

FILED

08 MAY 30 PM 1:26

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

AGENCY CASE No.: FEC 06-129
F.O. No.: DOSFEC 08-054

FLORIDA HOUSE VICTORY, INC.; JEFFREY RYAN,
CHAIRMAN; AND SARA HENNING, TREASURER,
RESPONDENTS.

CONSENT FINAL ORDER

The Respondents, Florida House Victory, Inc. Jeffrey Ryan, Chairman, Sara Henning, Treasurer, 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 Respondents are Florida House Victory, Inc. Jeffrey Ryan, Chairman, and Sara Henning, Treasurer.
2. On July 18, 2007, the staff drafted a Staff Recommendation recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated. On August 23, 2007, the Staff Recommendation was amended nunc pro tunc August 16, 2007, to correct a scrivener's error in Count 6.
3. On August 31, 2007, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondents with the following:

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

One count of violating Section 106.03(2), Florida Statutes, failure of a political committee who filed a statement of organization to include the required information in the statement;

Four counts of violating Section 106.07(5), Florida Statutes, prohibiting a campaign treasurer and a political committee chairman from certifying to the correctness of a campaign treasurer's report that is incorrect, false, or incomplete; and

203 counts of violating Section 106.19(1)(a), Florida Statutes, prohibiting a person or organization from accepting a contribution in excess of the legal limits.

4. On September 4, 2007, the Respondents were served through their attorney with a copy of the Order of Probable Cause.

5. The Respondents requested a Consent Order with the Commission within 30 days of receiving the Order of Probable Cause.

6. The Respondents and the staff stipulate to the following facts:

A. Respondent, Florida House Victory, Inc., filed as a political committee with the Division of Elections (Division) on July 1, 2004. Records from the Division's web site list Respondent, Jeffrey T. Ryan, as the chairman of the political committee and Respondent, Sara Granger (Henning) as treasurer.

B. The Division of Corporations records show Florida House Victory, Inc. as an inactive corporation.

C. The Complainant, Eric Buermann, is an attorney who resides in Miami-Dade County. In 1982, he was admitted to the Florida Bar. In 2000, he was appointed legal counsel for the Republican Party of Florida. He also formerly served as vice-chairman of the Florida Elections Commission for six years.

D. Complainant alleged that Respondents collected contributions and made expenditures prior to filing its statement with the Division on July 1, 2004. Complainant stated, "Between April 17, 2003, when Florida House Victory, Inc. filed incorporation papers and July 1, 2004, when the entity filed as a political committee, the committee received \$132,328 in contributions." Complainant also stated that during the same time period, Respondents made several expenditures.

E. According to records from the Division of Corporation, Florida House Victory, Inc. filed its Articles of Incorporation on April 17, 2003. Jeffrey T. Ryan and Sarah A. Granger were listed as the first Board of

Directors. Jeffrey T. Ryan was listed as the initial registered agent and the incorporator.

F. The purpose for which Florida House Victory was organized (as stated in Article III of the Articles of Incorporation) included:

To promote and work for the improvement of government by identifying and assisting responsible citizens in taking an active and effective role in governmental affairs by running for election and re-election to state and local offices within the State of Florida by providing support to favorable candidates.

To conduct fundraising activities to raise funds for the payment of the expenses of the Corporation and to make contributions to candidate, political committees, committees of continuous existence, and political parties, as authorized by Florida Law.

G. Respondents' campaign treasurer's reports (CTR) confirmed that Respondents accepted contributions and made expenditures in April of 2004. Respondents filed its statement of organization on July 1, 2004 as a political committee supporting statewide issues. Jeffrey Ryan was listed as its chairman. Sara Granger was listed as the treasurer.

H. Respondents did not file a written response to the complaint. When sent an affidavit asking about the delay in filing the statement of organization with the Division, Respondent Jeffrey Ryan stated, "I cannot recall at this time, perhaps in discussing the question with the Treasurer Sara Henning, I can recall."

