

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**In Re: David Anthony Mercado**

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**Case No.: FEC 12-274**

**TO:** David Anthony Mercado  
Address Unknown

Alice Passmore, City Clerk  
City of Palm Bay  
120 Malabar Road, SE  
Palm Bay, FL 32907

**NOTICE OF HEARING (OTHER MOTION)**

A hearing will be held in this case before the Florida Elections Commission on, **February 17, 2016 at 9:00 am, or as soon thereafter as the parties can be heard**, at the following location: **Florida State Conference Center, 555 West Pensacola Street, Room #108, Tallahassee, Florida 32306.**

Failure to appear in accordance with this notice will constitute a waiver of your right to participate in the hearing. Continuances will be granted only upon a showing of good cause.

This hearing will be conducted pursuant to Section 106.25, Florida Statutes, which governs your participation as follows:

**If you are the Respondent**, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission. However, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless you request to be heard or the Commission requests that your case be considered separately on the day of the hearing, your case will *not* be individually heard.

**If you are the Complainant**, you may attend the hearing, but you will *not* be permitted to address the Commission. In addition, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless the Respondent requests to be heard or the Commission requests that the case be considered separately on the day of the hearing, the case will *not* be individually heard.

**If you are an Appellant**, and you have requested a hearing, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission.

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As an Appellant, Respondent or Complainant in one case, you will *not* be permitted to attend the hearings on other confidential cases.

The Commission will electronically record the meeting. Although the Commission's recording is considered the official record of the hearing, the Respondent may provide, at his own expense, a certified court reporter to also record the hearing.

If you require an accommodation due to a disability, contact Donna Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

**See further instructions on the reverse side.**

*Amy McKeever Toman*  
Executive Director  
Florida Elections Commission  
February 2, 2016

Please refer to the information below for further instructions related to your particular hearing:

If this is a hearing to consider **an appeal from an automatic fine**, the Filing Officer has imposed a fine on you for your failure to file a campaign treasurer's report on the designated due date and, by filing an appeal, you have asked the Commission to consider either (1) that the report was in fact timely filed; or (2) that there were unusual circumstances that excused the failure to file the report timely. You are required to prove your case. If the Commission finds that the report was filed timely or that there were unusual circumstances that excused the failure, it may waive the fine, in whole or in part. The Commission may reduce a fine after considering the factors in Section 106.265, Florida Statutes. If the Commission finds that the report was not timely filed and there were no unusual circumstances, the fine will be upheld.

If this is a hearing to consider a **consent order before a determination of probable cause has been made**, the Commission will decide whether to accept or reject the consent order. If the Commission accepts the consent order, the case will be closed and become public. If the Commission rejects the consent order or does not make a decision to accept or deny the consent order, the case will remain confidential, unless confidentiality has been waived.

If this is a hearing to consider a **consent order after a determination of probable cause has been made**, the Commission will decide whether to accept or reject the consent order. If the Commission accepts the consent order, the case will be closed. If the Commission rejects the consent order or does not make a decision to accept or deny the consent order, the Respondent will be entitled to another hearing to determine if the Respondent committed the violation(s) alleged.

If this is a **probable cause hearing**, the Commission will decide if there is probable cause to believe that the Respondent committed a violation of Florida's election laws. Respondent should be prepared to explain how the staff in its recommendation incorrectly applied the law to the facts of the case. *Respondent may not testify, call others to testify, or introduce any documentary or other evidence at the probable cause hearing.* The Commission will only decide whether Respondent should be *charged* with a violation and, before the Commission determines whether a violation has occurred or a fine should be imposed, Respondent will have an opportunity for another hearing at which evidence may be introduced.

If this is an **informal hearing**, it will be conducted pursuant Sections 120.569 and 120.57(2), Florida Statutes; Chapter 28 and Commission Rule 2B-1.004, Florida Administrative Code. At the hearing, the Commission will decide whether the Respondent committed the violation(s) charged in the Order of Probable Cause. The Respondent will be permitted to testify. However the Respondent may not call witnesses to testify.

Respondent may argue why the established facts in the Staff Recommendation do not support the violations charged in the Order of Probable Cause. At Respondent's request, the Commission may determine whether Respondent's actions in the case were willful. The Respondent may also address the appropriateness of the recommended fine. If Respondent claims that his limited resources make him unable to pay the statutory fine, *he must provide the Commission with written proof of his financial resources* at the hearing. A financial affidavit form is available from the Commission Clerk.

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,  
Petitioner,**

**v.**

**Agency Case No.: FEC 12-274**

**David Mercado,  
Respondent.**

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**MOTION TO DISMISS**

**COMES NOW**, staff of the Florida Elections Commission (“Commission”) by and through undersigned counsel and files its Motion to Dismiss. In support of its motion, staff states as follows:

1. On or about September 26, 2012, the Commission received a sworn complaint alleging that Respondent violated Florida’s election laws.

2. On August 29, 2013, the Commission entered an Order of Probable Cause charging Respondent with violating Section 106.19(1)(c), Florida Statutes

3. Staff attempted to serve the Commission’s Order of Probable Cause. However the envelope was returned as “Unclaimed/Unable to Forward ” Staff then attempted to serve Respondent with the Order of Probable Cause by process server without success.

4 Staff has performed a diligent search for an address at which it could serve Respondent. However staff has been unable to serve Respondent with the Order of Probable Cause.<sup>1</sup>

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<sup>1</sup> Commission staff has had difficulty serving Respondent with several documents during the case

**WHEREFORE**, based upon the foregoing, and in the interest of fiscal responsibility, the undersigned counsel requests this matter be dismissed.

Respectfully submitted,



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Eric M Lipman  
General Counsel  
Florida Elections Commission  
107 W. Gaines Street  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050  
(Phone): (850) 922-4539

VERIFIED RETURN OF SERVICE

FLORIDA ELECTIONS COMMISSION  
STATE OF FLORIDA

CASE: FEC 12-274  
CIVIL DIVISION

IN RE: DAVID ANTHONY MERCADO

LETTER DATED AUGUST 29, 2013  
CERTIFIED MAIL: 70051820000798053339  
ORDER OF PROBABLE CAUSE  
AND ADDITIONAL ATTACHMENTS

ATTORNEY: FLORIDA ELECTIONS COMMISSION  
107 W GAINES STREET THE COLLINS BLDG STE 2  
TALLAHASSEE, FL 32399

I received this writ on Date 10/15/2013 Time 08:00 A.M. to DAVID ANTHONY MERCADO at, 643  
Commargo Road Nw, Palm Bay, FL 32907.

Served same on Date 10-16-13 Time 1020 AM

Served at original address.

Served at new address, see comments below.

INDIVIDUAL: FS 48.031

SUBSTITUTE: FS 48.031 \_\_\_\_\_ as \_\_\_\_\_ Co-Resident

who is 15 years of age or older and informing the person of the contents.

Race \_\_\_\_\_ Sex \_\_\_\_\_ Age \_\_\_\_\_ Hgt \_\_\_\_\_ Wt \_\_\_\_\_ Hair \_\_\_\_\_ Glasses \_\_\_\_\_ Other \_\_\_\_\_

POSTED RESIDENTIAL: FS 48.183 Attempts

(1) \_\_\_\_\_ (2) \_\_\_\_\_

Marital Status  Married-Spouse's Name: \_\_\_\_\_  Not Married

MILITARY STATUS: To my best knowledge, information and belief the said defendant at  
the time of service was not engaged in the military service of the United States.

NO SERVICE: For the reason that diligent search and inquiry failed to locate above  
named witness.

COMMENTS: AS PER JOSEPHINA RAMOS, DEFENDANT IS SON IN LAW  
MOVED TO NEW JERSEY 2 YEARS AGO

TAG 646-BIF

I Acknowledge I am authorized and in good standing in the jurisdiction wherein this process  
was served and have no interest in the above action. No notary required pursuant to F.S.  
92.525(2)

Under penalties of perjury, I  
declare that I have read the  
forgoing document and that the facts  
stated in it are true.

WF GREENBERG & COMPANY, LLC.  
7040 SEMINOLE PRATT RD SUITE 25-169  
LOXAHATCHEE, FL 33470  
OFFICE (561) 422-3190

  
Caesar TROSO ID #414

INDEX 77821  
FILE NO FEC 12-274



DM

**FLORIDA ELECTIONS COMMISSION**

107 W. Gaines Street  
Collins Building, Suite 224  
Tallahassee, Florida 32399-1050  
(850) 922-4539

August 29, 2013

**CERTIFIED MAIL: 7005 1820 0007 9805 3339**

David Anthony Mercado  
~~1627 Prospect Avenue~~  
~~Plainsfield, NJ 07060~~

643 Commargo Road NW  
Palm Bay, FL 32907

**RE: Case No.: FEC 12-274**

Dear Mr Mercado:

The Florida Elections Commission at its last regularly scheduled meeting considered this case and issued the order that is enclosed with this letter. Please read the order carefully. As the Respondent, you are entitled to a hearing. The Order of Probable Cause will explain in detail how you obtain a hearing.

If you prefer to enter into a consent order, please contact us at the telephone number or address listed above and we will attempt to reach an agreement with you.

Since the Commission has determined probable cause, Section 106 25, Florida Statutes, provides that all investigative reports and other documents related to this case are no longer confidential.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McKeever Toman".

Amy McKeever Toman  
Executive Director

Enclosures: Order of Probable Cause and Staff Recommendation

cc: Alice Passmore, Palm Bay City Clerk, Complainant

FILED

13 AUG 29 AM 9:55

STATE OF FLORIDA  
ELECTIONS COMMISSION

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

In Re: David Anthony Mercado

Case No.: FEC 12-274

**ORDER OF PROBABLE CAUSE**

**THIS CAUSE** came on to be heard before the Florida Elections Commission at its meeting held on August 13, 2013, in Tallahassee, Florida.

The Commission has reviewed the complaint, Report of Investigation, Staff Recommendation, all documents submitted by the Respondent, any relevant documents, and considered all oral statements made at the probable cause hearing. Based on the facts set forth in the Staff Recommendation, which is incorporated herein and attached to this order, the Commission finds that there is probable cause that Respondent committed five counts of violating Chapter 106, Florida Statutes as follows:

**Count 1:**

On or about July 11, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q2 Report with the Palm Bay City Clerk's Office.

**Count 2:**

On or about October 10, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q3 Report with the Palm Bay City Clerk's Office.

**Count 3:**

On or about January 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q4 Report with the Palm Bay City Clerk's Office.

**Count 4:**

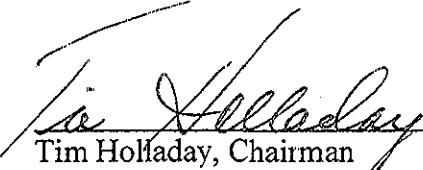
On or about April 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q1 Report with the Palm Bay City Clerk's Office.

**Count 5:**

On or about July 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q2 Report with the Palm Bay City Clerk's Office.

The Commission also finds that there is **no probable cause** to charge the Respondent with falsely reporting or deliberately failing to report information required by Chapter 106, *Florida Statutes* on his 2012 Termination Report in violation of Section 106.19(1)(c), *Florida Statutes*.

**DONE AND ORDERED** by the Florida Elections Commission on August 13, 2013.

  
\_\_\_\_\_  
Tim Holladay, Chairman  
Florida Elections Commission

Copies furnished to:

Eric Lipman, General Counsel  
Shawn M. Heath, Attorney for Respondent  
Alice Passmore, Filing Officer

Attachment: Staff Recommendation



## NOTICE OF RIGHT TO A HEARING

As the Respondent, you may elect to resolve this case in several ways. First, you may elect to resolve this case by consent order where you and Commission staff agree to resolve the violations and agree to the amount of the fine. The agreed to consent order is then presented to the Commission for its approval. To discuss a consent order, contact the attorney who signed the Staff Recommendation attached to the Order of Probable Cause.

Second, you may request an informal hearing held before the Commission, if you do not dispute any material fact in the Staff Recommendation. You have 30 days from the date of the Order of Probable Cause to request such a hearing. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violations and the potential fine. At the request of Respondent, the Commission will consider and determine willfulness at an informal hearing. Otherwise, live witness testimony is unnecessary.

Third, you may request a formal hearing held before an administrative law judge in the Division of Administrative Hearings (DOAH), if you dispute any material fact in the Staff Recommendation. You have 30 days from the date of the Order of Probable Cause to request such a hearing. At the hearing, you will have the right to present evidence relevant to the violation(s) listed in this order, to cross-examine opposing witnesses, to impeach any witness, and to rebut the evidence presented against you.

If you do not elect to resolve the case by consent order or request a formal hearing at the DOAH or an informal hearing before the Commission within 30 days of the date of this Order of Probable Cause, the case will be sent to the Commission and you will be entitled to a formal or informal hearing.

To request a hearing, please send a written request to the Commission Clerk, Donna Ann Malphurs. The address of the Commission Clerk is 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida 32399-1050. The telephone number is (850) 922-4539. The Clerk will provide you with a copy of Chapter 28-106, *Florida Administrative Code*, and other applicable rules upon request. No mediation is available.

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**In Re: David Mercado**

**Case No.: FEC 12-274**

**STAFF RECOMMENDATION FOLLOWING INVESTIGATION**

Pursuant to section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.19(1)(c), Florida**, on 5 occasions and **no probable cause** to charge Respondent with violating Section 106.19(1)(c), Florida Statutes, on 1 occasion. Based upon a thorough review of the Report of Investigation submitted on June 3, 2013, the following facts and law support this staff recommendation:

1 On September 26, 2012, the Florida Elections Commission ("Commission") received a complaint from Alice I Passmore ("Complainant" or "City Clerk") alleging that David Mercado ("Respondent") violated Chapter 106, Florida Statutes

2 Respondent was a candidate for the Palm Beach City Council, Seat 2, in the 2012 municipal election. He did not qualify. The Complainant in this case is Respondent's filing officer.

3 Complainant alleged that Respondent falsely reported or deliberately failed to provide required information in several campaign reports.

3 By letter dated March 26, 2013<sup>1</sup>, the Executive Director sent Respondent an amended letter notifying him that Commission staff would investigate the following:

**Section 106.19(1)(c), Florida Statutes:** David A. Mercado was a candidate for Palm Bay City Council, Seat 2. He failed to qualify during the qualifying period. Maritza Ramos-Mercado is the campaign treasurer of record for the Respondent's campaign. As alleged in the complaint, one or more of the required treasurer reports have not been filed and Respondent, as candidate, has thus deliberately failed to provide information required by ch. 106, Florida Statutes.

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<sup>1</sup> The initial letter to Respondent notifying him that the complaint was legally sufficient was sent to his new address in New Jersey. The letter was returned to the Commission as unclaimed. On or about May 8, 2013, Investigator Tracie Aulet spoke with Respondent and reviewed the content of the letter of legal sufficiency. Respondent provided Ms. Aulet with an email address so she could send Respondent a copy of the complaint and letter of legal sufficiency. Respondent agreed to acknowledge receipt of the email and documents but failed to do so. Ms. Aulet's email to Respondent has not been returned. (See Attachment A, Phone Log Entry 6; See Attachment D for documents sent to Respondent with Ms. Aulet's email.)

4 Respondent filed two State of Florida Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates forms ("DS-DE 9") on November 30, 2010. Respondent appointed Maritza Ramos-Mercado as his treasurer, and himself as a deputy treasurer. (ROI Exhibit 1)<sup>2</sup>

### 2011 Q2 Report<sup>3</sup>

5 The 2011 Q2 report covered the dates of April 1, 2011, through June 30, 2011, and was due to be filed no later than July 11, 2011. On July 5, 2011, Terese Jones, Deputy City Clerk, sent an email to Respondent reminding him that his 2011 Q2 Report was due on July 11, 2011 (ROI Exhibit 2)

6 Respondent failed to file his 2011 Q2 Report by July 11, 2011. By letter dated July 18, 2011, the Palm Bay City Clerk sent Respondent a letter via certified mail, return receipt requested, advising him that her office had not received his 2011 Q2 Report. The letter was sent to the address on Respondent's DS-DE 9. (ROI Exhibits 1 & 3) However, the letter was returned as unclaimed (ROI Exhibit 3)

7 By letter dated August 4, 2011, the Palm Bay City Clerk sent Respondent a second letter informing Respondent that they had not yet received his 2011 Q2 Report. The letter was mailed certified mail, return receipt requested. This letter was also mailed to the address Respondent provided on his DS-DE 9 form (ROI Exhibits 1 & 4). The return receipt indicates that on or about August 6, 2011, a Josefina Ramos accepted the letter on behalf of Respondent (ROI Exhibit 4)

### 2011 Q3 Report

8 The 2011 Q3 Report covered the dates from July 1, 2011, through September 30, 2011. On October 4, 2011, the Palm Bay City Clerk's office sent Respondent an email reminder that his 2011 Q3 Report was due on October 10, 2011, (ROI Exhibit 5)

9. Respondent failed to file his 2011 Q3 Report on October 10, 2011. By letter dated October 18, 2011, the City Clerk sent notification to Respondent that his 2011 Q3 Report had not been received. The letter was mailed via certified, mail-return receipt requested to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on or about October 30, 2011, a Salvador Ramos accepted the letter on behalf of Respondent (ROI Exhibits 1 & 6)

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<sup>2</sup> The Report of Investigation is referred to herein as "ROI."

