

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

AGENCY CASE No.: FEC 10-014

F.O. No.: FOFEC 11-005W

A. WAYNE WHITAKER,
RESPONDENT.

_____ /

CONSENT FINAL ORDER

The Respondent, A. Wayne Whitaker, 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. On June 29, 2010, the staff of the Commission issued an Amended Staff Recommendation, recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated.

2. On August 23, 2010, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

Count 1:

On or about January 11, 2010, Respondent violated Section 106.143(1)(a), Florida Statutes, when Respondent failed to include the required disclaimer on his business card political advertisement.

3. On August 26, 2010, the Respondent was served with a copy of the Order of Probable Cause.

4. The Respondent and the staff stipulate to the following facts:

a. The Respondent was the incumbent candidate for Mayor of the City of

the case was forwarded over to the Division of Administrative Hearings for a final hearing.

5. The Respondent and the staff stipulate to the following facts:
 - a. The Respondent was the incumbent candidate for Mayor of the City of Pahokee, Florida in the 2010 election.
 - b. On January 18, 2010, the Respondent's campaign distributed business card political advertisements at the City of Pahokee's Dr. Martin Luther King, Jr. celebration.
 - c. The Respondent's business card political advertisements failed to include the proper political disclaimer required by Section 106.143(1)(a), Florida Statutes.

CONCLUSIONS OF LAW

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

7. The Commission staff and the Respondent stipulate that the facts set forth in the Amended Staff Recommendations constitute a reckless disregard of Section 106.143(1)(a), Florida Statutes.

ORDER

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

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

10. The Respondent understands that before the Consent Order becomes final agency action, the Commission must approve it at a public meeting. The Commission will consider the

Consent Order at its next available meeting.

11. The Respondent voluntarily waives the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal the Consent Order.

12. This Consent Order is enforceable under Sections 106.265 and 120.69, Florida Statutes. The Respondent expressly waives any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida, and Respondent shall be responsible for all fees and costs associated with enforcement.

13. If the Commission does not receive the signed Consent Order within 14 days of the date Respondent received this order, the staff withdraws this offer of settlement and will proceed with the case.

14. Payment of the civil penalty is a condition precedent to the Commission's consideration of the Consent Order.

PENALTY

WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent has violated Section 106.143(1)(a), Florida Statutes, for failing to include the proper political disclaimer on business card political advertisements. Respondent is fined \$100.

Therefore it is

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of \$100, inclusive of fees and costs. The civil penalty shall be paid with a money order, cashier's check or attorney trust account check, and make payable to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

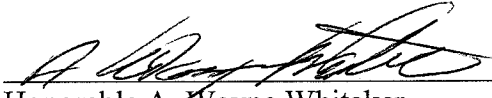
The **Respondent** hereby agrees and consents to the terms of this Order on

12-3-, 2010.

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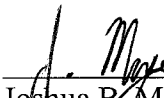
STATE OF FLORIDA
ELECTIONS COMMISSION



Honorable A. Wayne Whitaker
2197 Bacom Point Road
Pahokee, Florida 33476

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


December 8th, 2010.



Joshua B. Moyer
Associate Legal Counsel
Florida Elections Commission
107 W. Gaines Streets
Collins Building, Suite 224
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held

on February 8th, 2011 in Tallahassee, Florida.



Chair
Florida Elections Commission

FEBRUARY 15, 2011

Date

Copies furnished to:
Joshua B. Moyer, Associate Legal Counsel
Honorable A. Wayne Whitaker, Respondent