I. When questioned about the activities that Respondent engaged to support statewide issues, Mr. Ryan responded, "I cannot recall at this time, perhaps in discussing the question with the Treasurer Sara Henning, I can recall." When asked if the corporation and the committee were separate entities, Mr. Ryan stated, "We were following the lead of Senate Victory in this matter, and I don't believe there was any separation of function between the committee and the corporation."

J. When sent an affidavit asking about the delay in filing the statement of organization with the Division, Respondent Sara Henning, treasurer of the committee, responded, "To my recollection, prior to becoming an Issues PC, Florida House Victory, Inc. was registered as a 527 Political Committee. At that time, 527 Political Committees did not report to the Division of Elections. The law was then changed and we were told to change to an Issues Political Committee. In the spirit of disclosure, we opted to report contributions and expenditures from our last quarter as a 527 Political Committee."

K. Section 106.03(1), Florida Statutes (2003), requires that a political committee file a statement of organization within 10 days of anticipating receiving a \$500 contribution or making a \$500 expenditure during a calendar year.

L. Section 106.011(1)(a), Florida Statutes (2003), includes within the definition of political committee, a combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

1. Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, or political party;

2. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;

3. Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or

4. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, or political party.

M. The purpose for which the committee was organized fits the definition of a political committee. Form 8872 filed with IRS shows that on April 17, 2003, Respondents received \$2,500 contribution from Florida PBA Inc. Law & Order PAC and \$2,500 from Florida PBA Inc. PAC CCE.

N. Respondents' form 8872 also shows that Respondents began expending money on April 22, 2003. On April 30, 2003, \$2,500 was expended to Florida Senate Victory, Inc. Recipient's occupation was listed as "Political committee." On May 6, 2003, \$354 was expended for food for caucus meeting.

O. On June 2, 2003, \$1,545 was expended to Jeffrey T. Ryan as salary. Mr. Ryan's occupation was reported as Finance Director for the Florida Democratic Party. On the same date, \$705 was paid to Sarah A. Granger as salary. Ms. Granger's occupation was reported as Deputy Director for the Florida Democratic Party.

P. Respondents' Form 8872 also shows that on June 11, 2003, Respondents contributed \$1,000 to Business for Better Government. The

recipients' occupation was reported as "Political Committee." On June 30, 2003, \$353 was expended to Christopher L. Smith as reimbursement for travel expenses including airfare and car rental.

Q. The complaint was filed with the Florida Elections Commission on May 18, 2006. Complainant provided records showing that Respondents began accepting contributions and making expenditures in April of 2003. Contributions from various entities exceeded \$500. Although the contributions and expenditures occurred beyond the two-year statute of limitations, Respondents should have registered as a political committee and listed the names of the candidates that it was supporting in April 2003.

R. Respondents continued to act as a political committee between May 18, 2004, and July 1, 2004. During that period, Respondents accepted 15 contributions in excess of \$500. Additionally, Respondents made a \$25,000 contribution to the Florida Democratic Party (FDP) on May 28, 2004; a \$50,000 contribution to the FDP on June 8, 2004; a \$33,750 contribution to the FDP on June 21, 2004; and several other expenditures that appeared to be for the purpose of receiving additional contributions for the purpose of making contributions to a candidate, political committee, committee of continuous existence, or political party.

S. By failing to file as a political committee during the period from May 18, 2004 to July 1, 2004, Respondents were operating as an unregistered political committee in violation of Section 106.03(1), Florida Statutes.

T. Complainant alleged that Respondents' statement of organization filed with the Division on July 1, 2004, was incomplete. Complainant stated that Respondents did not disclose its connection to the Florida Democratic Party (FDP). Complainant also alleged that Respondents inaccurately listed "support statewide issues," as its area, scope and jurisdiction.

U. Complainant also alleged that Respondents' articles of incorporation showed that it was organized and controlled by FDP employees and consultants to support candidates. One of the purposes listed in Respondents' Articles of Incorporation include "identifying and assisting responsible citizens ... by running for election and re-election to state and local offices within the State of Florida by providing support to favorable candidates."

V. Complainant also included with the original complaint, copies of Respondents' publications that contained the following disclaimer: "Paid for by the Florida Democratic Party." Respondents did not list support of candidates in the area and scope section of its statement of organization form filed with the Division. Additionally, Respondents did not list any

affiliate organizations on the form.

