

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**IN RE: Robert Affourtit**

Case No.: FEC 98-010  
F.O. No.: DOSFEC 99-112-W

---

**FINAL ORDER**

**THIS CAUSE** came on to be heard at an informal hearing held before the Florida Elections Commission (Commission) on August 25, 1999, in Tampa, Florida.

**APPEARANCES**

For Commission: Michael T. McGuckin  
Assistant General Counsel  
Florida Elections Commission  
Room 2002 The Capitol  
Tallahassee, FL 32399-1050

For Respondent: Robert Affourtit  
11 North Peninsula Drive  
Daytona Beach, FL 32118

**STATEMENT OF THE ISSUES**

Whether the Respondent willfully violated Sections 106.03(1), 106.071(1), 106.071(1), 106.143(2), 106.143(4)(b), 106.144, and 106.19(1)(c), Florida Statutes, when he failed to file a statement of organization within 10 days of becoming a political committee, and when he made an independent expenditure in an amount of \$100 or more, with respect to expressly advocating the support of a clearly identified candidate, and failed to file the required reports and include information that the ad had been paid for independently of the candidate, and when he produced a political advertisement endorsing a candidate, and failed to expressly state whether the candidate's permission was obtained to advertise the endorsement, and when operating

independent of any candidate, he paid for and circulated a political advertisement supporting a candidate that failed to contain a statement that no candidate approved of the political advertisement, and when he produced a political advertisement that endorsed a candidate, while acting on behalf of a group or other organization, and failed to file a substantially complete statement of endorsement with the filing officer within a reasonable time after he published, or otherwise distributed the advertisement, and when he knowingly failed to report information that was required to be reported by Chapter 106, Florida Statutes.

### **PRELIMINARY STATEMENT**

On February 20, 1998, 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 sections of Chapter 106, Florida Statutes:

Section 106.03(1), Florida Statutes, failure of a political committee to file a statement of organization;

Section 106.071(1), Florida Statutes, failure of a person who makes independent expenditures of \$100 or more to file periodic reports of the expenditures;

Section 106.071(1), Florida Statutes, failure of a person to include the proper disclaimer in a political advertisement paid for by an independent expenditure;

Section 106.143(2), Florida Statutes, failure of the political advertisement of a candidate running for partisan office to include his party affiliation on the political advertisement;

Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement to state on the advertisement that no candidate approved the advertisement;

Section 106.144, Florida Statutes, failure of an organization that endorses or opposes a candidate by means of political advertisements to file timely a statement of endorsement or opposition with the filing officer; and

Section 106.19(1)(c), Florida Statutes, prohibiting a person or

organization from falsely reporting or failing to report information required by this chapter.

On January 19, 1999, 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 22, 1999, the Commission entered an Order of Probable Cause finding that there was probable cause to believe that the Respondent violated Sections 106.03(1), 106.071(1), 106.071(1), 106.143(2), 106.143(4)(b), 106.144, and 106.19(1)(c), Florida Statutes. The Respondent timely requested an informal hearing and was noticed to appear before the Commission on August 25, 1999. 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 in lieu of his appearance, submitted a three page written response that the Commission considered in its deliberations.

#### FINDINGS OF FACT

1. The Respondent was the chairman of a group known as "Child Advocates for Buddy MacKay for Governor." The Complainant is a resident of Winter Park, Florida.
2. On or about February 12, 1998, Respondent distributed bumper stickers to persons at the Governor's Children's Summit in Orlando, Florida; more than 1,700 persons attended this conference. The sticker read:

### Kids for Buddy

Pd Pol Adv by Child Advocates for Buddy MacKay for Governor \* Bob Affourtit, Chairman \* Dave Morgan, Treasurer \*  
To Help Call 904-740-0069

3. According to Doug Heyl, campaign manager for Buddy MacKay, these bumper stickers had been distributed at several other political events. Mr. Heyl also stated Respondent was informed by MacKay campaign staff that he was required to register as a political committee, and that Respondent was told the bumper stickers did not comply with Chapter 106,

Florida Statutes, because they did not state that they were not approved by any candidate.

