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**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

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**STATE OF FLORIDA  
ELECTIONS COMMISSION**

**In Re:** Fred Vandergraff

Case No.: FEC 01-194

F.O. No.: DOSFEC 02-136 W  
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**FINAL ORDER**

**THIS CAUSE** came on to be heard at an informal hearing held before the Florida Elections Commission (Commission) on August 15, 2002, in Orlando, Florida.

**APPEARANCES**

For Commission: Eric Lipman  
Assistant General Counsel  
Florida Elections Commission  
107 W. Gaines Street  
Collins Building  
Tallahassee, FL 32399-1050

For Respondent: No Appearance

**STATEMENT OF THE ISSUE**

Whether the Respondent willfully violated: (1) Section 106.021(3), Florida Statutes, for making an expenditure except through the campaign treasurer; (2) Section 106.0, Florida Statutes, for failure to deposit in a campaign depository all funds received within five business days of receipt on 2 occasions; (3) Section 106.07(5), Florida Statutes, by certifying to the correctness of a campaign treasurer's report that was incorrect, false or incomplete on 4 occasions; (4) Section 106.08(3)(a), Florida Statutes, failing in an election with opposition to return any contribution received on the day of the election or less than five days prior to the day of election on 2 occasions; (5) Section 106.12(3), Florida Statutes, spending petty cash in the amount of \$30 or more for unauthorized items; and (6) 106.19(1)(d), Florida Statutes, making or

authorizing an expenditure prohibited by Chapter 106, Florida Statutes.

### **PRELIMINARY STATEMENT**

On August 20, 2001, the Commission received a sworn complaint alleging violations of Florida's election laws. The staff of the Commission conducted an investigation to determine whether the facts alleged in the complaint constituted probable cause to believe that the Respondent violated the following section(s) of Chapter 106, Florida Statutes:

Section 106.021(3), Florida Statutes, prohibiting a candidate from making an expenditure except through the campaign treasurer;

Section 106.05, Florida Statutes, failure of the treasurer to deposit in a campaign depository all funds received by the treasurer within five business days of receipt, on 2 occasions;

Section 106.07(5), Florida Statutes, prohibiting a candidate from certifying to the correctness of a campaign treasurer's report that is incorrect, false or incomplete, on 4 occasions;

Section 106.08(3)(a), Florida Statutes, failure of a candidate with opposition in an election or his campaign treasurer to return any contribution received on the day of the election or less than five days prior to the day of the election, on 2 occasions;

Section 106.12(3), Florida Statutes, prohibiting a person from spending petty cash in the amount of \$30 or more for unauthorized items, on 1 occasion; and

Section 106.19(1)(d), Florida Statutes, prohibiting a person or organization from making or authorizing any expenditure prohibited by this chapter, on 1 occasion.

On January 4, 2002, the staff drafted a Statement of Findings recommending to the Commission that there was probable cause to believe that Chapter 106, Florida Statutes, was violated. On February 1, 2002, the Commission entered an Order of Probable Cause finding that there was probable cause to believe that the Respondent committed one count of violating Section 106.021(3), Florida Statutes; two counts of violating 106.05, Florida Statutes; four counts of violating Section 106.07(5), Florida Statutes; two counts of violating 106.08(3)(a),

Florida Statutes; one count of violating Section 106 12(3), Florida Statutes; and one count of violating Section 106 19(1)(d), Florida Statutes.

The Respondent timely requested an informal hearing and was noticed to appear before the Commission on May 9, 2002. At the informal hearing, the staff presented the undisputed facts contained in the Statement of Findings. The Respondent did not appear at the hearing but submitted medical information from his physician verifying that the Respondent, who is now 75 years of age, suffered a heart attack on February 12, 2000. However, the Respondent did not submit any information regarding his financial situation.

The Commission ordered that the Respondent pay a civil penalty of \$10,099 unless he provided, within 10 days of the date of the order, satisfactory financial information under oath which justifies a reduction in the fine. If the Respondent timely submitted satisfactory financial information under oath regarding his financial status which justifies a reduction in the fine, the Commission agreed to lower the fine to \$1,000. The Respondent timely provided the financial information.

### **FINDINGS OF FACT**

1 Respondent was the incumbent during the November 7, 2000 election for Seat 4 on the Cedar Hammock Fire Control Commission. (The Cedar Hammock Fire Control Commission is a five-member board that oversees three fire stations in Manatee County; each commissioner serves a four-year term.) Benjamin Milks, a first-time candidate, defeated him. Respondent served as a fire control commissioner from 1996 until 2000. He ran unsuccessfully for the Manatee County Commission in 1984, 1986, and 1990.

2. Complainant is Benjamin Milks' mother. Respondent previously submitted two complaints to the Florida Election Commission against Mr. Milks.

3. The Respondent did not dispute the facts contained in the Statement of Findings,

and the Commission accepts the facts.

4. Respondent submitted medical information from his physician verifying that Respondent, who is now 75 years of age, suffered a heart attack on February 12, 2000.

5. Respondent submitted financial information, which justifies a reduction in the fine from \$10,099 to \$1,000.

### CONCLUSIONS OF LAW

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

2. The Respondent committed one count of violating Section 106.021(3), Florida Statutes; two counts of violating 106.05, Florida Statutes; four counts of violating Section 106.07(5), Florida Statutes; two counts of violating 106.08(3)(a), Florida Statutes; one count of violating Section 106.12(3), Florida Statutes; and one count of violating Section 106.19(1)(d), Florida Statutes.

3. The Respondent is an experienced candidate having run for public office on at least 5 occasions. Respondent signed a Statement of Candidate acknowledging that he had read and understood Chapter 106, Florida Statutes.

### ORDER

Based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent committed one count of violating Section 106.021(3), Florida Statutes; two counts of violating 106.05, Florida Statutes; four counts of violating Section 106.07(5), Florida Statutes; two counts of violating 106.08(3)(a), Florida Statutes; one count of violating Section 106.12(3), Florida Statutes; and one count of violating Section 106.19(1)(d), Florida Statutes.

Therefore, it is

**ORDERED** that the Respondent shall remit a civil penalty in the amount of \$1,000. The

civil penalty shall be paid to the Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida 32399-1050, within 30 days of the date this Final Order is received by the Respondent.

**DONE AND ENTERED** by the Florida Elections Commission and filed with the Clerk of the Commission on August 25, 2002, in Tallahassee, Florida.



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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 appeal by filing a notice of appeal both with the Clerk of the Florida Elections Commission and the Clerk of the district court of appeal. The notice must be filed within 30 days of the date this Final Order was filed and must be accompanied by the appropriate filing fee.

Copies furnished to:

Eric M Lipman, Assistant General Counsel  
Fred Vandergraff, Respondent (certified mail)  
Aimee Corigliano, Complainant  
Manatee County Supervisor of Elections, Filing Officer

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