<sup>3</sup> In her complaint, the first report that Complainant alleges Respondent failed to file was his 2012 Q2 Report. However, based upon the date Complainant alleged report was due and the supporting documentation submitted with the complaint, it appears that Complainant was referring to the 2011 Q2 Report. Additionally, Complainant alleges that Respondent did not file his 2012 Q2 Report a second time later in her complaint

### 2011 Q4 Report

10. The 2011 Q4 report covered the dates of October 1, 2011, through December 31, 2011. On December 30, 2011, the Clerk's office sent Respondent an email reminder that Respondent's 2011 Q4 report was due on January 10, 2012 (ROI Exhibit 7)

11 Respondent failed to file his 2011 Q4 Report on January 10, 2012. By letter dated January 13, 2012, Complainant sent Respondent notification that his 2011 Q4 Report had not been received. The letter was sent certified mail, return receipt requested. The letter was mailed to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on January 14, 2011<sup>4</sup>, a Josefina Ramos accepted the letter on Respondent's behalf. (ROI Exhibits 1 & 8)

### 2012 Q1 Report

12. The 2012 Q1 Report covered the dates of January 1, 2012 through March 31, 2012. On April 3, 2012, the Palm Bay City Clerk's office sent Respondent an email reminding him that his 2012 Q1 Report was due on April 10, 2012. The email to Respondent was returned as undeliverable. (ROI Exhibit 9)

13. By letter dated April 19, 2012, the City Clerk sent Respondent a letter notifying him that his 2012 Q1 Report had not been received. The letter was sent via certified mail, return receipt requested. The letter was mailed to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on April 24, 2012, a Salvador Ramos accepted the letter on behalf of Respondent (ROI Exhibits 1 & 10)

### 2012 Q2 Report

14. The 2012 Q2 Report covered the dates of April 1, 2012 through June 30, 2012. On July 5, 2012, the Palm Bay City Clerk's office sent Respondent an email reminding him that his 2012 Q2 Report was due on July 10, 2012. The email to Respondent was returned as undeliverable (ROI Exhibit 11)

15. By letter dated July 13, 2012, the City Clerk sent Respondent a letter via certified mail, return receipt requested notifying him that his 2012 Q2 Report had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form. However, the letter was returned to the City Clerk's office as "Attempted Not Known" (ROI Exhibit 12)

16 Investigator Aulet spoke with Respondent by telephone on May 8, 2013. Respondent stated he had moved to Plainfield, New Jersey. During the telephone conversation, Ms Aulet reviewed the complaint. Respondent stated that he did not receive a copy of the complaint or the letter of legal sufficiency. Respondent also told Ms Aulet that he withdrew from the election. Respondent agreed to provide Investigator Aulet with a copy of the notice he

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<sup>4</sup> It appears the actual date Ms Ramos signed for the letter was January 14, 2012

gave to the City Clerk's office, however as of June 20, 2013, Respondent has failed to provide a copy of the notice. (See Attachment A, Phone Log Entry 6)

17. During the May 8, 2013 conversation, Respondent provided Ms Aulet with the email purposemercado@yahoo.com for her to send Respondent a copy of the complaint and letter of legal sufficiency. Respondent also indicated that he would confirm receipt of the documents. Respondent never acknowledged receipt of Ms Aulet's email and the email has not been returned as undeliverable. *Id.*

18. On April 1, 2013, Investigator Aulet also spoke with Terese Jones, Palm Bay Deputy City Clerk. Ms Jones stated that Respondent did not inform the City Clerk's office he was withdrawing his candidacy, and that Respondent was not notified that his termination report was due. (See Attachment A, Phone Log Entry 5)

19. Additionally, Ms Jones testified in an April 18, 2013 affidavit that:

4. Mr Mercado has not been in contact with the Palm Bay City Clerk's office since January, 2011. The contact was a series of e-mails regarding Mr Mercado's report due January 10, 2011. (See Attachment B for copies of the emails)

\* \* \* \* \*

5. At no time during his candidacy did Mr Mercado state he wanted to withdraw from the election. At no time during his candidacy did Mr Mercado ask for information or instructions regarding the procedure for withdrawing from an election. At no time during his candidacy was Mr Mercado considered withdrawn from the election.

6. The qualifying period for the 2012 general election was held from August 20 to 24, 2012. Mr Mercado did not qualify (ROI Exhibit 13)

20. On May 13, 2013, Investigator Aulet sent Respondent an affidavit to complete that included questions regarding the issue of Respondent notifying the Palm Bay City Clerk's office that he was withdrawing his candidacy. (See Attachment C) Respondent did not return the affidavit.

21. As of August 24, 2012, Respondent was not a candidate. Respondent, therefore, was required to file a Termination Report no later than November 22, 2012. Section 106 141(7)(a)3, Florida Statutes, requires the filing officer to notify each candidate at least 14 days before their Termination Report is due. However, Ms Jones from the City Clerk's office told Investigator Aulet that Respondent was not notified about filing a Termination Report. Therefore, it appears Respondent did not deliberately fail to report campaign transactions that occurred between August 24, 2012, and November 22, 2012 that he was required to report pursuant to Section 106 19(1)(c), Florida Statutes.

22. "Probable Cause" is defined as reasonable ground of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged. *Schmitt v State*, 590 So 2d 404, 409 (Fla. 1991). Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Department of Highway Safety and Motor Vehicles v Favino*, 667 So 2d 305, 309 (Fla. 1<sup>st</sup> DCA 1995)

23 The facts set forth above show that Respondent was a candidate for Palm Bay City Council, Seat 2. Respondent failed to file his 2011 Q2, 2011 Q3, 2011 Q4, 2012 Q1, 2012 Q2 Report and Termination Reports. Prior to each quarterly report being due, Respondent was sent an email reminder about timely filing the report. However, the Palm Bay City Clerk's office did not notify Respondent within 14 days of his Termination Report being due as it was required to do.

24 The above facts also show that Respondent asserts he notified the City Clerk's office in writing that he was withdrawing from the election. However, the City Clerk's office states that it never received notice from Respondent to that effect. Additionally, Respondent stated he would provide the Commission with a copy of what he submitted to the City Clerk. However, despite promising to do so, Respondent did not provide the Commission with a copy of the written notification he claimed he gave to the Palm Bay City Clerk's office.

Based upon these facts and circumstances, I recommend that the Commission find probable cause to charge Respondent with violating the following:

**Count 1:**

On or about July 11, 2011, Respondent violated Section 106 19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q2 Report with the Palm Bay City Clerk's Office.

**Count 2:**

On or about October 10, 2011, Respondent violated Section 106 19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q3 Report with the Palm Bay City Clerk's Office.

**Count 3:**

On or about January 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q4 Report with the Palm Bay City Clerk's Office

**Count 4:**

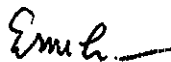
On or about April 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q1 Report with the Palm Bay City Clerk's Office

**Count 5:**

On or about July 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q2 Report with the Palm Bay City Clerk's Office

I further recommend that the Commission find no probable cause to charge Respondent with violating Section 106.19(1)(c), Florida Statutes for failing to file a Termination Report

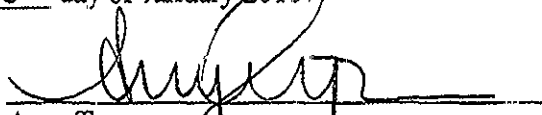
Respectfully submitted on June 25, 2013,



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Eric M Lipman  
General Counsel

I reviewed this Staff Recommendation this 25<sup>th</sup> day of January 2013.



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Amy Toman  
Executive Director

**FLORIDA ELECTIONS COMMISSION  
PHONE LOG  
Case No.: FEC 12-274**

**Respondent:** David A Mercado

**Complainant:** Alice I Passmore

1. **Date and time:** October 1, 2012 @ 11:17 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and requested copies of any and all records of appointments of treasurers and deputy treasurers Ms Jones agreed that she would fax the documents to me ASAP  
**Memo to File?** No  
**Entered by:** dbf
  
2. **Date and time:** October 1, 2012 @ 11:49 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321 952 3414  
**Summary:** I telephoned and thanked Ms Jones for the documents I had requested. I also asked for the date when the candidate-qualifying period had ended. I explained that while I noted her reference to a termination report on our complaint form, I found no complainant attachment documenting a failure-to-file letter. Ms Jones advised me that the qualifying period ended on August 24, 2012. Therefore, it appears that Respondent has until late November to file a termination report. If the report is not received, the supervisor of elections will send a failure-to-file letter at that time.  
**Memo to File?** No  
**Entered by:** dbf
  
3. **Date and time:** October 1, 2012 @ 12:51 p m  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321 952 3414  
**Summary:** I telephoned and asked the deputy city clerk whether Respondent has filed any of the outstanding reports. Ms. Jones advised me that he has not.  
**Memo to File?** No  
**Entered by:** dbf
  
4. **Date and time:** April 8, 2013; 2:05 p m  
**Name:** Terese Jones  
**Phone #:** 321-952-3414  
**Summary:** Ms. Jones was not available; I left a voicemail asking that she return my call  
**Memo to File?** No  
**Entered by:** ta
  
5. **Date and time:** April 8, 2013; 2:09 p.m  
**Name:** Terese Jones  
**Phone #:** returned my call



**Summary:** I stated that I would be investigating the complaint against R. I asked if she had contact with R; Ms. Jones stated no. I asked Ms. Jones to describe the last positive contact she had with R. Ms. Jones stated it was an e-mail regarding his treasurer report due January 2011; she has not had contact since then. I stated that in the previous failure to file case R stated he discussed withdrawing from the election with her; I asked if she recalled such a conversation; she stated no. I asked if had anything in writing from R that indicated he wanted to withdraw; Ms. Jones stated no. I asked Ms. Jones if she was familiar with R treasurer; she stated the treasurer came in the office on one occasion when R filed his paperwork and that was the only time she had contact with the treasurer. I stated that I had received information that R had relocated to New Jersey; I asked Ms. Jones if she had any information on his possible whereabouts. Ms. Jones stated she had no idea and that as far as she knew R was still residing in Florida. I asked Ms. Jones to clarify whether R was notified that his termination report was due; she stated, "No, it doesn't look like it." I stated that since an affidavit of filing officer was done in the previous case I would just mail an affidavit of additional information for her to complete.

**Memo to File?** No

**Entered by:** ta

6 **Date and time:** May 8, 2013; approximately 3 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** I introduced myself as the investigator assigned to investigate the complaint filed against R. R acknowledged receiving a copy of the "judgment" against him for \$500 and stated he could not afford to pay all at one time (regarding case no. FEC 11-107). I stated that there was a new complaint filed against him for several reports that were not filed while he was a candidate. I asked if he received a copy of the new complaint or letter of legal sufficiency; R stated he no longer lives at the address where the final order was sent. I reviewed the content of the legal sufficiency letter with R and we discussed that I am investigating whether he violated Section 106 19(1)(c), Florida Statutes, deliberately failing to provide information required by Chapter 106, by not filing campaign treasurer reports while he was a candidate. R expressed concern and stated he would be hiring an attorney. R was adamant that he had withdrawn from the election and that the city clerk was aware of his withdrawal. I informed R that I had spoken with the city clerk and she had no record of his withdrawal. I asked R if he filed notice in writing with the city clerk's office that he was withdrawing; he stated yes, and agreed to provide a copy of the withdrawal notice. I informed R that I had spoken with the clerk's office and that there was no record of him withdrawing from the race; in fact, the clerk's office stated he had not contacted them since January 2011. R stated that is incorrect. R again agreed to provide a copy of his withdrawal notice. I asked R to provide me with his current mailing address, which he gave as 1627 Prospect Avenue, Plainsfield, NJ 07060. R gave his e-mail address as [purposemercado@yahoo.com](mailto:purposemercado@yahoo.com). I stated I would e-mail a copy of the complaint and legal sufficiency letter; R agreed to acknowledge receipt of these documents.

**Memo to File?** No

**Entered by:** ta

7 **Date and time:** May 30, 2013; 3:56 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a voicemail asking R to return my call. I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter

**Memo to File?** No

**Entered by:** ta

8. **Date and time:** May 31, 2013; 5:23 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a detailed message stating I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter as he agreed to during our previous conversation. I stated that if I did not hear from him by close of business Monday, June 3, I would proceed with the investigation

**Memo to File?** No

**Entered by:** ta

9. **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

10. **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Tuesday, January 11, 2011 12:18 PM  
**To:** 'dmercado@votedavidmercado.com'  
**Subject:** RE: Treasurer Report

David

I received the report, post marked 1-10-11

Thanks

Alice

---

**From:** David [mailto:dmercado@votedavidmercado.com]  
**Sent:** Tuesday, January 11, 2011 7:59 AM  
**To:** Terese Jones  
**Subject:** Re: Treasurer Report

Alice,

Good Morning. I wasn't able to make it to the post office, but I sent it out overnight from FEDEX yesterday, so it was post marked for yesterday. I am sorry for the inconvenience this will not happen on the next quarterly report.

Confirmation #866201715017446

Respectfully Submitted

David Mercado

David Mercado

---

**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Mon, 10 Jan 2011 13:39:34 -0500  
**To:** dmercado@votedavidmercado.com <dmercado@votedavidmercado.com>  
**Subject:** RE: Treasurer Report

David

If you are able to take the report to a post office today and have it post marked before midnight tonight, there will be no fine.

If not, the penalty is \$50 per late day or 25% of the expenditure or contribution (whichever is less). The report you submitted shows a \$60.00 contribution and a \$50.00 expenditure. 25% of the lesser of the 2 which is the \$50 expenditure is \$12.50. That is your fine. If this amount had exceeded the \$50 per day amount, the \$50 amount would have applied.

Also, campaign funds may not be used to pay the fine.

I've looked over the faxed copy of your report. Please make sure the original is signed by the treasurer when you submit it

Alice

---

**From:** David [mailto:dmercado@votedavidmercado.com]  
**Sent:** Monday, January 10, 2011 8:45 AM  
**To:** Terese Jones  
**Subject:** Re: Treasurer Report

Can it be brought to you first thing in the morning on tuesday

David Mercado

---

**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Mon, 10 Jan 2011 08:42:48 -0500  
**To:** dmercado@votedavidmercado.com<dmercado@votedavidmercado.com>  
**Subject:** RE: Treasurer Report

David

Sorry, I have to have the original A fax is not sufficient.

Alice

---

**From:** dmercado@votedavidmercado.com [mailto:dmercado@votedavidmercado.com]  
**Sent:** Sunday, January 09, 2011 9:10 AM  
**To:** Terese Jones  
**Subject:** RE: Treasurer Report

I will be faxing over the Report today Once you receive it on Monday morning can you please send me a email allowing me to know that you received it? Thanks so much and I hope you and your family had a wonderful Holiday season

Respectfully Submitted,

David Mercado

----- Original Message -----  
**Subject:** Treasurer Report  
**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Wed, December 29, 2010 8:00 am  
**To:** Brian Anderson <andersonforseat3@yahoo.com>, David Mercado <dmercado@votedavidmercado.com>

Reminder - your treasurer report is due Monday, January 10, 2011, by 5:00 P.M., for the period covering October 1, 2010 (or the appointment of your campaign treasurer) through December 31, 2010

*Terese M. Jones, CMC*  
*Deputy City Clerk*

(321) 952-3414



---

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**AFFIDAVIT OF BACKGROUND INFORMATION**  
Case Number: **FEC 12-274**

**STATE OF FLORIDA**  
**County of Brevard**

**David A. Mercado, being duly sworn, says:**

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein I am currently employed by \_\_\_\_\_ as \_\_\_\_\_
3. Have you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Have you ever held the office of chairperson, treasurer, board member, or other similar position for a political committee? If so, please list the names and addresses of the committees and dates when you held the position  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Have you ever held the office of chairperson, treasurer, board member, or other similar position for a committee of continuous existence? (Committee of continuous existence is defined in Section 106.04, Florida Statutes) If so, please list the name and addresses of the committees and dates when you held the position.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7 Have you ever prepared or signed a campaign treasurer's report? If so, please list the name of the candidate or committee whose report you prepared or signed

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8 What action have you taken to determine your responsibilities under Florida's election laws?

\_\_\_\_\_  
\_\_\_\_\_

9 Do you possess a copy of Chapter 106, Florida Statutes?  Yes  No

10 If so, when did you first obtain it? \_\_\_\_\_

11 Have you read Chapter 106, Florida Statutes?  Yes  No

12 Do you possess a copy of Chapter 104, Florida Statutes?  Yes  No

13 If so, when did you first obtain it? \_\_\_\_\_

14 Have you read Chapter 104, Florida Statutes?  Yes  No

15 Do you possess a copy of the *Handbook for Candidates*?  Yes  No

16 If so, when did you first obtain it? \_\_\_\_\_

17 Have you read the *Handbook for Candidates*?  Yes  No

18 List any additional materials you received from the Palm Bay City Clerk

\_\_\_\_\_

19 Information from the Palm Bay City Clerk reflects that between July 5, 2011, and July 18, 2012, several notices were sent to you via certified mail to the address you provided to the city clerk. These notices referenced your failure to file several campaign treasurers' reports while you were a candidate for city council. The letters were signed for by someone named "Salvador Ramos." Did you receive any of these notices?

Yes  No

20 On May 8, 2013, you spoke with Investigator Tracie Aulet regarding the failure to file these reports. During the conversation you stated you had withdrawn from the election and that the Palm Bay City Clerk was aware that you had withdrew. Did you file notice with the city

clerk's office that you were withdrawing from the 2012 election? (If so, please provide a copy of the withdrawal letter you provided to the city clerk's office.

Yes  No

21 If you did not file notice with the city clerk that you were withdrawing from the election, please explain how the city clerk was aware of your withdrawal. If you spoke with someone, please provide the name and title (if known) with whom you spoke. Please describe the nature of the conversation with this person. Please state any instructions, if any that were given to you by this person. Please state the approximate date the conversation took place:

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22 As of May 13, 2013, the following reports remain outstanding: 2011 Q2 Report, 2011 Q3 Report, 2011 Q4 Report, 2012 Q1 Report, and 2012 Q2 Report. Is there a reason you have not filed these reports? Please explain:

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---

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23 On your Appointment of Campaign Treasurer form filed on November 30, 2010, you appointed Maritza Ramos-Mercado as your treasurer. What duties did Ms. Ramos-Mercado perform as your treasurer?

---

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---

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24 When did you last reside at 643 Commargo Road, NW, Palm Bay, Florida 32907?

25 On May 9, 2013, you were e-mailed a copy of the complaint and a copy of the letter of legal sufficiency detailing the section of law you are alleged to have violated. The e-mail was sent to an e-mail address you provided to Investigator Aulet. Did you receive this e-mail and its attachments?

Yes  No



I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_  
**Signature of Affiant**

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Signature of Notary Public - State of Florida  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known \_\_\_\_\_ or Produced Identification \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_  
\_\_\_\_\_

Case Investigator: ta



FEC 12-274  
Tracie Aulet to: purposemercado

05/09/2013 10:13 AM



14 day letter 12-274.pdf



Complaint 12-274.pdf



Letter opening investigation 12-274.pdf

Dear Mr Mercado,

Attached please find a copy of the complaint filed by the Palm Bay City Clerk as well as the letter detailing the scope of the Commission's investigation. As we discussed yesterday, the filing officer is alleging that you failed to provide information required by Chapter 106, Florida Statutes, by not filing campaign treasurers reports while you were a candidate for city council

During our discussion yesterday, you stated you would be hiring an attorney. If you choose to do so, please be aware that I cannot discuss your case with your attorney unless he or she has filed a Notice of Appearance with the Commission. Until I receive such notice, I will continue to contact you directly.