W. Respondents' CTRs revealed that Respondents made several contributions to the FDP prior to July 1, 2004. However, the reports did not list any contributions from Respondents to candidates.

X. When asked in an affidavit why the FDP was not listed as an "affiliate" organization on Respondents' statement of organization, Chairman Ryan responded, "At the time the entity was established it was not intended to be affiliated with the FDP. To my knowledge there is no definition of what is an afflicted (sic) entity or organization." Mr. Ryan could not recall whether the committee expended any funds to purchase political advertisements that supported statewide issues.

Y. When questioned about whether Respondents made any contributions to candidates, Mr. Ryan stated that they did not. When asked if Respondents published any advertisements in support of candidates, Mr. Ryan attested, "I cannot recall at this time, perhaps in discussing this question with the Treasurer, Sara Henning, I can recall."

Z. When asked about the lack of any affiliated organizations listed on Respondents' statement of organization, Ms. Henning stated, "At the time the entity was established, it was not intended to be affiliated with the Florida Democratic Party. To my knowledge, there is no definition of what is an affiliated entity or organization." Ms. Henning also avowed that to her knowledge Respondents did not make any contributions to candidates or publish any advertisements on behalf of any candidates.

AA. When asked if the committee published any ads supporting "statewide issues," Ms. Henning responded, "The scope and jurisdiction were listed as 'Statewide Issues' in accordance with following the model set forth by Senate Victory." (Florida Senate Victory, Inc. was a political committee, chaired by Joseph Perry. Senate Victory was not listed on Respondents' statement of organization as an affiliated organization.)

BB. Both, Mr. Ryan and Ms. Henning, acknowledged working for the FDP before being named as officers of the committee. According to Division records, Ms. Henning resigned as treasurer in April of 2005. Respondents did not file an amended statement of organization with the Division to show the change in the committee's officers.

CC. Webster's Ninth New College Dictionary defines *affiliated* as "closely associated with another typically in a dependent or subordinate position <the university and its ~ medical school>." Black's Law Dictionary states that *affiliation* "[i]mports less than membership in an organization, but more than sympathy, and a working alliance to bring to fruition the proscribed program of a proscribed organization, as

distinguished from mere co-operation with a proscribed organization in lawful activities, is essential. *Bridges v. Wixon, Cal.*, 326 U.S. 135, 65 S.Ct. 1443, 1447, 89 L.Ed. 2103 (1945).”

DD. Respondents’ IRS Form 8872 shows that as of March 31, 2004, Respondents were paying a salary to Jeffrey Ryan and Sarah Granger at the same time they were employed by the Florida Democratic Party. Respondents continued to pay a salary to Mr. Ryan and Ms. Granger after July 1, 2004.

EE. Additionally, Respondents continued to contribute to the FDP after July 1, 2004, and the FDP continued to pay for flyers announcing House Victory events. (See Exhibit 6 attached to the Report of Investigation.) Furthermore, Respondents deposited numerous checks that were made payable to the Democratic Party into the Florida House Victory, Inc. campaign account and reported those checks as contributions. This relationship creates an “affiliation” as contemplated by this section.¹

FF. Complainant alleged that Respondents did not “promptly and adequately report contributions and expenditures.”

GG. Respondents filed 12 reports and two amended reports with the Division between April 1, 2004 and December 31, 2005. Chairman Ryan and Ms. Henning, the treasurer, certified all the reports except the amended F2, which was filed by diskette and a signed summary page was not on file. Table 1 lists the CTRs that do not agree with bank records.

TABLE 1: COMPARISON OF RESPONDENTS’ CTRs WITH BANK RECORDS			
Date Filed	Reporting Period	Information on CTR	Information from bank
08/16/04	07/24/04 to 08/06/04 2004 F2 Amended	<ul style="list-style-type: none"> • CTR lists a \$25 contribution from James Donelin on 8/6/04. • CTR lists a \$35 contribution from David Henderson on 8/6/04. • CTR lists a \$25 contribution from Claudia Marshall on 8/6/04. • CTR lists a \$100 contribution from Martha Simons on 8/6/04. 	<ul style="list-style-type: none"> • Not found in bank records • Not found in bank records • Not found in bank records. • Not found in bank records.