4. On or about November 1, 1998, an additional bumper sticker was found placed for distribution on a card table at an antique store in Havana, Florida. There were two stacks of different bumper stickers with approximately 50 copies in each stack. The second sticker read:

## Buddy's a Veteran, Jeb's Not

Pd Pol Adv by Veterans for Buddy MacKay for Gov 98 Committee \* Bob Affourtit, Chairman \* Dave Morgan, Treasurer  
To Help Call 904-740-0069.

5. Respondent acknowledged to Commission staff that he was responsible for producing and distributing the above referenced bumper stickers. He also told staff his telephone number was (904) 740-0069, the contact number on the bumper stickers.

6. During the investigation, Respondent indicated his familiarity with Florida election law, and he told Commission staff that he did not believe that he had violated any provision of Chapter 106. However, Respondent refused to provide any additional information regarding the bumper stickers.

7. Various print companies in the Volusia County area stated that the cost to print 2,500 bumper stickers similar to the stickers in question was in excess of \$500.

8. Respondent and another person, as defined in Section 106 011, Florida Statutes, spent in excess of \$500 to produce the bumper stickers supporting a candidate for public office.

9. The Division of Elections and the Volusia County Supervisor of Elections informed Commission staff that there is no record of Respondent having filed a statement of organization on behalf of any political committee, as required by Section 106 03(1), Florida Statutes.

10. Respondent made expenditures exceeding \$500, and failed to file a statement of organization for a political committee.

11. Mr. Heyl stated that Buddy MacKay had not approved the above referenced stickers, and that neither Mr. MacKay nor anyone from his campaign had assisted with the production or distribution of Respondent's bumper stickers.

12. The above referenced political advertisement bumper stickers that were in excess of \$100 and produced and distributed independently by Respondent in support of Buddy MacKay were not reported by Respondent, and did not state that they were not approved by any candidate, as required by Section 106.071(1), Florida Statutes.

13. The above referenced political advertisement bumper stickers that were produced and distributed by Respondent in support of Buddy MacKay did not indicate Mr. MacKay's political party affiliation, as required by Section 106.143(2), Florida Statutes.

14. The above referenced political advertisement bumper stickers that were produced and distributed by Respondent in support of Buddy MacKay did not indicate that no candidate had approved the advertisement, as required by Section 106.143(4)(b), Florida Statutes.

15. The Division of Elections and the Volusia County Supervisor of Elections informed Commission staff that there is no record of the groups named on the bumper stickers having filed a statement of independent expenditures, as required by Section 106.071(1), Florida Statutes.

16. Respondent made an independent expenditure that exceeded \$100, and failed to file reports of his independent expenditures.

17. The Division of Elections and the Volusia County Supervisor of Elections informed Commission staff that there is no record of the groups named on the bumper stickers having filed a statement of endorsement, as required by Section 106.144, Florida Statutes.

18. Respondent endorsed a candidate for public office, and failed to file statements

of endorsements with the filing officer within a reasonable time after making his endorsement.

### CONCLUSIONS OF LAW

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

20. The Respondent violated Sections 106.03(1), 106.071(1), 106.071(1), 106.143(2), 106.143(4)(b), 106.144, and 106.19(1)(c), Florida Statutes, when he failed to file statement of organization within 10 days of becoming a political committee, and when he made an independent expenditure in an amount of \$100 or more, with respect to expressly advocating the support of a clearly identified candidate, and failed to file the required reports, and when he made an independent expenditure in an amount of \$100 or more, with respect to expressly advocating the support of a clearly identified candidate, by paying for a political advertisement, that failed to contain information that the ad had been paid for independently of the candidate, and the address of the person paying for the ad, and when he produced a political advertisement endorsing a candidate, that failed to expressly state whether the candidate's permission was obtained to advertise the endorsement, and when he paid for and circulated a political advertisement supporting a candidate that failed to contain a statement that no candidate approved of the political advertisement, while operating independent of any candidate, and when he produced a political advertisement that endorsed a candidate, while acting on behalf of a group or other organization, but failed to file a substantially complete statement of endorsement with the filing officer within a reasonable time after he published, or otherwise distributed the advertisement, and when he knowingly failed to report information that was required by Chapter 106, Florida Statutes, to be reported.