Please acknowledge receipt of this e-mail and the attached documents. If you have any questions or concerns, please feel free to contact me.

Sincerely,

Tracie L. Aulet  
Investigation Specialist II  
Florida Elections Commission  
The Collins Building, Suite 224  
107 West Gaines Street  
Tallahassee, FL 32399  
(850) 922-4539 Office  
(850) 921-0783 Fax

Please note that Florida has a broad public records law, and that all correspondence to me via e-mail may be subject to disclosure.

ATTACHMENT D



FEC- Documents for Service  
Br'Axeton Wims to: Debi

10/14/2013 10:12 AM

---



FEC12-274.pdf



FEC13-164.pdf

Br'Axeton E. Wims  
Administrative Assistant I  
Florida Elections Commission  
107 West Gaines St  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050  
850-922-4539  
[br'axeton.wims@myfloridalegal.com](mailto:br'axeton.wims@myfloridalegal.com)

Debi@billwfg.com

---

**From:** Rebecca Marsey [Becky Marsey@myfloridalegal.com]  
**Sent:** Wednesday, October 02, 2013 11:37 AM  
**To:** debi@billwfg.com  
**Subject:** Florida Elections Commission - Documents for Service  
**Attachments:** Stockmeister, Franklin\_Final Order\_11-093.pdf; Williams\_Summons\_11-293.pdf; Christian, Todd OPC\_11-100.pdf; Christian, Todd\_Final Order\_10-341.pdf; Mercado, David\_Summons\_11-107.pdf

Debi -

Attached are documents for service. Please use the new address listed on the documents. Thanks

Please let me know if you have any questions

Regards,  
Becky

*(See attached file. Stockmeister, Franklin\_Final Order\_11-093.pdf)(See attached file Williams\_Summons\_11-293.pdf)(See attached file. Christian, Todd OPC\_11-100.pdf)(See attached file. Christian, Todd\_Final Order\_10-341.pdf)(See attached file. Mercado, David\_Summons\_11-107.pdf)*

**Becky Marsey**  
Business Manager  
Florida Elections Commission  
107 W Gaines Street  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050  
[rebecca.marsey@myfloridalegal.com](mailto:rebecca.marsey@myfloridalegal.com)  
(850) 922-4539  
(850) 921-0783 fax  
[www.fec.state.fl.us](http://www.fec.state.fl.us)



DM

**FLORIDA ELECTIONS COMMISSION**

107 W. Gaines Street  
Collins Building, Suite 224  
Tallahassee, Florida 32399-1050  
(850) 922-4539

August 29, 2013

**CERTIFIED MAIL: 7005 1820 0007 9805 3339**

David Anthony Mercado  
~~1627 Prospect Avenue~~  
~~Plainsfield, NJ 07060~~

643 Commargo Road NW  
Palm Bay, FL 32907

**RE: Case No.: FEC 12-274**

Dear Mr. Mercado:

The Florida Elections Commission at its last regularly scheduled meeting considered this case and issued the order that is enclosed with this letter. Please read the order carefully. As the Respondent, you are entitled to a hearing. The Order of Probable Cause will explain in detail how you obtain a hearing.

If you prefer to enter into a consent order, please contact us at the telephone number or address listed above and we will attempt to reach an agreement with you.

Since the Commission has determined probable cause, Section 106.25, Florida Statutes, provides that all investigative reports and other documents related to this case are no longer confidential.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy McKeever Toman".

Amy McKeever Toman  
Executive Director

Enclosures: Order of Probable Cause and Staff Recommendation

cc: Alice Passmore, Palm Bay City Clerk, Complainant



FLORIDA ELECTIONS COMMISSION  
 107 West Gaines Street  
 Collins Building, Suite 224  
 Tallahassee, Florida 32399-1050

RECEIVED

2013 OCT 11 P 1:10

STATE OF FLORIDA  
 ELECTIONS COMMISSION

**CERTIFIED MAIL™**



7005 1820 0007 9805 3339



Hasler

016H26525733  
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 08/29/2013  
 Mailed From 32399  
 US POSTAGE

*UP*  
*9/10*

*H/S*

David Anthon  
 1627 Prospect  
 Tallahassee, Florida 32309

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RETURN TO SENDER  
 UNCLAIMED  
 UNABLE TO FORWARD

BC: 32399654999 \*0838-03148-20

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FILED

13 AUG 29 AM 9:55

STATE OF FLORIDA  
ELECTIONS COMMISSION

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

In Re: David Anthony Mercado

Case No.: FEC 12-274

**ORDER OF PROBABLE CAUSE**

**THIS CAUSE** came on to be heard before the Florida Elections Commission at its meeting held on August 13, 2013, in Tallahassee, Florida.

The Commission has reviewed the complaint, Report of Investigation, Staff Recommendation, all documents submitted by the Respondent, any relevant documents, and considered all oral statements made at the probable cause hearing. Based on the facts set forth in the Staff Recommendation, which is incorporated herein and attached to this order, the Commission finds that there is probable cause that Respondent committed five counts of violating Chapter 106, Florida Statutes as follows:

**Count 1:**

On or about July 11, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q2 Report with the Palm Bay City Clerk's Office.

**Count 2:**

On or about October 10, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q3 Report with the Palm Bay City Clerk's Office.

**Count 3:**

On or about January 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q4 Report with the Palm Bay City Clerk's Office.

**Count 4:**

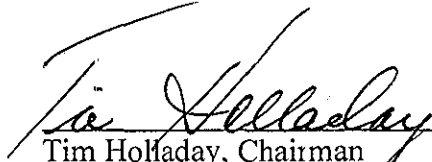
On or about April 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q1 Report with the Palm Bay City Clerk's Office.

**Count 5:**

On or about July 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q2 Report with the Palm Bay City Clerk's Office.

The Commission also finds that there is **no probable cause** to charge the Respondent with falsely reporting or deliberately failing to report information required by Chapter 106, *Florida Statutes* on his 2012 Termination Report in violation of Section 106.19(1)(c), *Florida Statutes*.

**DONE AND ORDERED** by the Florida Elections Commission on August 13, 2013

  
\_\_\_\_\_  
Tim Holladay, Chairman  
Florida Elections Commission

Copies furnished to:

Eric Lipman, General Counsel  
Shawn M. Heath, Attorney for Respondent  
Alice Passmore, Filing Officer

Attachment: Staff Recommendation



## NOTICE OF RIGHT TO A HEARING

As the Respondent, you may elect to resolve this case in several ways. First, you may elect to resolve this case by consent order where you and Commission staff agree to resolve the violations and agree to the amount of the fine. The agreed to consent order is then presented to the Commission for its approval. To discuss a consent order, contact the attorney who signed the Staff Recommendation attached to the Order of Probable Cause.

Second, you may request an informal hearing held before the Commission, if you do not dispute any material fact in the Staff Recommendation. You have 30 days from the date of the Order of Probable Cause to request such a hearing. At the hearing, you will have the right to make written or oral arguments to the Commission concerning the legal issues related to the violations and the potential fine. At the request of Respondent, the Commission will consider and determine willfulness at an informal hearing. Otherwise, live witness testimony is unnecessary.

Third, you may request a formal hearing held before an administrative law judge in the Division of Administrative Hearings (DOAH), if you dispute any material fact in the Staff Recommendation. You have 30 days from the date of the Order of Probable Cause to request such a hearing. At the hearing, you will have the right to present evidence relevant to the violation(s) listed in this order, to cross-examine opposing witnesses, to impeach any witness, and to rebut the evidence presented against you.

If you do not elect to resolve the case by consent order or request a formal hearing at the DOAH or an informal hearing before the Commission within 30 days of the date of this Order of Probable Cause, the case will be sent to the Commission and you will be entitled to a formal or informal hearing.

To request a hearing, please send a written request to the Commission Clerk, Donna Ann Malphurs. The address of the Commission Clerk is 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida 32399-1050. The telephone number is (850) 922-4539. The Clerk will provide you with a copy of Chapter 28-106, *Florida Administrative Code*, and other applicable rules upon request. No mediation is available.

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**In Re: David Mercado**

**Case No.: FEC 12-274**

**STAFF RECOMMENDATION FOLLOWING INVESTIGATION**

Pursuant to section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.19(1)(c), Florida**, on 5 occasions and **no probable cause** to charge Respondent with violating Section 106.19(1)(c), Florida Statutes, on 1 occasion. Based upon a thorough review of the Report of Investigation submitted on June 3, 2013, the following facts and law support this staff recommendation:

1 On September 26, 2012, the Florida Elections Commission ("Commission") received a complaint from Alice I Passmore ("Complainant" or "City Clerk") alleging that David Mercado ("Respondent") violated Chapter 106, Florida Statutes

2 Respondent was a candidate for the Palm Beach City Council, Seat 2, in the 2012 municipal election. He did not qualify. The Complainant in this case is Respondent's filing officer.

3 Complainant alleged that Respondent falsely reported or deliberately failed to provide required information in several campaign reports.

3 By letter dated March 26, 2013<sup>1</sup>, the Executive Director sent Respondent an amended letter notifying him that Commission staff would investigate the following:

**Section 106.19(1)(c), Florida Statutes:** David A. Mercado was a candidate for Palm Bay City Council, Seat 2. He failed to qualify during the qualifying period. Maritza Ramos-Mercado is the campaign treasurer of record for the Respondent's campaign. As alleged in the complaint, one or more of the required treasurer reports have not been filed and Respondent, as candidate, has thus deliberately failed to provide information required by ch. 106, Florida Statutes.

---

<sup>1</sup> The initial letter to Respondent notifying him that the complaint was legally sufficient was sent to his new address in New Jersey. The letter was returned to the Commission as unclaimed. On or about May 8, 2013, Investigator Tracie Aulet spoke with Respondent and reviewed the content of the letter of legal sufficiency. Respondent provided Ms. Aulet with an email address so she could send Respondent a copy of the complaint and letter of legal sufficiency. Respondent agreed to acknowledge receipt of the email and documents but failed to do so. Ms. Aulet's email to Respondent has not been returned. (See Attachment A, Phone Log Entry 6; See Attachment D for documents sent to Respondent with Ms. Aulet's email.)

4 Respondent filed two State of Florida Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates forms ("DS-DE 9") on November 30, 2010. Respondent appointed Maritza Ramos-Mercado as his treasurer, and himself as a deputy treasurer. (ROI Exhibit 1)<sup>2</sup>

### 2011 Q2 Report<sup>3</sup>

5 The 2011 Q2 report covered the dates of April 1, 2011, through June 30, 2011, and was due to be filed no later than July 11, 2011. On July 5, 2011, Terese Jones, Deputy City Clerk, sent an email to Respondent reminding him that his 2011 Q2 Report was due on July 11, 2011 (ROI Exhibit 2)

6 Respondent failed to file his 2011 Q2 Report by July 11, 2011. By letter dated July 18, 2011, the Palm Bay City Clerk sent Respondent a letter via certified mail, return receipt requested, advising him that her office had not received his 2011 Q2 Report. The letter was sent to the address on Respondent's DS-DE 9 (ROI Exhibits 1 & 3). However, the letter was returned as unclaimed (ROI Exhibit 3)

7 By letter dated August 4, 2011, the Palm Bay City Clerk sent Respondent a second letter informing Respondent that they had not yet received his 2011 Q2 Report. The letter was mailed certified mail, return receipt requested. This letter was also mailed to the address Respondent provided on his DS-DE 9 form (ROI Exhibits 1 & 4). The return receipt indicates that on or about August 6, 2011, a Josefina Ramos accepted the letter on behalf of Respondent (ROI Exhibit 4)

### 2011 Q3 Report

8 The 2011 Q3 Report covered the dates from July 1, 2011, through September 30, 2011. On October 4, 2011, the Palm Bay City Clerk's office sent Respondent an email reminder that his 2011 Q3 Report was due on October 10, 2011, (ROI Exhibit 5)

9 Respondent failed to file his 2011 Q3 Report on October 10, 2011. By letter dated October 18, 2011, the City Clerk sent notification to Respondent that his 2011 Q3 Report had not been received. The letter was mailed via certified, mail-return receipt requested to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on or about October 30, 2011, a Salvador Ramos accepted the letter on behalf of Respondent. (ROI Exhibits 1 & 6)

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<sup>2</sup> The Report of Investigation is referred to herein as "ROI."

<sup>3</sup> In her complaint, the first report that Complainant alleges Respondent failed to file was his 2012 Q2 Report. However, based upon the date Complainant alleged report was due and the supporting documentation submitted with the complaint, it appears that Complainant was referring to the 2011 Q2 Report. Additionally, Complainant alleges that Respondent did not file his 2012 Q2 Report a second time later in her complaint.

### 2011 Q4 Report

10. The 2011 Q4 report covered the dates of October 1, 2011, through December 31, 2011. On December 30, 2011, the Clerk's office sent Respondent an email reminder that Respondent's 2011 Q4 report was due on January 10, 2012. (ROI Exhibit 7)

11 Respondent failed to file his 2011 Q4 Report on January 10, 2012. By letter dated January 13, 2012, Complainant sent Respondent notification that his 2011 Q4 Report had not been received. The letter was sent certified mail, return receipt requested. The letter was mailed to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on January 14, 2011<sup>4</sup>, a Josefina Ramos accepted the letter on Respondent's behalf. (ROI Exhibits 1 & 8)

### 2012 Q1 Report

12 The 2012 Q1 Report covered the dates of January 1, 2012 through March 31, 2012. On April 3, 2012, the Palm Bay City Clerk's office sent Respondent an email reminding him that his 2012 Q1 Report was due on April 10, 2012. The email to Respondent was returned as undeliverable. (ROI Exhibit 9)

13. By letter dated April 19, 2012, the City Clerk sent Respondent a letter notifying him that his 2012 Q1 Report had not been received. The letter was sent via certified mail, return receipt requested. The letter was mailed to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on April 24, 2012, a Salvador Ramos accepted the letter on behalf of Respondent (ROI Exhibits 1 & 10)

### 2012 Q2 Report

14. The 2012 Q2 Report covered the dates of April 1, 2012 through June 30, 2012. On July 5, 2012, the Palm Bay City Clerk's office sent Respondent an email reminding him that his 2012 Q2 Report was due on July 10, 2012. The email to Respondent was returned as undeliverable (ROI Exhibit 11)

15. By letter dated July 13, 2012, the City Clerk sent Respondent a letter via certified mail, return receipt requested notifying him that his 2012 Q2 Report had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form. However, the letter was returned to the City Clerk's office as "Attempted Not Known" (ROI Exhibit 12)

16 Investigator Aulet spoke with Respondent by telephone on May 8, 2013. Respondent stated he had moved to Plainfield, New Jersey. During the telephone conversation, Ms. Aulet reviewed the complaint. Respondent stated that he did not receive a copy of the complaint or the letter of legal sufficiency. Respondent also told Ms. Aulet that he withdrew from the election. Respondent agreed to provide Investigator Aulet with a copy of the notice he

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<sup>4</sup> It appears the actual date Ms. Ramos signed for the letter was January 14, 2012

gave to the City Clerk's office, however as of June 20, 2013, Respondent has failed to provide a copy of the notice. (See Attachment A, Phone Log Entry 6)

17 During the May 8, 2013 conversation, Respondent provided Ms Aulet with the email purposemercado@yahoo.com for her to send Respondent a copy of the complaint and letter of legal sufficiency. Respondent also indicated that he would confirm receipt of the documents. Respondent never acknowledged receipt of Ms Aulet's email and the email has not been returned as undeliverable. *Id*

18 On April 1, 2013, Investigator Aulet also spoke with Terese Jones, Palm Bay Deputy City Clerk. Ms. Jones stated that Respondent did not inform the City Clerk's office he was withdrawing his candidacy, and that Respondent was not notified that his termination report was due. (See Attachment A, Phone Log Entry 5)

19. Additionally, Ms. Jones testified in an April 18, 2013 affidavit that:

4 Mr. Mercado has not been in contact with the Palm Bay City Clerk's office since January, 2011. The contact was a series of e-mails regarding Mr. Mercado's report due January 10, 2011. (See Attachment B for copies of the emails)

\* \* \* \* \*

5 At no time during his candidacy did Mr. Mercado state he wanted to withdraw from the election. At no time during his candidacy did Mr. Mercado ask for information or instructions regarding the procedure for withdrawing from an election. At no time during his candidacy was Mr. Mercado considered withdrawn from the election.

6 The qualifying period for the 2012 general election was held from August 20 to 24, 2012. Mr. Mercado did not qualify (ROI Exhibit 13)

20. On May 13, 2013, Investigator Aulet sent Respondent an affidavit to complete that included questions regarding the issue of Respondent notifying the Palm Bay City Clerk's office that he was withdrawing his candidacy. (See Attachment C) Respondent did not return the affidavit.

21 As of August 24, 2012, Respondent was not a candidate. Respondent, therefore, was required to file a Termination Report no later than November 22, 2012. Section 106 141(7)(a)3, Florida Statutes, requires the filing officer to notify each candidate at least 14 days before their Termination Report is due. However, Ms. Jones from the City Clerk's office told Investigator Aulet that Respondent was not notified about filing a Termination Report. Therefore, it appears Respondent did not deliberately fail to report campaign transactions that occurred between August 24, 2012, and November 22, 2012 that he was required to report pursuant to Section 106 19(1)(c), Florida Statutes.

22 "Probable Cause" is defined as reasonable ground of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged. *Schmitt v State*, 590 So 2d 404, 409 (Fla 1991) Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed *Department of Highway Safety and Motor Vehicles v Favino*, 667 So 2d 305, 309 (Fla 1<sup>st</sup> DCA 1995).

23 The facts set forth above show that Respondent was a candidate for Palm Bay City Council, Seat 2 Respondent failed to file his 2011 Q2, 2011 Q3, 2011 Q4, 2012 Q1, 2012 Q2 Report and Termination Reports Prior to each quarterly report being due, Respondent was sent an email reminder about timely filing the report However, the Palm Bay City Clerk's office did not notify Respondent within 14 days of his Termination Report being due as it was required to do.