¹ *Buckley v. Valeo*, 424 U.S. 1, 22, 96 S.Ct. 612 (1976), states: “[m]aking a contribution, like joining a political party, serves to affiliate a person with a candidate [and] enables like-minded persons to pool their resources in furtherance of common political goals.”

		<ul style="list-style-type: none"> • CTR lists a deleted \$50,000 contribution from the Committee for Fair Representation on 7/29/04. • CTR shows a \$4,000 expenditure to Jeffery T. Ryan on 8/06/04 (No check was found that corresponds with this expenditure.) 	<ul style="list-style-type: none"> • Not found in bank records. • Bank records show a \$4,000 withdrawal on 8/04/04.
12/06/04	08/07/04 to 08/26/04 2004 F3 Amended	<ul style="list-style-type: none"> • CTR lists a deleted \$50,000 contribution from Business for Better Government on 8/25/04. 	<ul style="list-style-type: none"> • Bank records show a wire withdrawal on 8/25/04 of \$50,018 from Better Gov't and an incoming wire transfer on 8/26/04 for \$50,000
01/05/05	10/29/04 to 12/31/04 2004 Q4 Original	<ul style="list-style-type: none"> • CTR shows \$43,456.04 in total contributions for this period. 	<ul style="list-style-type: none"> • Bank records show \$25,206.04 in total deposits for this period.
04/01/05	01/01/05 to 03/31/05 2005 Q1 Original	<ul style="list-style-type: none"> • CTR shows \$130,336.11 in total contributions for this period. 	<ul style="list-style-type: none"> • Bank records show \$131,336.11 in total deposits for this period.
07/08/05	04/01/05 to 06/30/05 2005 Q2 Original	<ul style="list-style-type: none"> • CTR shows a \$250 contribution from Brevard County Chiropractic Society-PAC on 06/23/05. • CTR shows a \$1000 contribution from Pinellas County Chiropractic on 06/23/05. • CTR shows a \$100 contribution from Performance Health on 06/23/05. • CTR shows a \$100 contribution from Affordable Health Center, Inc. on 06/25/05. 	<ul style="list-style-type: none"> • Bank records show a \$500 check from Brevard County Chiropractic Society-PAC. • Bank records show a \$500 check from Pinellas County Chiropractic. • Bank records show a \$500 check from Performance Health. • Bank records show a \$50 check from Affordable Health Center, Inc.
01/10/06	10/01/05 to 12/31/05 2005 Q4 Original	<ul style="list-style-type: none"> • This expenditure is not listed on the CTR. • This expenditure is not listed on the CTR. 	<ul style="list-style-type: none"> • Bank records show an "external withdrawal" of \$7,058.34 to Capitol One on 11/3/05. • Bank records show a closeout withdrawal of \$93,034.42 was made on 11/29/05.

HH. Chairman Ryan filed a sworn response to questions asked by staff. When asked about the discrepancies between the CTR and the bank records, Mr. Ryan stated, "I cannot recall at this time...." According to Mr. Ryan, he did not prepare the CTRs for the committee. When asked if he reviewed the CTRs for accuracy before filing them with the Division,

he responded, “no.” Mr. Ryan stated that he trusted in the competence of the treasurer.

II. When questioned about the discrepancies in the 2004 F2 CTR, Ms. Henning stated that the contributions from Mr. Donelin, Mr. Henderson, Ms. Marshall, and Ms. Simons were cash contributions collected at a golf tournament and then paid out in tips to the golf pro and bag handlers. Ms. Henning stated that she must have forgotten to record the expenditures. Accepting that explanation, Respondents’ 2004 F2 CTR would still be incorrect because it listed the contribution type as “check” and failed to list the cash expenditures.

JJ. Ms. Henning also explained that the \$4,000 withdrawal shown on the bank statements corresponds with the expenditure to Jeffrey Ryan on the CTR. When asked about the date on the checks and the delay in reporting them, Ms. Henning explained that the checks were collected by the Florida Chiropractic Association. She stated, “Once the representative of the FCA completed the fundraising, all the checks were presented at a single event.”