21. Respondent's conduct appears willful. Respondent had been informed by MacKay campaign staff that he was required to register as a political committee and Respondent

failed to do so. Respondent was also informed by MacKay campaign staff that his bumper stickers did not comply with Chapter 106, Florida Statutes, because they did not state that they were not approved by any candidate; despite his apparent familiarity with Chapter 106, Florida Statutes, Respondent took no action.

22. Respondent and another person, as defined in Section 106.011, Florida Statutes, expended in excess of \$500 to produce and distribute Respondent's bumper stickers supporting a candidate for public office. Respondent was required by Section 106.03(1), Florida Statutes, to file a statement of organization within 10 days of becoming a political committee. After Respondent made expenditures exceeding \$500, he failed to file a statement of organization for a political committee within 10 days.

23. The expenditures Respondent made to produce and distribute his bumper stickers exceeded \$100 and were independent expenditures made to expressly advocate the support of a clearly identified candidate. Respondent was required by Section 106.071(1), Florida Statutes, to report these independent expenditures. After Respondent made an independent expenditure that exceeded \$100, he failed to file the required reports of his independent expenditures. Respondent was required by Section 106.071(1), Florida Statutes, to include a proper disclaimer in his political advertisement paid for by an independent expenditure. Respondent failed to include a proper disclaimer in his political advertisement bumper stickers that he paid for them as an independent expenditure.

24. The bumper stickers produced and distributed by Respondent's independent expenditures constituted endorsement of a candidate. Respondent was required by Section 106.144, Florida Statutes, to file statements of endorsements with the filing officer within a reasonable time after making his endorsement. However, after Respondent endorsed his candidate for public office, he failed to file statements of endorsements with the filing officer.

within a reasonable time after making his endorsement

25. After Respondent made expenditures exceeding \$500, he was required by Section 106.03(1), Florida Statutes, to file a statement of organization for a political committee within 10 days. After Respondent made an independent expenditure exceeding \$100 to expressly advocate the support of a clearly identified candidate, Respondent was required by Section 106.071(1), Florida Statutes, to report his independent expenditures. After his endorsement of a candidate by the production and distribution of political advertisement bumper stickers, Respondent was required by Section 106.144, Florida Statutes, to file statements of endorsements with the filing officer within a reasonable time after making his endorsement.

26. By failing to file a statement of organization for a political committee after making expenditures exceeding \$500, and failing to file reports of independent expenditures that exceeded \$100, and failing to file statements of endorsements with the filing officer, Respondent knowingly and willfully violated Section 106.19(1)(c), Florida Statutes.

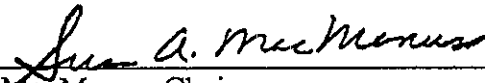
### **ORDER**

Based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent violated Sections 106.03(1), 106.071(1), 106.071(1), 106.143(2), 106.143(4)(b), 106.144, and 106.19(1)(c), Florida Statutes. Therefore, it is

**ORDERED** that the Respondent shall remit a civil penalty in the amount of \$700.00. The civil penalty shall be paid to the Commission, Room 2002, the Capitol, 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 September 7, 1999, in Tallahassee, Florida.

  
\_\_\_\_\_  
Susan A. MacManus, Chairman  
Florida Elections Commission  
Room 2002, The Capitol  
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:

Michael T. McGuckin, Assistant General Counsel  
Bob Affourtit, Respondent (certified mail)  
Barbara Trovillion Rushing, Complainant  
Department of State, Division of Elections, Filing Officer

