acres Watchdog Website*.
2. On October 28, 2005, the staff drafted a Staff Recommendation recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated.
3. On December 2, 2005, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

**Count 1:**

Between August 2004 and December 2004, Respondent violated Section 106.071(1), Florida Statutes, by failing to file timely a report after making an independent expenditure of \$100 or more, when the Respondent received invoices from Byhop, Inc., totaling \$210 for the operation of his web-site.

**Count 2:**

Between August 2004 and December 2004, Respondent violated Section 106.071(2), Florida Statutes, by failing to prominently mark a political advertisement paid for by an independent expenditure with the correct disclaimer, when he published the two-sided flier, *Re-elect Desmond Barrett?* without a disclaimer.

**Count 3:**

Between August 2004 and December 2004, Respondent violated Section 106.071(2), Florida Statutes, by failing to prominently mark a political advertisement paid for by an independent expenditure with the correct disclaimer, when he published the e-mail, *East County Water Control District Supervisor Desmond Barrett* without a disclaimer.

**Count 4:**

Between August 2004 and December 2004, Respondent violated Section 106.071(2), Florida Statutes, by failing to prominently mark a political advertisement paid for by an independent expenditure with the correct disclaimer, when he published *Informing the Citizens of Lehigh Acres* without a disclaimer on his website.

**Count 5:**

Between August 2004 and December 2004, Respondent violated Section 106.071(2), Florida Statutes, by failing to prominently mark a political advertisement paid for by an independent expenditure with the correct disclaimer, when he published *Water Control District Supervisor Desmond Barrett* without a disclaimer, on his website.

4. On December 7, 2005, the Respondent was served by certified mail with a copy of the Order of Probable Cause.
5. The Respondent requested a hearing before the Commission within 30 days of receiving the Order of Probable Cause.
6. The Respondent and the staff stipulate to the following facts:
  - a. Respondent serves as chairman and treasurer of the Lehigh Acres

Watchdog P.A.C. (LAW-PAC), a political committee that registered with the Lee County Supervisor of Elections (LCSOE) office on November 10, 2004. Respondent is the only officer of LAW-PAC. The only other member of the group is Respondent's wife. Respondent has 100% control of, and makes all decisions for, LAW-PAC.

b. Complainant, Desmond Barrett serves on the Lee County Water Control District Board, Seat 3. Complainant successfully ran for re-election on November 2, 2004.

c. Section 106.071(2), Florida Statutes, requires that a political advertisement paid for by an independent expenditure prominently state:

Paid political advertisement paid for by \_\_\_\_ (Name  
and address of person paying for advertisement)  
independently of any (candidate or committee) ."

d. During the last three months of Complainant's re-election campaign, Respondent created, managed, and maintained a web site (<http://client.anderson-consulting.group.com/lawatchdog/index.htm>) that included two web pages, expressly advocating for Complainant's defeat. Respondent first web page was called *Informing the Citizens of Lehigh Acres* and contained the following:

We Strongly Oppose The Re-Election of Desmond Barrett to Seat 3 for the East County Water Control District.

We hope that you will vote on November 2<sup>nd</sup> and help change the future of Lehigh Acres.

e. Respondent's second web page was entitled *Water Control District Supervisor Desmond Barrett* and contained the same statement. Neither web page contained a political disclaimer or indicated that it was a paid political advertisement.

f. Respondent made expenditures in excess of \$100 to operate and maintain

his website. Respondent did not file an independent expenditure report with the filing officer listing his expenditures in connection with his website.

g. Respondent created and circulated a flyer expressly advocating the defeat of Complainant that contained the following:

I Strongly Oppose The Re-Election of Desmond Barrett to Seat 3 for the East County Water Control District. I hope that you will vote on November 2<sup>nd</sup> and help change the future of Lehigh Acres.

Respondent's flyer did not contain a disclaimer including "paid political advertisement."

7. Count 3 of the Order of Probable Cause charged Respondent with failing to include a political disclaimer on a flyer beginning, "East County Water Control Supervisor Desmond Barrett." The parties disagree about whether this document contains express advocacy. Because all other issues in this case, including the amount of the fine, have been resolved, the parties recommend that the Commission dismiss Count 3.

