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STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

AGENCY CASE No.: FEC 04-218

F.O. No.: DOSFEC 05-186

ROSCOE WARREN,
RESPONDENT.

_____ /

CONSENT ORDER

The Respondent, Roscoe Warren, 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, Roscoe Warren was an incumbent candidate for Mayor of Homestead, Florida in 2003. He was re-elected in the October 7, 2003 primary election, receiving 58.51% of the vote.
2. On February 1, 2005, 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 March 4, 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:

On or about January 5, 2004, Respondent violated Section 106.07(5), by certifying to the correctness of a CTR that was incorrect, false, or incomplete, Florida Statutes, when he incorrectly reported on his Termination Report a \$5,000 expense to

Robert Turner for "Payment to Campaign Workers," when the work was also performed by 46 other temporary workers who were paid in cash by Mr. Turner.

Count 2:

On October 11, 2003, Respondent violated Section 106.11(1), Florida Statutes, by making expenditures from campaign funds other than by a check drawn on the campaign when he paid Robert Turner \$5,000 for "Payment to Campaign Workers," and allowed Mr. Turner to pay 46 temporary workers in cash for services performed on Election Day.

4. On March 7 2005, the Respondent's attorney 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. The Respondent was an incumbent candidate for Mayor of Homestead, Florida in 2003. He was re-elected in the October 7, 2003 primary election, receiving 58.51% of the vote. Respondent had been previously elected mayor in November 2001 after being appointed mayor in February 2001. Respondent appointed himself and served as his own campaign treasurer in both his 2001 and 2003 campaigns. Prior to 2001, Respondent had served on the Homestead city council uninterrupted since December 1, 1981.

B. The Complainant is The Complainant is the advocate for the Commission on Ethics and Public Trust in Miami-Dade County (CEPT). CEPT's website reports that it is an independent agency with advisory and quasi-judicial powers "authorized to investigate complaints and render advisory opinions related to the following County or Municipal Ordinances: Code of Ethics/Conflicts of Interest; Lobbyists Registration and Reporting; Citizen's Bill of Rights; and Ethical Campaign Practices."

C. Respondent's original 2003 termination report reflects the following expenditure:

DATE	FULL NAME, STREET ADDRESS & CITY, STATE, ZIP CODE	PURPOSE (ADD OFFICE SOUGHT IF CONTRIBUTION TO A CANDIDATE)	EXPENDITUR E TYPE	AMOUNT
SEQUENC E NUMBER				
10/7/03	Turner, Robert 6413 Lake Tern Coconut Creek, Florida 33073	Payment to Campaign Workers	MON	\$5,000.00

D. This expenditure reflects Respondent's reporting of the campaign expense check written to Mr. Turner to pay the temporary employees, including himself, who participated in Respondent's campaign to the get out the vote. The original and amended CTR filings for this reporting period failed to provide any additional information or documentation that would identify the individuals who Mr. Turner paid to help get out the vote.

E. Respondent stated that he hired Robert Turner to manage, run and coordinate his get out the vote drive that took place on Election Day, October 7, 2003. Respondent stated that Mr. Turner was to provide the workers that would supply these services to his campaign, and that the Respondent and Mr. Turner agreed that Mr. Turner would do this assignment for the payment of \$5,000. Respondent stated that Mr. Turner was "independently responsible for determining how to supply that service as a campaign function." The Respondent said that he viewed this arrangement with Mr. Turner as if he was hiring a temporary service to provide labor, like a personnel service, and that he viewed this in the same manner he would view the hiring of a company to prepare signs for a campaign.

F. Mr. Turner confirmed that he received a \$5,000 campaign expenditure check from the Respondent, cashed this check against his own personal account, and used the cash to pay a number of individuals who worked for Respondent's get out the vote campaign as poll workers, campaign runners, drivers, or other supervisory or organizational positions.

G. Mr. Turner, who received the \$5,000 check, and Mr. Clayton and Mr. Tanner, who oversaw the operations with Mr. Turner, stated that the temporary employees who worked on the campaign, including themselves, were paid in cash. Over the course of this investigation, no one ever said that they were paid by a check drawn on Respondent's campaign depository, or by some means other than with cash.

H. Section 106.07(4)(a)7, Florida Statutes (2003), states that each report requires, "The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses...has been made and which is not otherwise reported, including the amount, date, and purpose of such expenditure." The 2002 Handbook for Candidates contains the same language on page 33. To permit otherwise would not comply with the primary purpose of the campaign finance law, i.e. full disclosure of where campaign dollars are being spent.

I. Separate checks should have been made payable to Mr. Turner and the 46 temporary employees for the work that was performed on the day of 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. The Commission staff and the Respondent stipulate that all elements of the offenses charged in the Order of Probable Cause can be proven by clear and convincing evidence.

ORDER

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

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

11. 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.

12. 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.

13. 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.

14. If the Commission does not receive the signed Consent Order within 25 days of the date you received this order, 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 106.07(5) Florida Statutes, on one occasion for certifying to the correctness of a campaign treasurer's report that was incorrect, false, or incomplete. Respondent is fined \$500 for Count 1.

B. Respondent has violated Section 106.11(1) Florida Statutes, on one occasion for making expenditures from campaign funds other than by a check drawn on the campaign account when he paid Robert Turner \$5,000 for "Payment to Campaign Workers," and allowed Mr. Turner to pay 46 temporary workers in cash for services performed on Election Day. Respondent is fined \$500 for Count 2.


Therefore it is

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of \$1,000, 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 14, 2005.


Stuart R. Michelson, Esq.
Florida Bar No. 286982
200 SE 13th Street
Fort Lauderdale, Florida 33316

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

June 15, 2005.


Charles A. Finkel
General Counsel
Florida Bar No. 099390
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 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

Roscoe Warren, Respondent

Stuart R. Michelson, Attorney for Respondent

Michael Muraswki, Complainant

City Clerk of Homestead, Florida, Filing Officer