KK. Investigator Wade asked Mr. Herron, Respondents’ attorney, about the \$50,000 contribution from the Committee for Fair Representation listed on the 2004 F2 CTR. He stated that according to Ms. Henning, the contribution was returned. Ms. Henning also stated that the \$50,000 contribution from Business for Better Government listed on the 2004 F3 CTR was returned.

LL. Investigator Wade also asked Mr. Herron about the discrepancy between the total contributions listed in the 2004 Q4 CTR and the total deposits. The CTR listed 24 contributions during the reporting period of October 29, 2004 through December 31, 2004, totaling \$43,456.04. Bank records showed six deposits totaling \$25,206.04. Mr. Herron said that according to Ms. Henning, she may have recorded some of the contributions twice, a clerical error on her part.

MM. Table 2 compares the bank records to the 2004 Q4 CTR.

TABLE 2: COMPARISON OF BANK RECORDS TO THE 2004 Q4 CTR	
# of Contributions	Corresponding Bank Records
21	Substantiated by copies of contributor checks
2	Substantiated by a review of monthly bank statements
1	Unsubstantiated (\$500 from CC Dockery)

NN. As depicted in Table 2, only one contribution listed on the 2004

Q4 CTR was unsubstantiated. However, the monthly bank statements did not show deposits that matched the contributions listed on the report. Investigator Wade was unable to determine why there was such a disparity between the information listed on the CTR and shown in the bank records.

OO. Investigator Wade asked Mr. Herron about the disparity between the total contributions and bank records for the 2005 Q1 reporting period. The CTR summary page showed \$130,336.11 in total contributions, while bank records showed \$131,336.11. Mr. Herron did not provide an explanation for this disparity.

PP. Ms. Henning acknowledged that the information on the 2005 Q2 CTR, was recorded incorrectly. However, according to Ms. Henning, she was not the committee's treasurer at the time the report was filed. Mr. Herron explained that Ms. Sara Smith was the treasurer for the committee when the 2005 Q2 report was filed. According to Mr. Herron, Ms. Smith acknowledged that she mistakenly entered the data incorrectly.

QQ. Investigator Wade asked Ms. Henning about the two expenditures shown in the monthly bank statements during the 2005 Q4 reporting period that were not recorded on the CTR. However, Ms. Smith was the treasurer for the committee when the 2005 Q4 CTR was filed. Mr. Herron stated that according to Ms. Smith, she mistakenly failed to report the two expenditures.

RR. Respondents' Articles of Incorporation stated that the purpose of the group was to provide "support to favorable candidates ... [and] to make contributions to candidates, political committees, committees of continuous existence, and political parties." Complainant alleged that that a political committee that supports candidates could not accept contributions that exceed \$500.

SS. Respondents' CTRs showed that from April 1, 2004 to December 31, 2005, Respondents accepted numerous contributions that exceeded the \$500 limit. Table 3 lists the number of contributions that exceeded \$500 during each reporting period.

TABLE 3: EXCESSIVE CONTRIBUTIONS PER REPORTING PERIOD			
Report Code	Period Covered	Contributions Exceeding \$500	Total Contributions
2004 Q2	04/01/04 – 06/30/04	15*	31
2004 F1	07/01/04 – 07/23/04	48	51
2004 F2	07/24/04 - 08/06/04	10	17
2004 F3	08/07/04 – 08/26/04	2	2
2004 G1	08/27/04 – 09/10/04	0	0

2004 G2	09/11/04 – 09/24/04	1	2
2004 G3	09/25/04 – 10/08/04	0	0
2004 G4	10/09/04 – 10/28/04	4	12
2004 Q4	10/29/04 – 12/31/04	8	12
2005 Q1	01/01/05 – 03/31/05	36	91
2005 Q2	04/01/05 – 06/30/05	20	62
2005 Q3	07/01/05 – 09/30/05	56	60
2005 Q4	10/01/05 – 12/31/05	3	3
Total		203	343

*This number is includes information recorded on or after May 18, 2004.