### **CONCLUSIONS OF LAW**

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

9. The Commission staff and the Respondent stipulate that the facts set forth in paragraphs 6 (a-g) constitute willful violations of Sections 106.071(1) and 106.071(2), Florida Statutes, as charged in Counts 1, 2, 4, and 5 of the Order of Probable Cause

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

11. Count 3 of the Order of Probable Cause is hereby dismissed.

12. Respondent shall pay a civil penalty of \$1500. Payment of the civil penalty in certified funds is a condition precedent to the Commission's consideration of the Consent Order.

The Commission must receive full payment of the civil penalty, by certified funds or by a check drawn on an attorney's trust account, at its offices in Tallahassee on or before the close of business on July 17, 2006.

13. If the Commission does not receive the agreed upon civil penalty by July 17, 2006, the Respondent's agrees to the immediate entry of Final Order by the Commission, with a civil penalty of \$4000, including costs and fees.

14. The Respondent voluntarily waives the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to collaterally attack validity or enforceability of this Consent Order, appeal the entry of a Final Order entered in pursuant to paragraph 13 of this Consent Order.

15. A Final Order entered pursuant to paragraph 13 above is enforceable under Sections 106.265 and 120.69, Florida Statutes. If enforcement is necessary, Respondent expressly waives any venue privileges, agrees the Commission may choose the venue, and voluntarily waives the right to challenge the Commission's venue choice. Additionally, if an enforcement action is necessary, Respondent voluntarily waives his right to assert an affirmative defense or otherwise attack a Final Order based upon the terms of this Consent Order or challenge the validity or enforceability of this Consent Order.

16. Respondent shall be responsible for all of the Commission's fees and costs associated with an enforcement action.

17. The Respondent shall bear his own attorney fees and costs that are in any way associated with this case.

18. The Respondent understands that before the Consent Order becomes final agency action, the Commission must approve it at a public meeting. After approval, the Consent Order

constitutes final agency action of the Commission on the violations listed in the Order of Probable Cause.

19. If the Commission does not receive the signed Consent Order by the close of business on May 17, 2006, the staff withdraws this offer of settlement and will proceed with the case.

### **PENALTY**


**WHEREFORE**, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent has violated the following provisions of Chapter 106, Florida Statutes, and imposes the following fines:


A. Respondent has violated Section 106.071(1) Florida Statutes, on one occasion for failing to file an independent expenditure report. Respondent is fined \$450 for this count.

B. Respondent has violated Section 106.071(2), Florida Statutes, on three occasions for failing to place a proper political disclaimer including "paid political advertisement" on three advertisements he paid for as an independent expenditure. Respondent is fined \$350 for each of the three counts for a total of \$1050. Therefore it is

**ORDERED** that the Respondent shall remit to the Commission a civil penalty in the amount of \$1500, inclusive of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

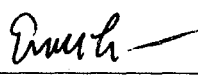
The **Respondent** hereby agrees and consents to the terms of this Order on \_\_\_\_\_, 2006.

  
Darrell Hill  
Perch and Hill, P.A.  
1154 Lee Boulevard, #6  
Lehigh Acres, FL 33936  
(239) 369-6106  
Florida Bar Number 908789

  
Robert Anderson  
PO Box 1178  
Lehigh Acres, FL 33936


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

July 17<sup>th</sup>, 2006.

  
Eric M. Lipman  
Florida Elections Commission  
107 W. Gaines Streets  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050  
(850) 922-4539  
Florida Bar Number 958247

Approved by the Florida Elections Commission at its regularly scheduled meeting held  
on August 17 & 18, 2006 at Tallahassee, Florida and filed with the Clerk of the Commission on

September 1, 2006, in Tallahassee, Florida.

  
Chance Irvine, Chairman  
Florida Elections Commission  
107 W. Gaines Streets  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050

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Copies furnished to:

Eric M. Lipman, Assistant General Counsel  
Darrell R. Hill, Attorney for Respondent