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STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

STATE OF FLORIDA  
ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,  
PETITIONER,

v.

DOAH CASE NOS.: 05-0066

05-0067

05-0068

AGENCY CASE NOS.: FEC 04-047

04-048

04-051

F.O. No.: DOSFEC 05-183

C. DAVID WEED,  
RESPONDENT.

**CONSENT ORDER**

The Respondent, C. David Weed, 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, C. David Weed is the Executive Assistant Public Defender for the Eleventh Judicial Circuit of Florida.
2. On October 29, 2004, the staff drafted a Statement of Findings recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated.
3. On December 3, 2004, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

**Count 1:**

In October 2003, Respondent violated Section 104.31(1)(a),

Florida Statutes, by using his official authority or influence for the purpose of coercing or influencing another person's vote, or affecting the results of an election, when Respondent told Lynn Overmann that he needed her to sign an endorsement card for Mr. Brummer's re-election.

**Count 2:**

In October 2003, Respondent violated Section 104.31(1)(a), Florida Statutes, by using his official authority or influence for the purpose of coercing or influencing another person's vote, or affecting the results of an election, when Respondent attended one of Carol Ferrero's staff meetings, encouraged her staff to put "Re-elect Bennett Brummer" bumper stickers on their cars, and stressed the importance of office employees showing support for Mr. Brummer.

**Count 3:**

In December 2003, Respondent violated Section 104.31(1)(a), Florida Statutes, by using his official authority or influence for the purpose of coercing or influencing another person's vote, or affecting the results of an election, when Respondent came into Lonnie Richardson's office to tell him that he did not have any job security, and that only Bennett Brummer could get the money from the legislature to ensure that 82 attorney positions would not be lost because of revisions to Article V of the Florida Constitution.

**Count 4:**

In November, December 2003, or January 2004, Respondent violated Section 104.31(1)(a), Florida Statutes, by using his official authority or influence for the purpose of coercing or influencing another person's vote, or affecting the results of an election, when Respondent gave Carol Ferrero a stack of endorsement cards and asked her to get the employees in her division to sign the cards.

**Count 5:**

In the fall of 2003, Respondent violated Section 104.31(1)(a), Florida Statutes, by using his official authority or influence for the purpose of coercing or influencing another person's vote, or affecting the results of an election, when Respondent solicited a contribution and an endorsement card from Edward Koch.

**Count 6:**

In the fall of 2003, Respondent violated Section 104.31(1)(a), Florida Statutes, by using his official authority or influence for the purpose of coercing or influencing another person's vote, or affecting the results of an election, when Respondent came into the office of Scott Pettus and asked him to sign an endorsement card.

**Count 7:**

In October 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent told Lynn Overmann that he needed her to sign an endorsement card for Mr. Brummer's re-election.

**Count 8:**

In October 23, 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent attended one of Carol Ferrero's staff meetings, encouraged her staff to put "Re-elect Bennett Brummer" bumper stickers on their cars, and stressed the importance of office employees showing support for Mr. Brummer.

**Count 9:**

In December 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent came into Lonnie Richardson's office to tell him that he did not have any job security, and that only Bennett Brummer could get the money from the legislature to ensure that 82 attorney positions would not be lost because of revisions to Article V of the Florida Constitution.

**Count 10:**

In November, December 2003, or January 2004, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and

display bumper stickers for his re-election campaign when Respondent gave Carol Ferrero a stack of endorsement cards and asked her to get the employees in her division to sign the cards.

**Count 11:**

In the fall of 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent solicited a contribution and an endorsement card from Edward Koch.

**Count 12:**

In the fall of 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent came into the office of Scott Pettus and asked him to sign an endorsement card.

**Count 13:**

In the fall of 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent caused Michael Meliner to ask Anthony Britt to sign an endorsement card.

**Count 14:**

In the fall of 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent caused Stephen Kramer to ask Sabrina Puglisi to sign an endorsement card.

**Count 15:**

In the fall of 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent caused Robert Coppel to ask Justin Rost to sign an endorsement card.

**Count 16:**

In the fall of 2003, Respondent violated Section 104.31(1)(b), Florida Statutes, by directly or indirectly coercing or attempting to coerce, command, or advise employees to pay or contribute money, sign endorsements, and display bumper stickers for his re-election campaign when Respondent caused Robert Aaron to ask Zena Duncan to sign an endorsement card.

**Count 17:**

On or about October 20, 2003, Respondent violated Section 106.15(4), Florida Statutes, by soliciting, or knowingly accepting any political contribution in a building owned by a government entity when Respondent accepted a \$100 cash contribution from Lonnie Richardson in the office.

4. On December 3, 2004, 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 learned during the staff's preliminary investigation and in discovery:

A. Respondent is currently the Executive Assistant Public Defender for the Eleventh Judicial Circuit. He serves as second in command at the Miami-Dade Public Defender's office. He has never been a candidate for public office.

B. The Complainant, Lonnie Richardson is an attorney who was previously employed with the Miami-Dade Public Defender's office. The Complainant, Lynn Overmann is an attorney who was previously employed with the Miami-Dade Public Defender's office. The Complainant, Alexander Rundlet is an attorney who is currently employed with the Miami-Dade Public Defender's office.

