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**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**FLORIDA ELECTIONS COMMISSION,
PETITIONER,**

v.

**DARIN WADE MELLINGER,
RESPONDENT.**

**AGENCY CASE No.: FEC 10-042
F.O. No.: FOFEC 11-007W**

CONSENT FINAL ORDER

The Respondent, Darin Wade Mellinger, 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 September 20, 2010, the staff of the Commission issued a Staff Recommendation, recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated.
2. The Respondent was served by certified mail through his attorney with a copy of the Order of Probable Cause.
3. The Respondent and the staff stipulate to the following facts:
 - a. The Respondent Darin Wade Mellinger, was a candidate for the Delray Beach City Commission in the March 10, 2010, general election.
 - b. During his campaign, Respondent submitted reports of all contributions received and all expenditures made. Respondent's 2010 G1, 2010 G2, and 2010 G3 reports were missing information.
 - c. Respondent maintained a website during his campaign. Respondent's

website did not contain the required political disclaimer and did not contain the word “for” between his name and the office he sought.

CONCLUSIONS OF LAW

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

5. The Commission staff and the Respondent stipulate that all elements of the offenses charged can be proven by the required burden of proof.

ORDER

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

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

8. 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.

9. 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.

10. 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.

11. If the Commission does not receive the signed Consent Order within 20 days of the date Respondent or his attorney received this order, the staff withdraws this offer of

settlement and will proceed with the case.

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

13. Respondent shall remit to the Commission a fine in the amount of \$1750. The fine shall be paid to the Florida Elections Commission, 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida, 32399-1050, as a condition precedent to the Commission's execution of this Consent Order.

PENALTY

WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent did not comply with Sections 106.07(5), 106.143(1)(a), and 106.143(5), Florida Statutes, for which the Respondent shall pay a civil penalty in the form of a fine of \$1750.

It is thereupon

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of \$1750, 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

January 24, 2011.



Steven E. Wallace
1375 Gateway Boulevard
Boynton Beach, Florida 33426



Darin Wade Mellinger
3014 Dunlin Road
Delray Beach, Florida 33444

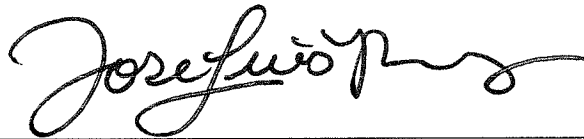
The **Commission staff** hereby agrees and consents to the terms of this Consent Order on

_____, 2011.



Eric M. Lipman
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 February 8 & 9, 2011 in Tallahassee, Florida.



Jose Luis Rodriguez, Vice Chair
Florida Elections Commission

FEBRUARY 15, 2011

Date

Copies furnished to:

Eric M. Lipman, General Counsel
Steven E. Wallace, Attorney for Respondent