24 The above facts also show that Respondent asserts he notified the City Clerk's office in writing that he was withdrawing from the election However, the City Clerk's office states that it never received notice from Respondent to that effect Additionally, Respondent stated he would provide the Commission with a copy of what he submitted to the City Clerk However, despite promising to do so, Respondent did not provide the Commission with a copy of the written notification he claimed he gave to the Palm Bay City Clerk's office

Based upon these facts and circumstances, I recommend that the Commission find probable cause to charge Respondent with violating the following:

**Count 1:**

On or about July 11, 2011, Respondent violated Section 106 19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q2 Report with the Palm Bay City Clerk's Office.

**Count 2:**

On or about October 10, 2011, Respondent violated Section 106 19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q3 Report with the Palm Bay City Clerk's Office.

**Count 3:**

On or about January 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q4 Report with the Palm Bay City Clerk's Office

**Count 4:**

On or about April 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q1 Report with the Palm Bay City Clerk's Office.

**Count 5:**

On or about July 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q2 Report with the Palm Bay City Clerk's Office

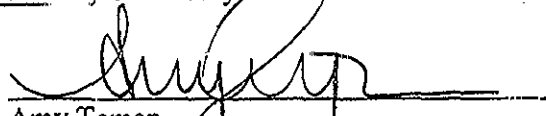
I further recommend that the Commission find no probable cause to charge Respondent with violating Section 106.19(1)(c), Florida Statutes for failing to file a Termination Report

Respectfully submitted on June 25, 2013,



Eric M. Lipman  
General Counsel

I reviewed this Staff Recommendation this 25<sup>th</sup> day of January 2013.



Amy Toman  
Executive Director

**FLORIDA ELECTIONS COMMISSION  
PHONE LOG  
Case No.: FEC 12-274**

**Respondent:** David A Mercado

**Complainant:** Alice I Passmore

1. **Date and time:** October 1, 2012 @ 11:17 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and requested copies of any and all records of appointments of treasurers and deputy treasurers Ms Jones agreed that she would fax the documents to me ASAP  
**Memo to File?** No  
**Entered by:** dbf
  
2. **Date and time:** October 1, 2012 @ 11:49 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321 952 3414  
**Summary:** I telephoned and thanked Ms Jones for the documents I had requested. I also asked for the date when the candidate-qualifying period had ended I explained that while I noted her reference to a termination report on our complaint form, I found no complainant attachment documenting a failure-to-file letter. Ms Jones advised me that the qualifying period ended on August 24, 2012. Therefore, it appears that Respondent has until late November to file a termination report. If the report is not received, the supervisor of elections will send a failure-to-file letter at that time.  
**Memo to File?** No  
**Entered by:** dbf
  
3. **Date and time:** October 1, 2012 @ 12:51 p.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321 952 3414  
**Summary:** I telephoned and asked the deputy city clerk whether Respondent has filed any of the outstanding reports Ms Jones advised me that he has not.  
**Memo to File?** No  
**Entered by:** dbf
  
4. **Date and time:** April 8, 2013; 2:05 p.m.  
**Name:** Terese Jones  
**Phone #:** 321-952-3414  
**Summary:** Ms. Jones was not available; I left a voicemail asking that she return my call  
**Memo to File?** No  
**Entered by:** ta
  
5. **Date and time:** April 8, 2013; 2:09 p.m.  
**Name:** Terese Jones  
**Phone #:** returned my call



**Summary:** I stated that I would be investigating the complaint against R. I asked if she had contact with R; Ms. Jones stated no. I asked Ms. Jones to describe the last positive contact she had with R. Ms. Jones stated it was an e-mail regarding his treasurer report due January 2011; she has not had contact since then. I stated that in the previous failure to file case R stated he discussed withdrawing from the election with her; I asked if she recalled such a conversation; she stated no. I asked if had anything in writing from R that indicated he wanted to withdraw; Ms. Jones stated no. I asked Ms. Jones if she was familiar with R treasurer; she stated the treasurer came in the office on one occasion when R filed his paperwork and that was the only time she had contact with the treasurer. I stated that I had received information that R had relocated to New Jersey; I asked Ms. Jones if she had any information on his possible whereabouts. Ms. Jones stated she had no idea and that as far as she knew R was still residing in Florida. I asked Ms. Jones to clarify whether R was notified that his termination report was due; she stated, "No, it doesn't look like it." I stated that since an affidavit of filing officer was done in the previous case I would just mail an affidavit of additional information for her to complete

**Memo to File?** No

**Entered by:** ta

6 **Date and time:** May 8, 2013; approximately 3 p m

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** I introduced myself as the investigator assigned to investigate the complaint filed against R. R acknowledged receiving a copy of the "judgment" against him for \$500 and stated he could not afford to pay all at one time (regarding case no. FEC 11-107). I stated that there was a new complaint filed against him for several reports that were not filed while he was a candidate. I asked if he received a copy of the new complaint or letter of legal sufficiency; R stated he no longer lives at the address where the final order was sent. I reviewed the content of the legal sufficiency letter with R and we discussed that I am investigating whether he violated Section 106 19(1)(c), Florida Statutes, deliberately failing to provide information required by Chapter 106, by not filing campaign treasurers reports while he was a candidate. R expressed concern and stated he would be hiring an attorney. R was adamant that he had withdrawn from the election and that the city clerk was aware of his withdrawal. I informed R that I had spoken with the city clerk and she had no record of his withdrawal. I asked R if he filed notice in writing with the city clerk's office that he was withdrawing; he stated yes, and agreed to provide a copy of the withdrawal notice. I informed R that I had spoken with the clerk's office and that there was no record of him withdrawing from the race; in fact, the clerk's office stated he had not contacted them since January 2011. R stated that is incorrect. R again agreed to provide a copy of his withdrawal notice. I asked R to provide me with his current mailing address, which he gave as 1627 Prospect Avenue, Plainsfield, NJ 07060. R gave his e-mail address as [purposemercado@yahoo.com](mailto:purposemercado@yahoo.com). I stated I would e-mail a copy of the complaint and legal sufficiency letter; R agreed to acknowledge receipt of these documents

**Memo to File?** No

**Entered by:** ta

7 **Date and time:** May 30, 2013; 3:56 p m

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a voicemail asking R to return my call. I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter

**Memo to File?** No

**Entered by:** ta

8 **Date and time:** May 31, 2013; 5:23 p m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a detailed message stating I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter as he agreed to during our previous conversation. I stated that if I did not hear from him by close of business Monday, June 3, I would proceed with the investigation

**Memo to File?** No

**Entered by:** ta

9 **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

10 **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

**Terese Jones**

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**From:** Terese Jones  
**Sent:** Tuesday, January 11, 2011 12:18 PM  
**To:** 'dmercado@votedavidmercado.com'  
**Subject:** RE: Treasurer Report

David

I received the report, post marked 1-10-11

Thanks.

Alice

---

**From:** David [mailto:dmercado@votedavidmercado.com]  
**Sent:** Tuesday, January 11, 2011 7:59 AM  
**To:** Terese Jones  
**Subject:** Re: Treasurer Report

Alice,

Good Morning. I wasn't able to make it to the post office, but I sent it out overnight from FEDEX yesterday, so it was post marked for yesterday I am sorry for the inconvenience this will not happen on the next quarterly report

Confirmation #866201715017446

Respectfully Submitted

David Mercado

David Mercado

---

**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Mon, 10 Jan 2011 13:39:34 -0500  
**To:** dmercado@votedavidmercado.com<dmercado@votedavidmercado.com>  
**Subject:** RE: Treasurer Report

David

If you are able to take the report to a post office today and have it post marked before midnight tonight, there will be no fine

If not, the penalty is \$50 per late day or 25% of the expenditure or contribution (whichever is less) The report you submitted shows a \$60.00 contribution and a \$50.00 expenditure 25% of the lesser of the 2 which is the \$50 expenditure is \$12.50 That is your fine. If this amount had exceeded the \$50 per day amount, the \$50 amount would have applied

Also, campaign funds may not be used to pay the fine.

I've looked over the faxed copy of your report. Please make sure the original is signed by the treasurer when you submit it

Alice

---

**From:** David [mailto:dmercado@votedavidmercado.com]  
**Sent:** Monday, January 10, 2011 8:45 AM  
**To:** Terese Jones  
**Subject:** Re: Treasurer Report

Can it be brought to you first thing in the morning on tuesday

David Mercado

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**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Mon, 10 Jan 2011 08:42:48 -0500  
**To:** dmercado@votedavidmercado.com <dmercado@votedavidmercado.com>  
**Subject:** RE: Treasurer Report

David

Sorry, I have to have the original. A fax is not sufficient.

Alice

---

**From:** dmercado@votedavidmercado.com [mailto:dmercado@votedavidmercado.com]  
**Sent:** Sunday, January 09, 2011 9:10 AM  
**To:** Terese Jones  
**Subject:** RE: Treasurer Report

I will be faxing over the Report today. Once you receive it on Monday morning can you please send me a email allowing me to know that you received it? Thanks so much and I hope you and your family had a wonderful Holiday season.

Respectfully Submitted,

David Mercado

----- Original Message -----  
**Subject:** Treasurer Report  
**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Wed, December 29, 2010 8:00 am  
**To:** Brian Anderson <andersonforseat3@yahoo.com>, David Mercado <dmercado@votedavidmercado.com>

Reminder - your treasurer report is due Monday, January 10, 2011, by 5:00 P.M., for the period covering October 1, 2010 (or the appointment of your campaign treasurer) through December 31, 2010.

*Terese M. Jones, CMC  
Deputy City Clerk*

(321) 952-3414



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AFFIDAVIT OF BACKGROUND INFORMATION  
Case Number: FEC 12-274

STATE OF FLORIDA  
County of Brevard

David A. Mercado, being duly sworn, says:

1. This affidavit is made upon my personal knowledge.
2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by \_\_\_\_\_ as \_\_\_\_\_
3. Have you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in

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4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s)

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5. Have you ever held the office of chairperson, treasurer, board member, or other similar position for a political committee? If so, please list the names and addresses of the committees and dates when you held the position

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6. Have you ever held the office of chairperson, treasurer, board member, or other similar position for a committee of continuous existence? (Committee of continuous existence is defined in Section 106.04, Florida Statutes) If so, please list the name and addresses of the committees and dates when you held the position

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7 Have you ever prepared or signed a campaign treasurer's report? If so, please list the name of the candidate or committee whose report you prepared or signed

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8 What action have you taken to determine your responsibilities under Florida's election laws?

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9 Do you possess a copy of Chapter 106, Florida Statutes?  Yes  No

10 If so, when did you first obtain it? \_\_\_\_\_

11 Have you read Chapter 106, Florida Statutes?  Yes  No

12 Do you possess a copy of Chapter 104, Florida Statutes?  Yes  No

13 If so, when did you first obtain it? \_\_\_\_\_

14 Have you read Chapter 104, Florida Statutes?  Yes  No

15 Do you possess a copy of the *Handbook for Candidates*?  Yes  No

16 If so, when did you first obtain it? \_\_\_\_\_

17 Have you read the *Handbook for Candidates*?  Yes  No

18 List any additional materials you received from the Palm Bay City Clerk

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19 Information from the Palm Bay City Clerk reflects that between July 5, 2011, and July 18, 2012, several notices were sent to you via certified mail to the address you provided to the city clerk. These notices referenced your failure to file several campaign treasurers' reports while you were a candidate for city council. The letters were signed for by someone named "Salvador Ramos." Did you receive any of these notices?

Yes  No

20 On May 8, 2013, you spoke with Investigator Tracie Aulet regarding the failure to file these reports. During the conversation you stated you had withdrawn from the election and that the Palm Bay City Clerk was aware that you had withdrawn. Did you file notice with the city

clerk's office that you were withdrawing from the 2012 election? (If so, please provide a copy of the withdrawal letter you provided to the city clerk's office)

Yes  No

21 If you did not file notice with the city clerk that you were withdrawing from the election, please explain how the city clerk was aware of your withdrawal. If you spoke with someone, please provide the name and title (if known) with whom you spoke. Please describe the nature of the conversation with this person. Please state any instructions, if any that were given to you by this person. Please state the approximate date the conversation took place:

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22 As of May 13, 2013, the following reports remain outstanding: 2011 Q2 Report, 2011 Q3 Report, 2011 Q4 Report, 2012 Q1 Report, and 2012 Q2 Report. Is there a reason you have not filed these reports? Please explain:

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23. On your Appointment of Campaign Treasurer form filed on November 30, 2010, you appointed Maritza Ramos-Mercado as your treasurer. What duties did Ms. Ramos-Mercado perform as your treasurer?

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24 When did you last reside at 643 Commargo Road, NW, Palm Bay, Florida 32907?

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25 On May 9, 2013, you were e-mailed a copy of the complaint and a copy of the letter of legal sufficiency detailing the section of law you are alleged to have violated. The e-mail was sent to an e-mail address you provided to Investigator Aulet. Did you receive this e-mail and its attachments?

Yes  No



I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_  
**Signature of Affiant**

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known \_\_\_\_\_ or Produced Identification \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_  
\_\_\_\_\_

Case Investigator: ta



FEC 12-274  
Tracie Aulet to: purposemercado

05/09/2013 10:13 AM



14 day letter 12-274.pdf



Complaint 12-274.pdf



Letter opening investigation 12-274.pdf

Dear Mr Mercado,

Attached please find a copy of the complaint filed by the Palm Bay City Clerk as well as the letter detailing the scope of the Commission's investigation. As we discussed yesterday, the filing officer is alleging that you failed to provide information required by Chapter 106, Florida Statutes, by not filing campaign treasurers reports while you were a candidate for city council

During our discussion yesterday, you stated you would be hiring an attorney. If you choose to do so, please be aware that I cannot discuss your case with your attorney unless he or she has filed a Notice of Appearance with the Commission. Until I receive such notice, I will continue to contact you directly.

Please acknowledge receipt of this e-mail and the attached documents. If you have any questions or concerns, please feel free to contact me.

Sincerely,

Tracie L Aulet  
Investigation Specialist II  
Florida Elections Commission  
The Collins Building, Suite 224  
107 West Gaines Street  
Tallahassee, FL 32399  
(850) 922-4539 Office  
(850) 921-0783 Fax

Please note that Florida has a broad public records law, and that all correspondence to me via e-mail may be subject to disclosure

ATTACHMENT D

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**In Re: David Mercado**

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**Case No.: FEC 12-274**

**STAFF RECOMMENDATION FOLLOWING INVESTIGATION**

Pursuant to section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.19(1)(c), Florida**, on 5 occasions and **no probable cause** to charge Respondent with violating Section 106.19(1)(c), Florida Statutes, on 1 occasion. Based upon a thorough review of the Report of Investigation submitted on June 3, 2013, the following facts and law support this staff recommendation:

1. On September 26, 2012, the Florida Elections Commission ("Commission") received a complaint from Alice I Passmore ("Complainant" or "City Clerk") alleging that David Mercado ("Respondent") violated Chapter 106, Florida Statutes.

2. Respondent was a candidate for the Palm Beach City Council, Seat 2, in the 2012 municipal election. He did not qualify. The Complainant in this case is Respondent's filing officer.

3. Complainant alleged that Respondent falsely reported or deliberately failed to provide required information in several campaign reports.

3. By letter dated March 26, 2013<sup>1</sup>, the Executive Director sent Respondent an amended letter notifying him that Commission staff would investigate the following:

**Section 106.19(1)(c), Florida Statutes:** David A. Mercado was a candidate for Palm Bay City Council, Seat 2. He failed to qualify during the qualifying period. Maritza Ramos-Mercado is the campaign treasurer of record for the Respondent's campaign. As alleged in the complaint, one or more of the required treasurer reports have not been filed and Respondent, as candidate, has thus deliberately failed to provide information required by ch 106, Florida Statutes.

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<sup>1</sup> The initial letter to Respondent notifying him that the complaint was legally sufficient was sent to his new address in New Jersey. The letter was returned to the Commission as unclaimed. On or about May 8, 2013, Investigator Tracie Aulet spoke with Respondent and reviewed the content of the letter of legal sufficiency. Respondent provided Ms. Aulet with an email address so she could send Respondent a copy of the complaint and letter of legal sufficiency. Respondent agreed to acknowledge receipt of the email and documents but failed to do so. Ms. Aulet's email to Respondent has not been returned. (See Attachment A, Phone Log Entry 6; See Attachment D for documents sent to Respondent with Ms. Aulet's email.)

4. Respondent filed two State of Florida Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates forms ("DS-DE 9") on November 30, 2010. Respondent appointed Maritza Ramos-Mercado as his treasurer, and himself as a deputy treasurer. (ROI Exhibit 1)<sup>2</sup>

### **2011 Q2 Report**<sup>3</sup>

5. The 2011 Q2 report covered the dates of April 1, 2011, through June 30, 2011, and was due to be filed no later than July 11, 2011. On July 5, 2011, Terese Jones, Deputy City Clerk, sent an email to Respondent reminding him that his 2011 Q2 Report was due on July 11, 2011. (ROI Exhibit 2)

6. Respondent failed to file his 2011 Q2 Report by July 11, 2011. By letter dated July 18, 2011, the Palm Bay City Clerk sent Respondent a letter via certified mail, return receipt requested, advising him that her office had not received his 2011 Q2 Report. The letter was sent to the address on Respondent's DS-DE 9. (ROI Exhibits 1 & 3) However, the letter was returned as unclaimed. (ROI Exhibit 3)

7. By letter dated August 4, 2011, the Palm Bay City Clerk sent Respondent a second letter informing Respondent that they had not yet received his 2011 Q2 Report. The letter was mailed certified mail, return receipt requested. This letter was also mailed to the address Respondent provided on his DS-DE 9 form (ROI Exhibits 1 & 4) The return receipt indicates that on or about August 6, 2011, a Josefina Ramos accepted the letter on behalf of Respondent. (ROI Exhibit 4)

### **2011 Q3 Report**

8. The 2011 Q3 Report covered the dates from July 1, 2011, through September 30, 2011. On October 4, 2011, the Palm Bay City Clerk's office sent Respondent an email reminder that his 2011 Q3 Report was due on October 10, 2011, (ROI Exhibit 5)

9. Respondent failed to file his 2011 Q3 Report on October 10, 2011. By letter dated October 18, 2011, the City Clerk sent notification to Respondent that his 2011 Q3 Report had not been received. The letter was mailed via certified, mail-return receipt requested to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on or about October 30, 2011, a Salvador Ramos accepted the letter on behalf of Respondent. (ROI Exhibits 1 & 6)

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<sup>2</sup> The Report of Investigation is referred to herein as "ROI."