C. The endorsement cards are approximately 4" x 6". "RE-ELECT BENNETT H. BRUMMER PUBLIC DEFENDER" is written across the top of the card. The card states, "I endorse the re-election of Bennett H. Brummer as Public Defender in 2004 and authorize him to use my name for that purpose." There are spaces on the card for the reader's name, address, telephone number and the date. The disclaimer at the bottom of the card reads, "Pd. Pol. Adv. By Bennett H. Brummer Campaign.

Approved by Bennett H. Brummer (D).

D. Lynn Overmann was visited in her office by Respondent, who stood in the doorway and requested that she sign an endorsement card for Mr. Brummer's re-election. After she explained that she was momentarily due back in court Respondent left. Ms. Overmann never signed an endorsement card.

E. Mr. Alexander Rundlet, another attorney who was assigned to the county court division, stated that Respondent joined one of their county court staff meetings in September or October of 2003. Mr. Rundlet stated that Respondent informed the group of attorneys that they should put "Re-elect Bennett H. Brummer" bumper stickers on their cars. Respondent also told the group that putting bumper stickers on their cars would show support for Mr. Brummer from the office employees. Mr. Rundlet in deposition acknowledged that Respondent never attempted to sell bumper stickers as originally stated in his Complaint.

F. Ms. Carol Ferrero, when asked about other campaign related activities at the office, stated that in November 2003, Respondent gave her endorsement cards and asked her to get the employees in her county court division to sign the cards.

G. Numerous affidavits were mailed to contributors who were also employed at public defender's office. Six affidavits were returned. None of the contributors indicated that their contribution was given during office hours. According to the contributors, the contributions were mailed or given at a fundraiser. Contributors indicated that they gave to the campaign because they respected and supported Respondent.

H. Scott Pettus, an attorney in the office, indicated that he has worked for the public defender's office since October of 2000 to present. Mr. Pettus stated that Respondent also came by his office and requested that he sign an endorsement card. He stated that he signed the card as requested. He stated he felt Respondent would not leave his office without the signed card.

I. All of the acts alleged in Counts 1 through 17 above occurred prior to an opponent qualifying for the election.

### **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. Upon further discovery of the facts underlying the Order of Probable Cause, the Commission staff believes that it is unable to prove the allegations in Counts 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16.

9. Count 17 was previously dismissed for lack of evidence by the Commission by order dated June 3, 2005.

10. The Commission staff and the Respondent stipulate that although the violations charged in the Order of Probable Cause were not knowingly committed, all elements of the violations in Counts 1, 2, 4, and 6 can be proven by clear and convincing evidence.

11. The Commission staff agrees that it will not recommend that the Commission refer this matter to the State Attorney's Office of the Eleventh Judicial Circuit.

### **ORDER**

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

13. Neither party is responsible for payment of the other party's attorneys' fees or costs associated with this case.

14. 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.

15. 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.

16. The Respondent and the staff of the Commission agree that this Consent Order

and the terms contained herein shall not constitute an admission against interest or acknowledgement of guilt as to any criminal charge that might arise from the allegations that form the basis of the complaints filed by Lonnie Richardson, Lynn Overmann, and Alexander Rundlet against Respondent.

17. 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.

### **PENALTY**

**WHEREFORE**, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent has violated Section 104.31(1)(a) Florida Statutes, on four occasions by using his official authority or influence for the purpose of interfering with an election, interfering with a nomination for office, coercing or influencing another person's vote, or affecting the results of an election by requesting the endorsement card signatures of Scott Pettus and Lynn Overmann, by requesting Carol Ferrero obtain endorsement card signatures, and by requesting that bumper stickers be displayed to show support for Bennett Brummer. Respondent is fined \$500 for each of the four counts for a total of \$2,000.

Therefore it is

**ORDERED** that the Respondent shall remit to the Commission a civil penalty in the amount of \$2,000, 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 Consent Order on



June 22, 2005.



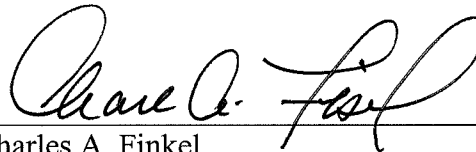
C. David Weed  
1320 NW 14<sup>th</sup> Street  
Miami, Florida 33166



Mark Herron, Esq.  
Albert T. Gimbel, Esq.  
Messer, Caparello & Self, P.A.  
Attorneys for Respondent  
Post Office Box 1876  
Tallahassee, FL 32302

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

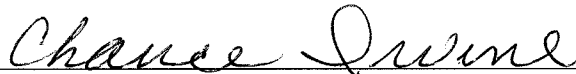
June 23, 2005.



Charles A. Finkel  
General 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 August 18-19, 2005 at Tallahassee, Florida and filed with the Clerk of the Commission on

August 26, 2005, in Tallahassee, Florida.



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

Copies furnished to:

Charles A. Finkel, General Counsel  
C. David Weed, Respondent  
Mark Herron and Albert T. Gimbel, Attorney for Respondent  
Lonnie Richardson, Lynn Overmann and Alexander Rundlet, Complainants  
Miami-Dade County Supervisor of Elections, Filing Officer