TT. Respondents' CTRs from April 1, 2004 through December 31, 2005, did not list any contributions to candidates. However, Respondents' CTRs disclosed numerous contributions to the FDP and Democratic Executive Committees throughout 2004 and 2005. Also during that time, the FDP paid for advertising for various joint fundraising events with Respondents, members of the House Democratic Caucus, and Representative Chris Smith.

UU. During the period from May 18, 2004 through December 31, 2005, Respondents received 203 contributions in excess of \$500. (See Exhibit 12 attached to Report of Investigation). There did not appear to be any expenditure listed on the CTRs to support statewide issues. (See Exhibit 8 attached to Report of Investigation). For the reasons discussed above, the committee was operating as a candidate political committee and was prohibited by Section 106.08(1), Florida Statutes, from accepting contributions in excess of \$500.

VV. According to records from the Division, a notification letter was mailed to Mr. Ryan on July 7, 2004. The letter read:

Enclosed please find copies of Chapter 106, Florida Statutes, 2004 Committee and Campaign Treasurer Handbook, 2004 Calendar of Reporting Dates and Campaign Treasurer's Report forms. We are also enclosing a copy of a memorandum sent to political committees and committees of continuous existence regarding changes made in the campaign financing laws, **effective July 1, 2004.**

WW. According to a questionnaire affidavit from Mr. Ryan, the committee's chairman, he has never run for public office. He stated that he had never been appointed as treasurer for a candidate's campaign; however, he served as deputy treasurer for the Tim Ryan for State House of Representative campaigns in 1998, 2000, 2002 and 2004. In additional

to serving as chairman for Florida House Victory, Inc., Mr. Ryan stated he has served as chairman of two other committees of continuous existence, Business for Better Government and Victory 2006. He acknowledged that he had received and read Chapter 106, Florida Statutes. He attested that he received but did not read the *Committee and Campaign Treasurer Handbook*.

XX. Ms. Henning also provided a questionnaire affidavit. Ms. Henning stated she had not run for public office. She added that she did not recall receiving or reading Chapter 106, Florida Statutes or the *Committee and Campaign Treasurer Handbook*.

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. There is no limit on contributions to political committees that support or oppose only issues. The term “issue” used in the definition of “political committee,” is defined in Section 106.011(7), Florida Statutes. That section provides that issue means (1) a proposition that is submitted to the electors for their approval or rejection at an election, or (2) a proposition for which a petition is circulated to have such proposition placed on the ballot for an election. Respondents’ activities did not appear to meet this definition. To the contrary, the committee was operating as a candidate political committee.

9. Section 106.011(1)(b)2., Florida Statutes, provides that under some circumstances a corporation is not required to register as a political committee. Corporations formed for purposes other than to support or oppose issues or candidates, are not political committees (1) if their activities are limited to contributions to candidates, political parties, or political committees, or if their activities are limited to expenditures in support of or opposition to an issue from corporate funds, and (2) if no contributions are received by the corporation.” The committee does meet this exception.

10. In *Richman v. Shevin*, 354 So.2d 1200 (Fla. 1977), *cert denied*, 439 US 954

(1978), the Florida Supreme Court agreed that by making distributions to candidates, the Judicial Trust Fund effectually supported candidates for judicial office and included the trust fund within the definition of “political committee.” The court stated that the Legislature, in promulgating Sections 106.011(2)² and 106.08, Florida Statutes (1975), regulating campaign contributions, determined that individuals in a collective capacity should only be permitted to have a limited amount of political clout. *Id.* at 1205.

11. Subsequently, in *Falzone v. State of Florida*, 500 So.2d 1337 (Fla. 1987), the Florida Supreme Court upheld the indictment and plea of *nolo contendere* by Falzone when he and three other individuals were indicted for allegedly failing to file a statement of organization as a political committee as required by Sections 106.03 and 106.19, Florida Statutes. The court agreed that requiring political committees to file a statement of organization pursuant to Section 106.03 is supported by the compelling state interest of informing the electorate as to who is involved in raising and spending money for elections.