<sup>3</sup> In her complaint, the first report that Complainant alleges Respondent failed to file was his 2012 Q2 Report. However, based upon the date Complainant alleged report was due and the supporting documentation submitted with the complaint, it appears that Complainant was referring to the 2011 Q2 Report. Additionally, Complainant alleges that Respondent did not file his 2012 Q2 Report a second time later in her complaint.

### **2011 Q4 Report**

10. The 2011 Q4 report covered the dates of October 1, 2011, through December 31, 2011. On December 30, 2011, the Clerk's office sent Respondent an email reminder that Respondent's 2011 Q4 report was due on January 10, 2012. (ROI Exhibit 7)

11. Respondent failed to file his 2011 Q4 Report on January 10, 2012. By letter dated January 13, 2012, Complainant sent Respondent notification that his 2011 Q4 Report had not been received. The letter was sent certified mail, return receipt requested. The letter was mailed to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on January 14, 2011<sup>4</sup>, a Josefina Ramos accepted the letter on Respondent's behalf. (ROI Exhibits 1 & 8)

### **2012 Q1 Report**

12. The 2012 Q1 Report covered the dates of January 1, 2012 through March 31, 2012. On April 3, 2012, the Palm Bay City Clerk's office sent Respondent an email reminding him that his 2012 Q1 Report was due on April 10, 2012. The email to Respondent was returned as undeliverable. (ROI Exhibit 9)

13. By letter dated April 19, 2012, the City Clerk sent Respondent a letter notifying him that his 2012 Q1 Report had not been received. The letter was sent via certified mail, return receipt requested. The letter was mailed to the address Respondent provided on his DS-DE 9 form. The return receipt indicates that on April 24, 2012, a Salvador Ramos accepted the letter on behalf of Respondent. (ROI Exhibits 1 & 10)

### **2012 Q2 Report**

14. The 2012 Q2 Report covered the dates of April 1, 2012 through June 30, 2012. On July 5, 2012, the Palm Bay City Clerk's office sent Respondent an email reminding him that his 2012 Q2 Report was due on July 10, 2012. The email to Respondent was returned as undeliverable. (ROI Exhibit 11)

15. By letter dated July 13, 2012, the City Clerk sent Respondent a letter via certified mail, return receipt requested notifying him that his 2012 Q2 Report had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form. However, the letter was returned to the City Clerk's office as "Attempted Not Known" (ROI Exhibit 12)

16. Investigator Aulet spoke with Respondent by telephone on May 8, 2013. Respondent stated he had moved to Plainfield, New Jersey. During the telephone conversation, Ms. Aulet reviewed the complaint. Respondent stated that he did not receive a copy of the complaint or the letter of legal sufficiency. Respondent also told Ms. Aulet that he withdrew from the election. Respondent agreed to provide Investigator Aulet with a copy of the notice he

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<sup>4</sup> It appears the actual date Ms. Ramos signed for the letter was January 14, 2012

gave to the City Clerk's office, however as of June 20, 2013, Respondent has failed to provide a copy of the notice. (See Attachment A, Phone Log Entry 6)

17. During the May 8, 2013 conversation, Respondent provided Ms. Aulet with the email purposemercado@yahoo.com for her to send Respondent a copy of the complaint and letter of legal sufficiency. Respondent also indicated that he would confirm receipt of the documents. Respondent never acknowledged receipt of Ms. Aulet's email and the email has not been returned as undeliverable. *Id.*

18. On April 1, 2013, Investigator Aulet also spoke with Terese Jones, Palm Bay Deputy City Clerk. Ms. Jones stated that Respondent did not inform the City Clerk's office he was withdrawing his candidacy, and that Respondent was not notified that his termination report was due (See Attachment A, Phone Log Entry 5)

19. Additionally, Ms. Jones testified in an April 18, 2013 affidavit that:

4. Mr. Mercado has not been in contact with the Palm Bay City Clerk's office since January, 2011. The contact was a series of e-mails regarding Mr. Mercado's report due January 10, 2011. (See Attachment B for copies of the emails)

\* \* \* \* \*

5. At no time during his candidacy did Mr. Mercado state he wanted to withdraw from the election. At no time during his candidacy did Mr. Mercado ask for information or instructions regarding the procedure for withdrawing from an election. At no time during his candidacy was Mr. Mercado considered withdrawn from the election.

6. The qualifying period for the 2012 general election was held from August 20 to 24, 2012. Mr. Mercado did not qualify (ROI Exhibit 13)

20. On May 13, 2013, Investigator Aulet sent Respondent an affidavit to complete that included questions regarding the issue of Respondent notifying the Palm Bay City Clerk's office that he was withdrawing his candidacy (See Attachment C) Respondent did not return the affidavit.

21. As of August 24, 2012, Respondent was not a candidate. Respondent, therefore, was required to file a Termination Report no later than November 22, 2012. Section 106.141(7)(a)3, Florida Statutes, requires the filing officer to notify each candidate at least 14 days before their Termination Report is due. However, Ms. Jones from the City Clerk's office told Investigator Aulet that Respondent was not notified about filing a Termination Report. Therefore, it appears Respondent did not deliberately fail to report campaign transactions that occurred between August 24, 2012, and November 22, 2012 that he was required to report pursuant to Section 106.19(1)(c), Florida Statutes.

22. "Probable Cause" is defined as reasonable ground of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged. *Schmitt v. State*, 590 So.2d 404, 409 (Fla. 1991). Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Department of Highway Safety and Motor Vehicles v Favino*, 667 So.2d 305, 309 (Fla. 1<sup>st</sup> DCA 1995).

23. The facts set forth above show that Respondent was a candidate for Palm Bay City Council, Seat 2. Respondent failed to file his 2011 Q2, 2011 Q3, 2011 Q4, 2012 Q1, 2012 Q2 Report and Termination Reports. Prior to each quarterly report being due, Respondent was sent an email reminder about timely filing the report. However, the Palm Bay City Clerk's office did not notify Respondent within 14 days of his Termination Report being due as it was required to do.

24. The above facts also show that Respondent asserts he notified the City Clerk's office in writing that he was withdrawing from the election. However, the City Clerk's office states that it never received notice from Respondent to that effect. Additionally, Respondent stated he would provide the Commission with a copy of what he submitted to the City Clerk. However, despite promising to do so, Respondent did not provide the Commission with a copy of the written notification he claimed he gave to the Palm Bay City Clerk's office.

Based upon these facts and circumstances, I recommend that the Commission find probable cause to charge Respondent with violating the following:

**Count 1:**

On or about July 11, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q2 Report with the Palm Bay City Clerk's Office.

**Count 2:**

On or about October 10, 2011, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q3 Report with the Palm Bay City Clerk's Office.

**Count 3:**

On or about January 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2011 Q4 Report with the Palm Bay City Clerk's Office.

**Count 4:**

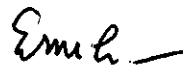
On or about April 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q1 Report with the Palm Bay City Clerk's Office.

**Count 5:**

On or about July 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent deliberately failed to file his 2012 Q2 Report with the Palm Bay City Clerk's Office.

I further recommend that the Commission find no probable cause to charge Respondent with violating Section 106.19(1)(c), Florida Statutes for failing to file a Termination Report

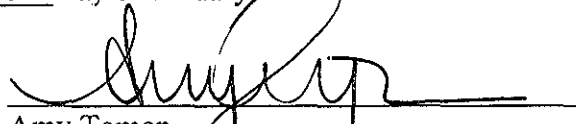
Respectfully submitted on June 25, 2013,



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Eric M. Lipman  
General Counsel

I reviewed this Staff Recommendation this 25<sup>th</sup> day of January 2013.



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Amy Toman  
Executive Director



**FLORIDA ELECTIONS COMMISSION  
PHONE LOG  
Case No.: FEC 12-274**

**Respondent:** David A. Mercado

**Complainant:** Alice I. Passmore

1. **Date and time:** October 1, 2012 @ 11:17 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and requested copies of any and all records of appointments of treasurers and deputy treasurers. Ms. Jones agreed that she would fax the documents to me ASAP.  
**Memo to File?** No  
**Entered by:** dbf
  
2. **Date and time:** October 1, 2012 @ 11:49 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and thanked Ms. Jones for the documents I had requested. I also asked for the date when the candidate-qualifying period had ended. I explained that while I noted her reference to a termination report on our complaint form, I found no complainant attachment documenting a failure-to-file letter. Ms. Jones advised me that the qualifying period ended on August 24, 2012. Therefore, it appears that Respondent has until late November to file a termination report. If the report is not received, the supervisor of elections will send a failure-to-file letter at that time.  
**Memo to File?** No  
**Entered by:** dbf
  
3. **Date and time:** October 1, 2012 @ 12:51 p.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and asked the deputy city clerk whether Respondent has filed any of the outstanding reports. Ms. Jones advised me that he has not.  
**Memo to File?** No  
**Entered by:** dbf
  
4. **Date and time:** April 8, 2013; 2:05 p.m.  
**Name:** Terese Jones  
**Phone #:** 321-952-3414  
**Summary:** Ms. Jones was not available; I left a voicemail asking that she return my call.  
**Memo to File?** No  
**Entered by:** ta
  
5. **Date and time:** April 8, 2013; 2:09 p.m.  
**Name:** Terese Jones  
**Phone #:** returned my call

**Summary:** I stated that I would be investigating the complaint against R. I asked if she had contact with R; Ms. Jones stated no. I asked Ms. Jones to describe the last positive contact she had with R. Ms. Jones stated it was an e-mail regarding his treasurer report due January 2011; she has not had contact since then. I stated that in the previous failure to file case R stated he discussed withdrawing from the election with her; I asked if she recalled such a conversation; she stated no. I asked if had anything in writing from R that indicated he wanted to withdraw; Ms. Jones stated no. I asked Ms. Jones if she was familiar with R treasurer; she stated the treasurer came in the office on one occasion when R filed his paperwork and that was the only time she had contact with the treasurer. I stated that I had received information that R had relocated to New Jersey; I asked Ms. Jones if she had any information on his possible whereabouts. Ms. Jones stated she had no idea and that as far as she knew R was still residing in Florida. I asked Ms. Jones to clarify whether R was notified that his termination report was due; she stated, "No, it doesn't look like it." I stated that since an affidavit of filing officer was done in the previous case I would just mail an affidavit of additional information for her to complete

**Memo to File?** No

**Entered by:** ta

6. **Date and time:** May 8, 2013; approximately 3 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** I introduced myself as the investigator assigned to investigate the complaint filed against R. R acknowledged receiving a copy of the "judgment" against him for \$500 and stated he could not afford to pay all at one time (regarding case no. FEC 11-107). I stated that there was a new complaint filed against him for several reports that were not filed while he was a candidate. I asked if he received a copy of the new complaint or letter of legal sufficiency; R stated he no longer lives at the address where the final order was sent. I reviewed the content of the legal sufficiency letter with R and we discussed that I am investigating whether he violated Section 106.19(1)(c), Florida Statutes, deliberately failing to provide information required by Chapter 106, by not filing campaign treasurers reports while he was a candidate. R expressed concern and stated he would be hiring an attorney. R was adamant that he had withdrawn from the election and that the city clerk was aware of his withdrawal. I informed R that I had spoken with the city clerk and she had no record of his withdrawal. I asked R if he filed notice in writing with the city clerk's office that he was withdrawing; he stated yes, and agreed to provide a copy of the withdrawal notice. I informed R that I had spoken with the clerk's office and that there was no record of him withdrawing from the race; in fact, the clerk's office stated he had not contacted them since January 2011. R stated that is incorrect. R again agreed to provide a copy of his withdrawal notice. I asked R to provide me with his current mailing address, which he gave as 1627 Prospect Avenue, Plainsfield, NJ 07060. R gave his e-mail address as [purposemercado@yahoo.com](mailto:purposemercado@yahoo.com). I stated I would e-mail a copy of the complaint and legal sufficiency letter; R agreed to acknowledge receipt of these documents

**Memo to File?** No

**Entered by:** ta

7. **Date and time:** May 30, 2013; 3:56 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a voicemail asking R to return my call. I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter.

**Memo to File?** No

**Entered by:** ta

8. **Date and time:** May 31, 2013; 5:23 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a detailed message stating I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter as he agreed to during our previous conversation. I stated that if I did not hear from him by close of business Monday, June 3, I would proceed with the investigation

**Memo to File?** No

**Entered by:** ta

9. **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

10. **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Tuesday, January 11, 2011 12:18 PM  
**To:** 'dmercado@votedavidmercado.com'  
**Subject:** RE: Treasurer Report

David

I received the report, post marked 1-10-11.

Thanks

Alice

---

**From:** David [mailto:dmercado@votedavidmercado.com]  
**Sent:** Tuesday, January 11, 2011 7:59 AM  
**To:** Terese Jones  
**Subject:** Re: Treasurer Report

Alice,

Good Morning. I wasn't able to make it to the post office, but I sent it out overnight from FEDEX yesterday, so it was post marked for yesterday. I am sorry for the inconvenience this will not happen on the next quarterly report.

Confirmation #866201715017446

Respectfully Submitted

David Mercado

David Mercado

---

**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Mon, 10 Jan 2011 13:39:34 -0500  
**To:** dmercado@votedavidmercado.com<dmercado@votedavidmercado.com>  
**Subject:** RE: Treasurer Report

David

If you are able to take the report to a post office today and have it post marked before midnight tonight, there will be no fine.

If not, the penalty is \$50 per late day or 25% of the expenditure or contribution (whichever is less). The report you submitted shows a \$60.00 contribution and a \$50.00 expenditure. 25% of the lesser of the 2 which is the \$50 expenditure is \$12.50. That is your fine. If this amount had exceeded the \$50 per day amount, the \$50 amount would have applied.

Also, campaign funds may not be used to pay the fine

I've looked over the faxed copy of your report. Please make sure the original is signed by the treasurer when you submit it.

Alice

---

**From:** David [mailto:dmercado@votedavidmercado.com]  
**Sent:** Monday, January 10, 2011 8:45 AM  
**To:** Terese Jones  
**Subject:** Re: Treasurer Report

Can it be brought to you first thing in the morning on tuesday

David Mercado

---

**From:** Terese Jones <jonest@palmbayflorida.org>  
**Date:** Mon, 10 Jan 2011 08:42:48 -0500  
**To:** dmercado@votedavidmercado.com<dmercado@votedavidmercado.com>  
**Subject:** RE: Treasurer Report

David

Sorry, I have to have the original. A fax is not sufficient

Alice

---

**From:** dmercado@votedavidmercado.com [mailto:dmercado@votedavidmercado.com]  
**Sent:** Sunday, January 09, 2011 9:10 AM  
**To:** Terese Jones  
**Subject:** RE: Treasurer Report

I will be faxing over the Report today. Once you receive it on Monday morning can you please send me a email allowing me to know that you received it? Thanks so much and I hope you and your family had a wonderful Holiday season.

Respectfully Submitted,

David Mercado

----- Original Message -----

Subject: Treasurer Report

From: Terese Jones <jonest@palmbayflorida.org>

Date: Wed, December 29, 2010 8:00 am

To: Brian Anderson <andersonforseat3@yahoo.com>, David Mercado  
<dmercado@votedavidmercado.com>

Reminder – your treasurer report is due Monday, January 10, 2011, by 5:00 P.M., for the period covering October 1, 2010 (or the appointment of your campaign treasurer) through December 31, 2010.

*Terese M. Jones, CMC  
Deputy City Clerk*

(321) 952-3414



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**AFFIDAVIT OF BACKGROUND INFORMATION**  
**Case Number: FEC 12-274**

**STATE OF FLORIDA**  
**County of Brevard**

**David A. Mercado, being duly sworn, says:**

1. This affidavit is made upon my personal knowledge.

2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by \_\_\_\_\_ as \_\_\_\_\_

3. Have you ever run for public office? If so, please name the office(s) you ran for and the date(s) of the election(s) you ran in.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Have you ever been appointed to act as a campaign treasurer for a candidate? If so, please name the candidate(s) you served as treasurer, the office(s) the candidate ran for, and the dates of the election(s).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Have you ever held the office of chairperson, treasurer, board member, or other similar position for a political committee? If so, please list the names and addresses of the committees and dates when you held the position.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Have you ever held the office of chairperson, treasurer, board member, or other similar position for a committee of continuous existence? (Committee of continuous existence is defined in Section 106.04, Florida Statutes) If so, please list the name and addresses of the committees and dates when you held the position.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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7. Have you ever prepared or signed a campaign treasurer's report? If so, please list the name of the candidate or committee whose report you prepared or signed.

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8. What action have you taken to determine your responsibilities under Florida's election laws?

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9. Do you possess a copy of Chapter 106, Florida Statutes?  Yes  No

10. If so, when did you first obtain it? \_\_\_\_\_

11. Have you read Chapter 106, Florida Statutes?  Yes  No

12. Do you possess a copy of Chapter 104, Florida Statutes?  Yes  No

13. If so, when did you first obtain it? \_\_\_\_\_

14. Have you read Chapter 104, Florida Statutes?  Yes  No

15. Do you possess a copy of the *Handbook for Candidates*?  Yes  No

16. If so, when did you first obtain it? \_\_\_\_\_

17. Have you read the *Handbook for Candidates*?  Yes  No

18. List any additional materials you received from the Palm Bay City Clerk.

---

19. Information from the Palm Bay City Clerk reflects that between July 5, 2011, and July 18, 2012, several notices were sent to you via certified mail to the address you provided to the city clerk. These notices referenced your failure to file several campaign treasurers' reports while you were a candidate for city council. The letters were signed for by someone named "Salvador Ramos." Did you receive any of these notices?

Yes  No

20. On May 8, 2013, you spoke with Investigator Tracie Aulet regarding the failure to file these reports. During the conversation you stated you had withdrawn from the election and that the Palm Bay City Clerk was aware that you had withdrew. Did you file notice with the city



clerk's office that you were withdrawing from the 2012 election? (If so, please provide a copy of the withdrawal letter you provided to the city clerk's office.

Yes  No

21 If you did not file notice with the city clerk that you were withdrawing from the election, please explain how the city clerk was aware of your withdrawal. If you spoke with someone, please provide the name and title (if known) with whom you spoke. Please describe the nature of the conversation with this person. Please state any instructions, if any that were given to you by this person. Please state the approximate date the conversation took place:

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22 As of May 13, 2013, the following reports remain outstanding: 2011 Q2 Report, 2011 Q3 Report, 2011 Q4 Report, 2012 Q1 Report, and 2012 Q2 Report. Is there a reason you have not filed these reports? Please explain:

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23 On your Appointment of Campaign Treasurer form filed on November 30, 2010, you appointed Maritza Ramos-Mercado as your treasurer. What duties did Ms. Ramos-Mercado perform as your treasurer?

---

---

---

24 When did you last reside at 643 Commargo Road, NW, Palm Bay, Florida 32907?

---

25 On May 9, 2013, you were e-mailed a copy of the complaint and a copy of the letter of legal sufficiency detailing the section of law you are alleged to have violated. The e-mail was sent to an e-mail address you provided to Investigator Aulet. Did you receive this e-mail and its attachments?

Yes  No

I HEREBY SWEAR OR AFFIRM THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_  
**Signature of Affiant**

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Signature of Notary Public - State of Florida

**Print, Type, or Stamp Commissioned Name of Notary Public**

Personally Known \_\_\_\_\_ or Produced Identification \_\_\_\_\_

Type of Identification Produced: \_\_\_\_\_  
\_\_\_\_\_

Case Investigator: ta



FEC 12-274  
Tracie Aulet to: purposemercado

05/09/2013 10:13 AM



14 day letter 12-274.pdf



Complaint 12-274.pdf



Letter opening investigation 12-274.pdf

Dear Mr. Mercado,

Attached please find a copy of the complaint filed by the Palm Bay City Clerk as well as the letter detailing the scope of the Commission's investigation. As we discussed yesterday, the filing officer is alleging that you failed to provide information required by Chapter 106, Florida Statutes, by not filing campaign treasurers reports while you were a candidate for city council.

During our discussion yesterday, you stated you would be hiring an attorney. If you choose to do so, please be aware that I cannot discuss your case with your attorney unless he or she has filed a Notice of Appearance with the Commission. Until I receive such notice, I will continue to contact you directly.

Please acknowledge receipt of this e-mail and the attached documents. If you have any questions or concerns, please feel free to contact me.

Sincerely,

Tracie L. Aulet  
Investigation Specialist II  
Florida Elections Commission  
The Collins Building, Suite 224  
107 West Gaines Street  
Tallahassee, FL 32399  
(850) 922-4539 Office  
(850) 921-0783 Fax

Please note that Florida has a broad public records law, and that all correspondence to me via e-mail may be subject to disclosure.

ATTACHMENT D



**FLORIDA ELECTIONS COMMISSION**

107 W. Gaines Street,  
Suite 224 Collins Building  
Tallahassee, Florida 32399-1050  
Telephone: (850) 922-4539  
Fax: (850) 921-0783

2/1/2013

~~September 26, 2012~~

7004 2510 0001 4740 1891

**CERTIFIED MAIL** ~~70042510000147400580~~

David Mercado  
~~643 Commargo Road, NW~~  
Palm Bay, FL 32907

13 Forest Brook Drive  
North Plainfield, NJ 07060

**RE: Case No.: FEC 12-274, Respondent: David Mercado**

Dear Mr Mercado:

On September 26, 2012, the Florida Elections Commission received the enclosed complaint alleging that you violated Florida's election laws. Section 106.25(2), Florida Statutes states:

The respondent shall have 14 days after receipt of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the complaint, please send it to my attention at the address listed above. To ensure that I receive your response in a timely manner, you may also want to send it via e-mail to my attention, at [fec@myfloridalegal.com](mailto:fec@myfloridalegal.com). You will be notified by letter whether the complaint is determined legally sufficient. Please note that all correspondence from this office will be mailed to the same address as this letter. Therefore, if your address changes, you must notify us of your new address.

Under section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing.

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*David Anthony Mercado  
13 Forest Brook Drive  
North Plainfield, NJ*

*Dec: 2/27/13*

*07060*

2. Article Number  
(Transfer from service label)

7004 2510 0001 4740 1891

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Addressee  Agent

*[Signature]*

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
<i>REC 12-274</i>	
Sent To <i>David Mercado</i>	
Street, Apt. No., or PO Box No. <i>13 Forest Brook Drive</i>	
City, State ZIP+4 <i>North Plainfield, NJ 07060</i>	
PS Form 3800, June 2002 See Reverse for Instructions	

7004 2510 0001 4740 1891

CAG 2012-274

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050  
Telephone Number: (850) 922-4539  
www.fec.state.fl.us

RECEIVED  
2012 SEP 26 A 9:45

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: City of Palm Bay (Alice Passmore, City Clerk) Work Phone: (321) 952-3414  
Address: 120 Malabar Road, SE Home Phone: ( )  
City: Palm Bay County: Brevard State: FL Zip Code: 32907

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. If both an individual and a committee or organization are involved, name both.

Name of individual: David Mercado  
Address: 643 Commargo Road, NW Phone: (678) 361-8290  
City: Palm Bay County: Brevard State: FL Zip Code: 32907

If individual is a candidate, list the office or position sought: City Council, Seat 2

Name of committee or organization: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Have you filed this complaint with the State Attorney's Office? (check one)  Yes  No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: **Chapter 104, Chapter 106, Section 98.122, and Section 105.071, Florida Statutes.** Also, please include:

- ✓ The facts and actions that you believe support the violations you allege,
- ✓ The names and telephone numbers of persons you believe may be witnesses to the facts,
- ✓ A copy or picture of the political advertisements you mention in your statement,
- ✓ A copy of the documents you mention in your statement, and
- ✓ Other evidence that supports your allegations

The above candidate has violated Chapter 106 07 - Reports; certification and filing - for the following reporting dates: July 11, 2012; October 10, 2011; January 10, 2012; April 10, 2012; and July 10, 2012. Mr. Mercado did not file paperwork during the City's qualifying period and, subsequently, was also required to complete a Termination Report as he had spent

and received funds during his campaign. To date, none of the above reports have been filed with my office. The emails and letters were drafted and sent by my Deputy City Clerk, Terese Jones. She can be reached at the office number listed above. All supporting documents to this complaint are attached.

Additional materials attached (check one)?  Yes  No

4. **OATH**

STATE OF FLORIDA  
COUNTY OF Brevard

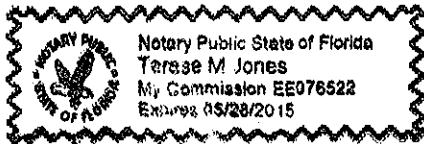
I swear or affirm, that the above information is true and correct to the best of my knowledge.

RECEIVED  
2012 SEP 26 11 43 AM  
CLERK

[Signature]  
Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 20th day of  
September, 2012

[Signature]  
Signature of Officer Authorized to Administer Oaths or Notary public



TERESE M. JONES  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known [initials] Or Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.



DM

**FLORIDA ELECTIONS COMMISSION**

107 W. Gaines Street,  
Suite 224 Collins Building  
Tallahassee, Florida 32399-1050  
Telephone: (850) 922-4539  
Fax: (850) 921-0783

March 26, 2013

**CERTIFIED MAIL 7004 2510 0001 4740 1877**

Mr David Mercado  
13 Forest Brook Drive  
North Plainfield, New Jersey 07060

**RE: Case No.: FEC 12-274**

Dear Mr. Mercado:

On September 26, 2012, the Florida Elections Commission received a complaint (previously provided to you) alleging that you violated Florida's election laws. I have reviewed the complaint and find that it contains one or more legally sufficient allegations. Along with all allegations in the complaint, the Commission staff will investigate the following alleged violation:

**Section 106.19(1)(c), Florida Statutes:** David A Mercado was a candidate for Palm Bay City Council, Seat 2. He failed to qualify during the qualifying period. Maritza Ramos-Mercado is the campaign treasurer of record for the Respondent's campaign. As alleged in the complaint, one or more of the required treasurer reports have not been filed and Respondent, as candidate, has thus deliberately failed to provide information required by ch. 106, Florida Statutes.

You may respond to the allegation above by filing a notarized statement providing any information regarding the facts and circumstances surrounding the allegation. If you choose to file a response to the alleged violation, you should do so within 20 days of the date you receive this letter. Your response will be included as an attachment to the investigator's report.

When we conclude the investigation, you will receive a copy of the Report of Investigation. You may file a response to the report within 14 days from the date the report is mailed to you. Based on the results of the investigation, legal staff will make a written recommendation to the Commission on whether there is probable cause to believe you have violated Chapter 104 or 106, Florida Statutes. You will receive a copy of the Staff Recommendation and may file a response within 14 days from the date the recommendation is mailed to you. Your timely filed response(s) will be considered by the Commission when determining probable cause.



The Commission will then hold a hearing to determine whether there is probable cause to believe you have violated Chapter 104 or 106, Florida Statutes. You and the complainant will receive a notice of hearing at least 14 days before the hearing. The notice of hearing will indicate the location, date, and time of your hearing. You will have the opportunity to make a brief oral statement to the Commission, but you will not be permitted to testify or call others to testify, or introduce any documentary or other evidence. The Commission also may allow the complainant to make a brief oral statement.

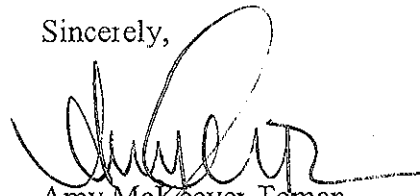
At any time before a probable cause finding, you may notify us in writing that you want to enter into negotiations directed towards reaching a settlement via consent agreement.

The Report of Investigation, Staff Recommendation, and Notice of Hearing will be mailed to the same address as this letter. Therefore, if your address changes, you must notify the investigator assigned to this case of your new address. Otherwise, you may not receive the correspondence from the staff. Failure to receive the documents will not delay the probable cause hearing.

Under section 106 25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing. The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

If you have any questions or need additional information, please contact **Tracie Aulet**, the investigator assigned to this case, at extension 114.

Sincerely,



Amy McKeever Toman  
Executive Director

cc: Alice I. Passmore, City Clerk, City of Palm Bay, Complainant/Filing Officer

AMI/dam

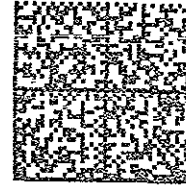


FLORIDA ELECTIONS COMMISSION  
 107 West Games Street  
 Collins Building, Suite 224  
 Tallahassee, Florida 32399-1050

**CERTIFIED MAIL™**



7004 2510 0001 4740 1877



Master

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STATE OF FLORIDA  
 ELECTIONS DIVISION

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*ten*  
*16*

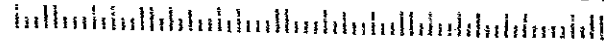
Mr. David M  
 13 Forest Brc  
 North Plainfi

07050@3481  
 07060@33269@068249

NIXIE 076 DE 1 00 04/24/13

RETURN TO SENDER  
 UNCLAIMED  
 UNABLE TO FORWARD

BC: 32399654999 \*0938-10288-26-41



*2pk*

**FLORIDA ELECTIONS COMMISSION**  
**REPORT OF INVESTIGATION**  
**Case No.: FEC 12-274**

**Respondent: David A. Mercado**

**Complainant: Alice Passmore**

On September 26, 2012, the Florida Elections Commission received a sworn complaint, alleging that Respondent violated Chapter 106, Florida Statutes. Commission staff investigated whether Respondent violated the following statute:

Section 106.19(1)(c), Florida Statutes, prohibiting a person or organization from falsely reporting or deliberately failing to report information required by Chapter 106, Florida Statutes.

**I. Preliminary Information:**

1. Respondent was a first-time candidate for Palm Bay City Council, Seat 2, in the 2012 municipal election; he did not qualify.

2. Complainant is the Palm Bay City Clerk, and Respondent's filing officer.

3. Respondent has appeared before the Commission on one prior occasion. In FEC 11-107, Complainant alleged Respondent failed to file his 2011 Q1 Report during the 2012 municipal election. During the investigation of FEC 11-107, Respondent stated he had informed Terese Jones, Palm Bay Deputy City Clerk, that he was "basically pushed" into running for office, and that he no longer wished to be a candidate. According to Respondent, Ms. Jones stated she would send him additional information about withdrawing from the race, but he never received anything further.

4. In a telephone interview on December 13, 2011, Ms. Jones stated if Respondent had told her he was planning to withdraw there would have been no "additional information" to forward him; she would have just told him to submit a withdrawal letter. Ms. Jones also confirmed Respondent had not officially withdrawn from the 2012 election.

**II. Alleged Violation of Section 106.19(1)(c), Florida Statutes:**

5. I investigated whether Respondent violated this section of election laws by deliberately failing to file several campaign treasurers' reports while he was a candidate for city council.<sup>1</sup>

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<sup>1</sup> Although Complainant alleges in her complaint that Respondent was "required to file a Termination Report," during a telephone interview May 8, 2013, Ms. Jones stated Respondent was not notified that his Termination Report was due after he failed to qualify. Therefore, I did not further investigate this information.

6. On November 30, 2010, Respondent filed Appointment of Campaign Treasurer and Designation of Campaign Depository (DS-DE 9) forms appointing Maritza Ramos-Mercado treasurer and himself deputy treasurer of his campaign.<sup>2</sup> To view copies of the DS-DE 9 forms, please refer to Exhibit 1.

### **2011 Q2 Report**

7. On July 5, 2011, Therese Jones, Deputy City Clerk, sent Respondent an e-mail reminding him that his treasurer's report covering the period April 1, 2011 through June 30, 2011 (2011 Q2 Report) would be due on July 11, 2011. The e-mail was sent to an e-mail address provided by Respondent on his DS-DE 9 form (Exhibit 1). To view a copy of the e-mail, please refer to Exhibit 2.

8. On July 18, 2011, Complainant sent Respondent a letter via certified mail stating his quarterly report due July 11, 2011 had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form (Exhibit 1) and was returned to the city clerk's office unclaimed. To view a copy of the letter, please refer to Exhibit 3.

9. On August 4, 2011, Complainant sent Respondent a second letter via certified mail stating his quarterly report due July 11, 2011 had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form (Exhibit 1). The green card reflects that "Josefina Ramos" signed for the letter on August 6, 2011. To view a copy of the letter and green card, please refer to Exhibit 4.

### **2011 Q3 Report**

10. On October 4, 2011, Ms. Jones sent Respondent an e-mail reminding him that his treasurer's report covering the period July 1, 2011 through September 30, 2011 (2011 Q3 Report) would be due on October 10, 2011. The e-mail was sent to the e-mail address provided by Respondent on his DS-DE 9 form (Exhibit 1). To view a copy of the e-mail, please refer to Exhibit 5.

11. On October 18, 2011, Complainant sent Respondent a letter via certified mail stating his quarterly report due October 10, 2011 had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form (Exhibit 1). The green card reflects that "Salvador Ramos" signed for the letter on behalf of Respondent on October 30, 2011. To view a copy of the letter and green card, please refer to Exhibit 6.

### **2011 Q4 Report**

12. On December 30, 2011, Ms. Jones sent Respondent an e-mail reminding him that his treasurer's report covering the period October 1, 2011 through December 31, 2011 (2011 Q4 Report) would be due on January 10, 2012. The e-mail was sent to the e-mail address provided by Respondent on his DS-DE 9 form (Exhibit 1). To view a copy of the e-mail, please refer to

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<sup>2</sup>According to Ms. Jones, the only contact the clerk's office has had with Mrs. Ramos-Mercado (Respondent's wife) was on November 30, 2010, when Respondent's candidacy forms were filed.

Exhibit 7.

13. On January 13, 2012, Complainant sent Respondent a letter via certified mail stating his quarterly report due January 10, 2012 had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form (Exhibit 1). The green card reflects that "Josefina Ramos" signed for the letter on behalf of Respondent on January 14, 2011. To view a copy of the letter and green card, please refer to Exhibit 8.

**2012 Q1 Report**

14. On April 3, 2012, Ms Jones sent Respondent an e-mail reminding him that his treasurer's report covering the period January 1, 2012 through March 31, 2012 (2012 Q1 Report) would be due on April 10, 2012. The e-mail was sent to the e-mail address provided by Respondent on his DS-DE 9 form (Exhibit 1); however, it appears the e-mail was undeliverable to Respondent's e-mail address. To view a copy of the e-mail and the undeliverable message, please refer to Exhibit 9.

15. On April 19, 2012, Complainant sent Respondent a letter via certified mail stating his quarterly report due April 10, 2012 had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form (Exhibit 1). The green card reflects that "Salvador Ramos" signed for the letter on behalf of Respondent on April 24, 2012. To view a copy of the letter and green card, please refer to Exhibit 10.

**2012 Q2 Report**

16. On July 5, 2012, Ms Jones sent Respondent an e-mail reminding him that his treasurer's report covering the period April 1, 2012 through June 30, 2012 (2012 Q2 Report) would be due on July 10, 2012. The e-mail was sent to the e-mail address provided by Respondent on his DS-DE 9 form (Exhibit 1); however, it appears the e-mail was undeliverable to Respondent's e-mail address. To view a copy of the e-mail and the undeliverable message, please refer to Exhibit 11.

17. On July 13, 2012, Complainant sent Respondent a letter via certified mail stating his quarterly report due July 10, 2012 had not been received. The letter was mailed to the address Respondent provided on his DS-DE 9 form (Exhibit 1) and was returned to the city clerk's office unclaimed. To view a copy of the letter and green card, please refer to Exhibit 12.

18. I interviewed Ms. Jones by telephone on April 8, 2013, wherein she was asked to recall the last occasion Respondent was in contact with the city clerk's office. According to Ms Jones, Respondent has not contacted the city clerk's office since filing his 2010 Q4 Report on January 10, 2011.

19. Ms. Jones was also asked if she recalled the statements Respondent made during the course of the investigation in FEC 11-107 regarding his desire to withdraw from the election. Ms Jones stated, and attested in an Affidavit of Additional Information, that at no time during his candidacy did Respondent state he wanted to withdraw from the election, and that at no time during his candidacy was Respondent considered withdrawn from the election. To view a copy of Ms. Jones' affidavit, please refer to Exhibit 13.