12. Members of a political committee can be held liable if they (a) participated, (b) set the action in motion, or (c) agreed to the action. See, *Fulton v. DOE*, 689 So.2d 1180 (Fla. 2nd DCA 1997), and *FEC v. Mary McCarty and The Committee to Take Back our Judiciary*, Case # FEC 01-195.

13. The Commission staff and the Respondents stipulate that the facts set forth in the Staff Recommendations constitute a reckless disregard of Sections 106.03(1), 106.03(2), 106.07(5), and 106.19(1)(a), Florida Statutes.

ORDER

9. The Respondents and the staff of the Commission have entered into this Consent

² Subsequently renumbered as 106.011(1), Florida Statutes.

Order voluntarily and upon advice of counsel.

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

11. The Respondents understand 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 Respondents voluntarily waive 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 Respondents expressly waive any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida, and Respondents shall be responsible for all fees and costs associated with enforcement.

14. If the Commission does not receive the signed Consent Order within 20 days of the date you received this order, the staff withdraws this offer of settlement and will proceed with the case.

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

PENALTY

WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission finds that:

A. Respondents have violated Section 106.03(1) Florida Statutes, on one occasion for failing to file a statement of organization as a political committee.

Respondents are fined \$1,000 for this count.

B. Respondents have violated Section 106.03(2) Florida Statutes, on one occasion for failing to include the required information on a statement of organization. Respondents are fined \$1,000 for this count.

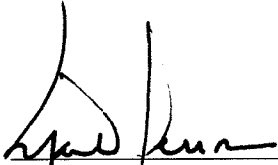
C. Respondents have violated Section 106.07(5) Florida Statutes, on four occasions for certifying to the correctness of campaign treasurer's reports that were incorrect. Respondent is fined \$1,000 for each of the four counts for a total of \$4,000.

D. Respondents have violated Section 106.19(1)(a) Florida Statutes, on 203 occasions for accepting contributions in excess of the legal limits. Respondent is fined \$1,000 for each of the 203 counts for a total of \$203,000.

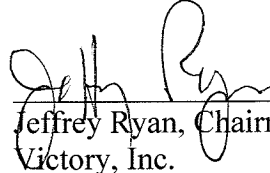
Therefore it is

ORDERED that the Respondents shall remit to the Commission a civil penalty in the amount of \$209,000, inclusive of fees and costs payable as follows: \$100,000 payable on or before November 9, 2007; and \$109,000 payable on or before June 30, 2008. Payment shall be made by cashier's check or by Respondents undersigned attorney's trust account check. The civil penalty shall be paid to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050

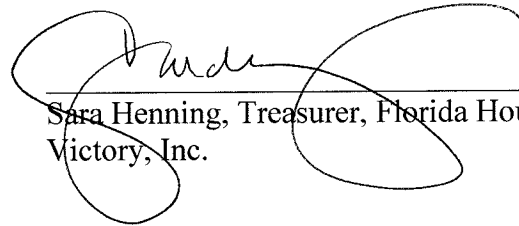
The **Respondents** hereby agree and consent to the terms of this Order on
27 December 2007, 2007.



Mark Herron, Attorney for Respondents
2618 Centennial Place
Tallahassee, Florida 32308

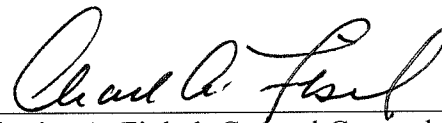


Jeffrey Ryan, Chairman, Florida House
Victory, Inc.
200 W. College Ave., Suite 210
Tallahassee, Florida 32301




Sara Henning, Treasurer, Florida House
Victory, Inc.

The **Commission staff** hereby agrees and consents to the terms of this Consent Order on
December 27, 2007.



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 May 15 & 16, 2008 at Tallahassee, Florida and filed with the Clerk of the Commission on May 30, 2008 in Tallahassee, Florida.



Jorge Cruz-Bustillo, Chairman
Florida Elections Commission
107 W. Gaines Streets
Collins Building, Suite 224
Tallahassee, FL 32399-1050

Copies furnished to:

Charles A. Finkel, General Counsel
Mark Heron, Attorney for Respondents