20. I interviewed Respondent by telephone on May 8, 2013, and reviewed the content of the legal sufficiency letter with Respondent, in which it states that the Commission would be investigating whether Respondent violated Section 106.19(1)(c), Florida Statutes, deliberately failing to provide information required by Chapter 106, by not filing campaign treasurers reports while he was a candidate.<sup>3</sup> Respondent expressed concern that Complainant filed another complaint regarding his failure to file reports although he had withdrawn from the election and Complainant was aware of his withdrawal.

21. I informed Respondent that the city clerk had no record of his withdrawal and asked if he filed his withdrawal request in writing with the city clerk's office. Respondent replied that he had, and agreed to provide a copy of the withdrawal notice. However, as of the date of this report, Respondent has not provided a copy of the notice.

22. On May 13, 2013, I sent Respondent an affidavit via regular mail asking that he state the circumstances regarding his withdrawal as well as the reason he has not filed his reports. The affidavit was mailed to the address Respondent provided during the May 8, 2013 telephone interview.<sup>4</sup> As of the date of this report, the affidavit has not been returned by the US Postal Service and Respondent has not returned the affidavit.

23. It is also noted that copies of the complaint, letter notifying Respondent of the complaint (14-day letter), and letter of legal sufficiency were sent to an e-mail address provided by Respondent during the May 8, 2013 telephone interview. Respondent agreed to confirm receipt of these documents; however, as of the date of this report Respondent has not done so, and I have not received notice that the e-mail was undeliverable.

24. As previously stated, Respondent has had one prior case before the Commission for failing to file his 2011 Q1 Report. In FEC 11-107, an informal hearing was held on May 8, 2012; the Commission found one violation of Section 106.19(1)(c), Florida Statutes, and Respondent was assessed a civil penalty of \$500. As of the date of this report, the penalty remains unpaid. To view a copy of the Final Order for FEC 11-107, please refer to Exhibit 14.

### **Conclusion:**

25. I telephoned Respondent in an attempt to conduct a final interview. There was no answer, and as of the date of this report Respondent has not returned my call.

26. Because Respondent did not return an affidavit, I am unable to ascertain whether Respondent read the *Candidate and Campaign Treasurer Handbook*. Respondent signed his Statement of Candidate form on November 30, 2010. To view a copy of the form, please refer to Exhibit 15.

27. Pursuant to FEC 11-107, Ms. Jones submitted an affidavit dated December 6, 2011, in which she states she informed Respondent that copies of Chapters 104 and 106, Florida Statutes, and the *Candidate and Campaign Treasurer Handbook* are available on the city

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<sup>3</sup> The letter of legal sufficiency dated March 26, 2013, was returned to the Commission unclaimed.

<sup>4</sup> It appears Respondent has relocated to Plainsfield, New Jersey.

website. To view a copy of Ms. Jones' affidavit, please refer to Exhibit 16.

Respectfully submitted on June 3, 2013,



Tracie Aulet  
Investigation Specialist

**Current address of Respondent**

Mr. David A. Mercado  
643 Commargo Road NW  
Palm Bay, FL 32907

**Current address of Complainant**

Ms. Alice Passmore, City Clerk  
City of Palm Bay  
120 Malabar Road, SE  
Palm Bay, FL 32907

**Name and Address of Filing Officer:**

Ms. Alice Passmore, City Clerk  
City of Palm Bay  
120 Malabar Road, SE  
Palm Bay, FL 32907

Copy furnished to:

Mr. David Flagg, Investigations Manager

**FLORIDA ELECTIONS COMMISSION**  
**REPORT OF INVESTIGATION**  
**David A. Mercado -- FEC 12-274**

<b>LIST OF EXHIBITS</b>	
<b>Exhibits #s</b>	<b>Description of Exhibits</b>
Exhibit 1	Appointments of Campaign Treasurer filed 11/30/10
Exhibit 2	E-mail dated 7/5/11
Exhibit 3	Letter dated 7/18/11
Exhibit 4	Letter dated 8/4/11
Exhibit 5	E-mail dated 10/4/11
Exhibit 6	Letter dated 10/18/11
Exhibit 7	E-mail dated 12/30/11
Exhibit 8	Letter dated 1/13/12
Exhibit 9	E-mail & undeliverable message dated 4/3/12
Exhibit 10	Letter dated 4/19/2012
Exhibit 11	E-mail & undeliverable message dated 7/5/12
Exhibit 12	Letter dated 7/13/12
Exhibit 13	Affidavit of Additional Information from Terese Jones
Exhibit 14	Final Order case number FEC 11-107
Exhibit 15	Statement of Candidate form dated 11/30/10
Exhibit 16	Affidavit of Filing Officer



APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY FOR CANDIDATES (Section 106.021(1), F.S.)

Office of The NOV 30 2010 City Clerk

(PLEASE PRINT OR TYPE)

NOTE: This form must be on file with the qualifying officer before opening the campaign account.

OFFICE USE ONLY

1. CHECK APPROPRIATE BOX(ES):

Initial Filing of Form Re-filing to Change: Treasurer/Deputy Depository Office Party

2. Name of Candidate (in this order: First, Middle, Last)

David Anthony Mercado

3. Address (include post office box or street, city, state, zip code)

643 Commargo Rd NW Palm Bay FL 32907

4. Telephone

(678) 361-8290

5. E-mail address

DMercado@votedavidmercado.com

6. Office sought (include district, circuit, group number)

Palm Bay City Council Seat 2

7. If a candidate for a nonpartisan office, check if applicable:

My intent is to run as a Write-In candidate.

8. If a candidate for a partisan office, check block and fill in name of party as applicable: My intent is to run as a

Write-In No Party Affiliation Party candidate.

9. I have appointed the following person to act as my Campaign Treasurer Deputy Treasurer

10. Name of Treasurer or Deputy Treasurer

Maritza Ramos-Mercado

11. Mailing Address

643 Commargo Rd NW

12. Telephone

(973) 985-8162

13. City

Palm Bay

14. County

Brevard

15. State

FL

16. Zip Code

32907

17. E-mail address

maritza@votedavidmercado.com

18. I have designated the following bank as my Primary Depository Secondary Depository

19. Name of Bank

Bank of America

20. Address

190 Malabar Rd SW Ste 118

21. City

Palm Bay

22. County

Brevard

23. State

FL

24. Zip Code

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.

25. Date

11/29/10

26. Signature of Candidate

X [Signature]

27. Treasurer's Acceptance of Appointment (fill in the blanks and check the appropriate block)

Maritza Ramos-Mercado do hereby accept the appointment (Please Print or Type Name)

designated above as: Campaign Treasurer Deputy Treasurer

11/29/10

Date

X [Signature] Signature of Campaign Treasurer or Deputy Treasurer

<b>STATE OF FLORIDA</b> <b>APPOINTMENT OF CAMPAIGN TREASURER</b> <b>AND DESIGNATION OF CAMPAIGN</b> <b>DEPOSITORY FOR CANDIDATES</b> (Section 108.021(1), F.S.)  (PLEASE TYPE)	<b>OFFICE USE ONLY</b>  <b>Office of The</b> <b>NOV 30 2010</b>  <b>City Clerk</b>
--	---

CHECK APPROPRIATE BOX:

Original Appointment       Deputy Treasurer       Reappointment of Treasurer

Name of Candidate <i>David Anthony Mercado</i>	1. Address (include post office box or street, city, state, zip code) <i>643 Commerce Rd NW Palm Bay FL 32907</i>
---	--

Telephone (optional) <i>(678) 361-8290</i>	2. Party (Partisan candidates only) <i>Democrat</i>	3. Office (add district, circuit, group number) <i>Palm Bay City Council Seat 2</i>
---	--	--

I have appointed the following person to act as my  Campaign Treasurer  Deputy Treasurer

4. Name of Treasurer or Deputy Treasurer  
*David Mercado*

5. Mailing Address (if post office box or drawer add street address) <i>643 Commerce Rd NW</i>	6. Telephone <i>678-361-8290</i>
---	-------------------------------------

7. City <i>Palm Bay</i>	8. County <i>Brevard</i>	9. State <i>FL</i>	10. Zip Code <i>32907</i>
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I have designated the following named bank as my  Primary Depository  Secondary Depository

11. Name of Bank <i>Bank of America</i>	12. Street Address <i>190 Malabar Rd SW Ste 118</i>
--	--

13. City <i>Palm Bay</i>	14. County <i>Brevard</i>	15. State <i>FL</i>	16. Zip Code
-----------------------------	------------------------------	------------------------	--------------

17. Signature of Candidate <i>[Signature]</i>	Date <i>11/30/10</i>
--	-------------------------

**Campaign Treasurer's Acceptance of Appointment**

I, *David Anthony Mercado*, do hereby accept the appointment as  
(Please Print or Type)

Campaign Treasurer  Deputy Treasurer for the campaign of *David Anthony Mercado*

who is seeking nomination or election as a *Nonpartisan* candidate to the office of  
(Party)

*Palm Bay City Council Seat 2*

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING CAMPAIGN TREASURER'S ACCEPTANCE OF APPOINTMENT AND THAT THE FACTS STATED ARE TRUE.

*11/30/10* Date      *[Signature]* X Signature of Campaign Treasurer or Deputy Treasurer

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Tuesday, July 05, 2011 11:34 AM  
**To:** 'Brian Anderson'; 'David Mercado'; 'Michele Paccione'; 'Pat Woodard'; 'Sondra Lane Karwel/Sandra Kane Karwel'; 'Willard Conyers'  
**Subject:** Treasurer Reports Due

Reminder – your treasurer report is due Monday, July 11, 2011, by 5:00 P.M., for the period covering April 1, 2011 (or the appointment of your campaign treasurer), through June 30, 2011.

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*



**EXHIBIT** 2



July 18, 2011

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer's Report, Quarterly

Dear Mr Mercado:

Your quarterly campaign treasurer's report, which was due Monday, July 11, 2011, has not been received.

Pursuant to Section 106 07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

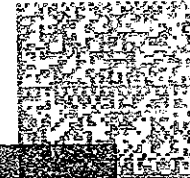
**EXHIBIT** 3 pg. 1 of 2

Legislative Department



Legislative Department  
 120 Malabar Road SE  
 Palm Bay, FL 32907-3009

7000 8330 0000 2727 5310



**CERTIFIED MAIL**  
 PLEASE STICKEN ADHESION DE ENVOLPE O TAPAJE  
 OF THE FRONT ADDRESS BEFORE MAILING

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\$05.50  
 07/18/2011

Mailed From 32901  
 US POSTAGE



**REASON CHECKED**

- Moved, Left No Address
- Forwarding Order Expired
- Unable to Forward
- Attempted - Not Known
- Unclaimed  Refused
- No Such Street  No Such Number
- Use Address Label

Mr. David A. Mercado  
 643 Commargo Road, NW  
 Palm Bay, FL 32907

h/n. 7/25 8/3  
 7/19

3290731710 7000



EXHIBIT 3 pg. 2 of 2



August 4, 2011

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer's Report, Quarterly

Dear Mr. Mercado:

On July 18, 2011, our office sent you a letter advising that your final campaign treasurer's report, which was due July 11, 2011, had not been received. To date, your report has not been filed with my office.

Please submit your report to my office by Monday, August 15, 2011. If I do not receive your report by that date, pursuant to Section 106.07(8)(d), Florida Statutes, my office will have no other alternative than to notify the Florida Elections Commission of your failure to file the report

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

for Alice Passmore, CMC  
City Clerk

tmj

EXHIBIT 4 pg. 1 of 2

Legislative Department

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Received by (Please Print Clearly) <i>Josefina Ramos</i>	B. Date of Delivery <i>8-6-11</i>
1. Article Addressed to:  <i>Mr. David A. Mercado</i>  <i>643 Conmargo Road, NW</i> <i>Palm Bay, FL 32907</i>	C. Signature <input checked="" type="checkbox"/> <i>Josefina Ramos</i> <div style="float: right;"> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee         </div>	
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No YES enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Only from certain states) 7008 3230 0000 7627 5327	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

EXHIBIT 4 pg. 2 of 2

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Tuesday, October 04, 2011 9:05 AM  
**To:** Brian Anderson; David Mercado; Harry Santiago Jr.; Michele Paccione; Missy Wilson; Pat Woodard; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Monday, October 10, 2011, by 5:00 P M., for the period covering July 1, 2011 (or the appointment of your campaign treasurer), through September 30, 2011.

If you have already submitted your report, please disregard this message.

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*



EXHIBIT 5





October 18, 2011

Mr David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer’s report, which was due Monday, October 10, 2011, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

**EXHIBIT** 6 pg. 1 of 2

Legislative Department

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<table border="1"> <tr> <td data-bbox="842 787 1181 850">A. Received by (Please Print Clearly)</td> <td data-bbox="1181 787 1359 850">B. Date of Delivery</td> </tr> <tr> <td data-bbox="842 808 1181 861">Salvador Ramos</td> <td data-bbox="1181 808 1359 861">10/30/11</td> </tr> <tr> <td colspan="2" data-bbox="842 861 1359 892">C. Signature</td> </tr> <tr> <td data-bbox="842 892 1230 945">x Salvador Ramos</td> <td data-bbox="1230 892 1359 945"> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee         </td> </tr> <tr> <td colspan="2" data-bbox="842 945 1359 976">D. Is delivery address different from item 1? <input type="checkbox"/> Yes</td> </tr> <tr> <td colspan="2" data-bbox="842 976 1359 1008">If YES, enter delivery address below: <input type="checkbox"/> No</td> </tr> </table>	A. Received by (Please Print Clearly)	B. Date of Delivery	Salvador Ramos	10/30/11	C. Signature		x Salvador Ramos	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	D. Is delivery address different from item 1? <input type="checkbox"/> Yes		If YES, enter delivery address below: <input type="checkbox"/> No	
A. Received by (Please Print Clearly)	B. Date of Delivery												
Salvador Ramos	10/30/11												
C. Signature													
x Salvador Ramos	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee												
D. Is delivery address different from item 1? <input type="checkbox"/> Yes													
If YES, enter delivery address below: <input type="checkbox"/> No													
<p>1 Article Addressed to:</p> <p>DAVID MERCADO          643 COMMARCO RD. NW          PALM BAY FL 32907</p>	<p>3 Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered        <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail        <input type="checkbox"/> C.O.D.</p> <p>4 Restricted Delivery? (Extra Fee)    <input type="checkbox"/> Yes</p>												
<p>2 Article Number (Copy from box for label)</p> <p>7008 3230 0000 7627 5273</p>													

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

EXHIBIT 6 pg 2 of 2

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Friday, December 30, 2011 10:03 AM  
**To:** Brian Anderson; David Mercado; Harry Santiago Jr.; John Mazziotti; Michele Paccione; Missy Wilson; Pat Woodard; Paul Walker; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers; William Capote  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Tuesday, January 10, 2012, by 5:00 P.M., for the period covering October 1, 2011, through December 31, 2011 *If you pre-qualified after October 1<sup>st</sup>, your reporting period should begin with the date you appointed your campaign treasurer and end on December 31<sup>st</sup>.*

*Terese M. Jones, CMC  
Deputy City Clerk  
(321) 952-3414*



**EXHIBIT** 7



January 13, 2012

Mr. David Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer’s report, which was due Monday, January 10, 2012, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

**EXHIBIT** 8 pg. 1 of 2

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Legislative Department

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Received by (Please Print Clearly)	B. Date of Delivery 7/14/11
<p>1. Article Addressed to:</p> <p>Mr. David Mercado 643 Camargo Road, NW Palm Bay, FL 32907</p>	<p>C. Signature <i>Josefina Ramos</i> <input type="checkbox"/> Agent  <i>X Josefina Ramos</i> <input checked="" type="checkbox"/> Addressee</p>	
<p>2. 7008 3230 0000 7627 5341</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

EXHIBIT 8 pg. 2 of 2

**Terese Jones**

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**From:** Terese Jones  
**Sent:** Tuesday, April 03, 2012 10:06 AM  
**To:** Brian Anderson; David Mercado; Harry Santiago Jr.; John Mazziotti; Lucinda Earls; Michele Paccione; Missy Wilson; Paul Walker; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers; William Capote  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Tuesday, April 10, 2012, by 5:00 P.M., for the period covering January 1, 2012, through March 31, 2012. ***If you pre-qualified after January 1<sup>st</sup>, your reporting period should begin with the date you appointed your campaign treasurer and end on March 31<sup>st</sup>.***

*Terese M. Jones, CMC  
Deputy City Clerk  
(321) 952-3414*



EXHIBIT 9 pg. 1 of 2

**Terese Jones**

---

**From:** Microsoft Exchange  
**To:** David Mercado  
**Sent:** Tuesday, April 03, 2012 10:06 AM  
**Subject:** Undeliverable: Treasurer Reports Due

**Delivery has failed to these recipients or distribution lists:**

David Mercado

An error occurred while trying to deliver this message to the recipient's e-mail address. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message, or provide the following diagnostic text to your system administrator.

The following organization rejected your message: p3pismtp01-031.prod.phx3.secureserver.net.

---

Sent by Microsoft Exchange Server 2007

**Diagnostic information for administrators:**

Generating server: OWA.palmbayflorida.org

dmercado@votedavidmercado.com

p3pismtp01-031.prod.phx3.secureserver.net #550 #5.1 0 Address rejected dmercado@votedavidmercado.com ##

Original message headers:

Received: from ALASKA.palmbayflorida.org ([192.168.1.69]) by  
OWA.palmbayflorida.org ([192.168.1.71]) with mapi; Tue, 3 Apr 2012 10:05:44  
-0400

From: Terese Jones <jonest@palmbayflorida.org>

To: Brian Anderson <andersonforseat3@yahoo.com>, David Mercado  
<dmercado@votedavidmercado.com>, Harry Santiago Jr  
<harrysantiagojr@gmail.com>, John Mazziotti <mayor@palmbayflorida.org>,  
Lucinda Earls <lucindaearls@yahoo.com>, Michele Paccione <shellymk1@aol.com>,  
Missy Wilson <missyforpalmbay@gmail.com>, Paul Walker <pwalker71@cfl.rr.com>,  
Sondra Lane Karwel/Sandra Kane Karwel <skarwel@gmail.com>, Willard Conyers  
<w622003@yahoo.com>, William Capote <seat2@palmbayflorida.org>

Date: Tue, 3 Apr 2012 10:05:44 -0400

Subject: Treasurer Reports Due

Thread-Topic: Treasurer Reports Due

Thread-Index: Ac0RotxuePxmbqOhT6evAgpZJBmxEQ==

Message-ID: <2C5B2FFDE2C05540BA8BCFBAF77432B424AF95270F@ALASKA.palmbayflorida.org>

Accept-Language: en-US

Content-Language: en-US

X-MS-Has-Attach: yes

**EXHIBIT** 9 pg. 2 of 2



April 19, 2012

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer's Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer's report, which was due Tuesday, April 10, 2012, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

cc: Maritza Ramos-Mercado, Campaign Treasurer

**EXHIBIT** 10 pg. 1 of 2

Legislative Department



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee  <i>x Salvador Ramos</i></p> <p>B. Received by (Printed Name)   C. Date of Delivery  <i>Salvador Ramos</i>   <i>4-24-12</i></p>
<p>1 Article Addressed to:  <i>David A. Mercado</i>  <i>643 Commargo Rd, NW</i>  <i>Palm Bay, FL 32909</i></p>	<p>D Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>
	<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7008 3230 0000 7627 5358</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

EXHIBIT 10 pg. 2 of 2

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Thursday, July 05, 2012 9:44 AM  
**To:** Bill Rettinger; Brian Anderson; David Mercado; Harry Santiago Jr.; John Mazziotti; Michele Paccione; Missy Wilson; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers; William Capote  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Tuesday, July 10, 2012, by 5:00 P.M., for the period covering April 1, 2012, through June 30, 2012. The report type is Q2.

*Terese M. Jones, CMC  
Deputy City Clerk  
(321) 952-3414*



EXHIBIT 11 pg. 1 of 2

**Terese Jones**

---

**From:** Microsoft Exchange  
**To:** David Mercado  
**Sent:** Thursday, July 05, 2012 9:44 AM  
**Subject:** Undeliverable: Treasurer Reports Due

**Delivery has failed to these recipients or distribution lists:**

David Mercado

An error occurred while trying to deliver this message to the recipient's e-mail address. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message, or provide the following diagnostic text to your system administrator.

The following organization rejected your message: p3pismtp01-035.prod.phx3.secureserver.net

---

Sent by Microsoft Exchange Server 2007

**Diagnostic information for administrators:**

Generating server: OWA.palmbayflorida.org

dmercado@votedavidmercado.com  
p3pismtp01-035.prod.phx3.secureserver.net #550 #5.1.0 Address rejected. ##

Original message headers:

Received: from ALASKA palmbayflorida.org ([192.168.1.69]) by  
OWA.palmbayflorida.org ([192.168.1.71]) with mapi; Thu, 5 Jul 2012 09:44:19  
-0400  
From: Terese Jones <jonest@palmbayflorida.org>  
To: Bill Rettinger <electbill4pbseat2@gmail.com>, Brian Anderson  
<andersonforseat3@yahoo.com>, David Mercado <dmercado@votedavidmercado.com>,  
Harry Santiago Jr. <harrysantiagojr@gmail.com>, John Mazziotti  
<mayor@palmbayflorida.org>, Michele Paccione <shellymk1@aol.com>, "Missy  
Wilson" <missyforpalmbay@gmail.com>, Sondra Lane Karwel/Sandra Kane Karwel  
<skarwel@gmail.com>, Willard Conyers <w622003@yahoo.com>, William Capote  
<seat2@palmbayflorida.org>  
Date: Thu, 5 Jul 2012 09:44:19 -0400  
Subject: Treasurer Reports Due  
Thread-Topic: Treasurer Reports Due  
Thread-Index: Ac1atEboYCs24jDWT46Qq1kiBLbl6Q==  
Message-ID: <2C5B2FFDE2C05540BA8BCFBAF77432B424AF952E68@ALASKA.palmbayflorida.org>  
Accept-Language: en-US  
Content-Language: en-US  
X-MS-Has-Attach: yes

**EXHIBIT 11 pg. 2 of 2**



July 13, 2012

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer’s report, which was due Tuesday, July 10, 2012, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

  
for Alice Passmore, CMC  
City Clerk

tmj

cc: Maritza Ramos-Mercado, Campaign Treasurer

**EXHIBIT** 12 pg. 1 of 2

Legislative Department

7011 1570 0001 2869 2442

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only - No Insurance Coverage Provided)  
For delivery information visit our website at www.usps.com  
**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.75

Postmark Here

Sent to  
 Street, Apt. No. or PO Box No. *David Mercado*  
 City, State ZIP+4 *643 Commargo Rd. NW*  
*Palm Bay FL 32907*

2442 6962 1000 0254 1102



**CERTIFIED MAIL**  
PLACE STICKER TOP OR INVERT TO THE FRONT OF THE ENVELOPE'S FLAP OR TOP FLAP

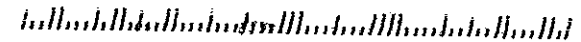


U.S. POSTAGE PITNEY BOWES  
ZIP 32907 \$ 005.75<sup>0</sup>  
02 1W  
0001375906 JUL 16 2012

INSUFFICIENT ADDRESS  
 NO SUCH NUMBER  
 UNCLAIMED  
 RETURNED TO SENDER  
 UNDELIVERABLE  
 ADDRESS UNKNOWN  
 NO POSTAGE NECESSARY  
 IF MAILED IN THE  
 UNITED STATES

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

3290791710 ROSE



Legislative Department  
120 Malabar Road SE  
Palm Bay, FL 32907-3009

EXHIBIT 12 pg. 2 of 2

*AMK*  
*SA*

AFFIDAVIT OF ADDITIONAL INFORMATION

Case Number: FEC 12-274

RECEIVED

STATE OF FLORIDA

County of Brevard

2013 APR 23 P 4: 08

TERESE

Therese Jones, being duly sworn, says:

STATE OF FLORIDA  
ELECTIONS COMMISSION

- 1. This affidavit is made upon my personal knowledge.
- 2. I am of legal age and competent to testify to the matters stated herein. I am currently employed by City of Palm Bay as Deputy City Clerk

3 I was interviewed by telephone by Investigator Tracie Aulet on April 8, 2013 regarding David A. Mercado, a candidate for Palm Bay City Council, Seat 2 in the 2012 general election. We discussed the following:

(Please use the spaces provided to make any corrections or clarifications to the statements that follow. If no clarification is needed, please indicate so by initialing in the space provided)

4. Mr. Mercado has not been in contact with the Palm Bay City Clerk's office since January, 2011. The contact was a series of e-mails regarding Mr. Mercado's report due January 10, 2011. (Please provide a copy of the series of e-mails between Mr. Mercado and the city clerk's office)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. At no time during his candidacy did Mr. Mercado state he wanted to withdraw from the election. At no time during his candidacy did Mr. Mercado ask for information or instructions regarding the procedure for withdrawing from an election. At no time during his candidacy was Mr. Mercado considered withdrawn from the election.

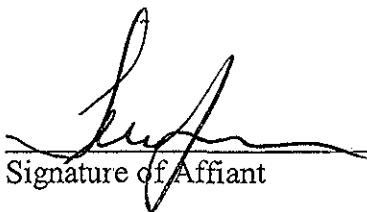
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The qualifying period for the 2012 general election was held from August 20 to August 24, 2012. Mr. Mercado did not qualify.

\_\_\_\_\_  
\_\_\_\_\_


7. Maritza Ramos-Mercado, Mr. Mercado's appointed treasurer, has not been in contact with the Palm Bay City Clerk's office since on or about November 30, 2010, when Mr. Mercado filed his initial paperwork to become a candidate.

I HEREBY SWEAR OR AFFIRM THAT THE FORGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

  
Signature of Affiant

Sworn to (or affirmed) and subscribed before me this 18<sup>th</sup> day of APRIL, 2013

NOTARY PUBLIC-STATE OF FLORIDA  
Alice Passmore  
Commission # DD891735  
Expires: MAY 24, 2013  
BONDED THRU ATLANTIC BONDING CO., INC.

  
Signature of Notary Public - State of Florida  
Print, Type, or Stamp Commissioned Name of Notary Public  
ALICE PASSMORE

Personally Known  or Produced Identification

Type of Identification Produced: \_\_\_\_\_

Case Investigator: ta

EXHIBIT 13 pg. 2 of 2

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

FILED  
12 MAY 22 PM 4:57  
STATE OF FLORIDA  
ELECTIONS COMMISSION

Florida Elections Commission,  
Petitioner,

v.

David Mercado,  
Respondent.

Agency Case No.: FEC 11-107  
F.O. No.: FOFEC 12-057W

FINAL ORDER

THIS CAUSE came on to be heard at an informal hearing held before the Florida Elections Commission (Commission) on May 8, 2012.

**APPEARANCES**

For Commission	Eric Lipman General Counsel 107 W. Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399
For Respondent	No appearance

**STATEMENT OF THE ISSUE**

Whether the Respondent violated Section 106 19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to report information required by Chapter 106.

**PRELIMINARY STATEMENT**

On May 10, 2011, the Commission received a sworn complaint alleging violations of Florida's election laws. 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 Florida Election Code.

On January 4, 2012, staff drafted a Staff Recommendation recommending to the



Commission that there was probable cause to believe that The Florida Election Code was violated. On February 21, 2012, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violations:

**Count 1:**

**Section 106.19(1)(c), Florida Statutes:** David A. Mercado, candidate for the Palm Bay City Council, Seat 2, failed to report or deliberately failed to include any information required by Chapter 106, Florida Statutes, as alleged in the complaint

Respondent failed to elect to have a formal administrative hearing, or resolve the case by a consent order. Therefore, the Respondent was noticed to appear before the Commission on May 8, 2012, for an informal hearing. At the informal hearing, staff presented the undisputed facts contained in the Staff Recommendation. Respondent did not appear at the hearing.

**FINDINGS OF FACT**

1. Respondent is a candidate for the Palm Bay City Council in the 2012 elections.
2. Respondent's 2011 Q1 campaign report was due on April 11, 2011. Respondent failed to file the report timely.
3. Therese Jones from the Palm Bay City Clerk's office sent Respondent two letters notifying him that the clerk's office had not received his report.
4. An April 13, 2011 letter was returned "unclaimed."
5. An April 26, 2011 letter was signed for on Respondent's behalf by Salvador Ramos.
6. After the Commission received the complaint in this matter, Investigator Aulet also sent Respondent two letters about the investigation. Ms. Aulet's first letter was returned "unclaimed."
7. Ms. Aulet's second letter dated November 14, 2011, was signed for on behalf of

Respondent by Salvador Ramos

8. Even though Respondent received two letters notifying him that he failed to file his 2011 Q1 campaign report timely, as of May 1, 2010, Respondent had not filed his 2011 Q1 campaign report.

9. Respondent's actions were deliberate and willful

### CONCLUSIONS OF LAW

10. The Commission has jurisdiction over the parties to and subject matter of this cause, pursuant to Section 106 26, Florida Statutes

11. Respondent's conduct was willful. Respondent knew he was required to file timely his 2011 Q1 report, and despite receiving notices of his failure to file the report, he failed to do so

12. The Respondent violated Section 106 19(1)(c), Florida Statutes, when he deliberately failed to report information on his 2011 Q1 report

13. In determining the amount of the civil penalty, the Commission considered the mitigating and aggravating circumstances set forth in Section 106.265, Florida Statutes

14. The Commission finds that Respondent has sufficient financial resources to pay the fine imposed by the Commission.

### ORDER

WHEREFORE the Commission finds that Respondent has violated Section 106.19(1)(c), Florida Statutes, on one occasion. Respondent is fined \$500 for the violation

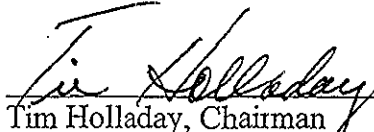
Respondent shall remit a civil penalty in the amount of \$500. The civil penalty shall be paid to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050, within 30 days of the date this Final Order is received by

EXHIBIT 14 pg. 3 of 4

Respondent.

DONE AND ORDERED by the Florida Elections Commission on

May 8th, 2012.

  
\_\_\_\_\_  
Tim Holladay, Chairman  
Florida Elections Commission

### NOTICE OF RIGHT TO APPEAL

This order is final agency action. Any party who is adversely affected by this order has the right to seek judicial review pursuant to Section 120.68, Florida Statutes, by filing a notice of administrative appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Florida Elections Commission at 107 West Gaines Street, Suite 224, Collins Building, Tallahassee, Florida 32399-1050, and by filing a copy of the notice of appeal with the appropriate district court of appeal. The party must attach to the notice of appeal a copy of this order and include with the notice of appeal filed with the district court of appeal the applicable filing fees. **The notice of administrative appeal must be filed within 30 days of the date of this order is filed with the Commission.** The date this order was filed appears in the upper right-hand corner of the first page of the order.

Copies furnished to:

Eric M. Lipman, General Counsel  
David Mercado, Respondent (certified mail)  
Alice Passmore, City Clerk

EXHIBIT 14 pg. 4 of 4

**STATEMENT OF  
CANDIDATE**

(Section 106.023, F.S.)

(Please Type)

OFFICE USE ONLY

Office of The

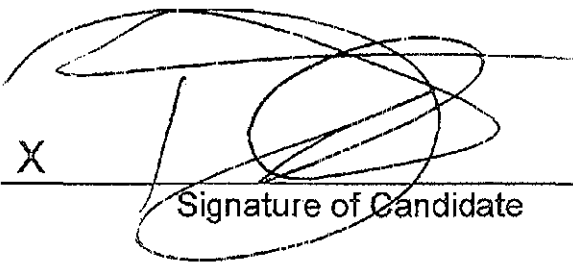
25 03 2019

City Clerk

I, David Anthony Mercado,  
candidate for the office of Palm Bay City Council Seat 2;

have received, read and understand the requirements of Chapter 106,  
Florida Statutes.

X

  
Signature of Candidate

11/30/10

Date

Each candidate must file a statement with the qualifying officer within 10 days after the Appointment of Campaign Treasurer and Designation of Campaign Depository is filed. Willful failure to file this form is a first degree misdemeanor and a civil violation of the Campaign Financing Act which may result in a fine of up to \$1,000, (ss. 106.19(1)(c), 106.265(1), Florida Statutes).

**AFFIDAVIT OF FILING OFFICER**  
**Case Number: FEC 11-107**

1. Please provide certified copies of the listed items from the following candidate's campaign file: **David A. Mercado**.

Check	ITEM
<input checked="" type="checkbox"/>	The Statement of Candidate form for 2012 campaign for City Council, Seat 2.
<input checked="" type="checkbox"/>	2010 Q4 campaign treasurer's report, and any other reports filed by candidate.
	Addendum requests and proof of compliance for any reports filed by candidate.
<input checked="" type="checkbox"/>	Copy of letter Acknowledging receipt of the Appointment of Campaign Treasurer and Designation of Campaign Depository (Form DS-DE9) for 2012 campaign for City Council, Seat 2.

2. Please check each item provided to the candidate or his or her staff, and list the date that the item was provided (If the item is published by the Division of Elections, it is unnecessary to provide a copy of the item. If your office published the item, please send a copy of the item with this affidavit.)

Check	ITEM	DATE
<input checked="" type="checkbox"/>	Chapter 106, <i>Florida Statutes</i>	City Website
	Chapter 104, <i>Florida Statutes</i>	
<input checked="" type="checkbox"/>	Candidate Handbook <b>Please indicate Year</b> <u>July 2010</u>	City Website
<input checked="" type="checkbox"/>	Political ad and disclaimer supplement (part of Candidate Handbook)	City Website
<input checked="" type="checkbox"/>	Calendar of <del>Election dates</del> Reporting Periods	City Website
<input checked="" type="checkbox"/>	Any other election related document, <b>Please indicate the title of the related document:</b> <u>Residency of Candidate; Political Sign Regulations; List of Precincts/Polling Places</u>	City Website

3. Please list all other written materials provided to the candidate or his or her staff, the date of receipt, and a brief description of the written materials. Did you notify the candidate that the campaign handbook was available on the Division of Elections website?

All information provided above is housed on the City of Palm Bay's website. Access to other websites is also available on the City's website for those forms/information not prepared by the City Clerk's Office, i.e. Candidate Handbook, Florida Statutes, etc.

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EXHIBIT 16 pg 1 of 3

4. Please list all training seminars that were attended by the candidate, along with the date of attendance. If a staff member attended for the candidate, list his name and position. If available, please attach a copy of any attendance sheets from the seminar(s).

N/A

5. Please list the subjects covered during these seminars. If available, please provide a copy of the syllabus and outline for the seminar.

N/A

6. Please list any other contacts with this candidate by you or your staff concerning a provision of Chapter 104, Section 105.071, or Chapter 106, *Florida Statutes*. Indicate whether the contact was in person, in writing, or by telephone and the subject matter of the contact. Also, provide copies of any documentation of the contact. Please provide a separate affidavit from any member of your staff who was in contact with this candidate or his or her staff, detailing the subject matter of the contact.

Letters/email notifying candidate of his violating Section 106.07(8)(b), Florida Statutes - failure to file quarterly campaign treasurer reports.

7. Please list all late filings of campaign reports by the candidate. Also, provide copies of all correspondence with the candidate concerning the late filings.

N/A

EXHIBIT 16 pg. 2 of 3

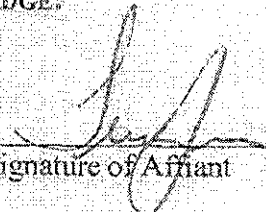
8. Please list all fines paid by the candidate and provide copies of all correspondence concerning the fines.

The late reports have not been filed with our office to date, therefore no fines have been assessed.

9. Please list each year the candidate ran for office, the office the candidate ran for, the dates of the elections, and the results of the elections

Mr. Mercado announced his candidacy in November 2010 for City Council Seat 2 for the November 6, 2012, election.

I SWEAR OR AFFIRM THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

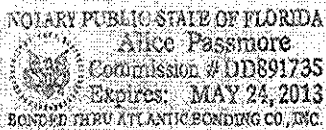
  
Signature of Affiant TERESE M. JONES

Sworn to (or affirmed) and subscribed before me this 6<sup>th</sup> day of

DECEMBER, 2011

  
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known  or Produced Identification

Type of Identification Produced \_\_\_\_\_

EXHIBIT 16 pg. 3 of 3

**FLORIDA ELECTIONS COMMISSION**  
**PHONE LOG**  
**Case No.: FEC 12-274**

**Respondent:** David A. Mercado

**Complainant:** Alice I. Passmore

1. **Date and time:** October 1, 2012 @ 11:17 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and requested copies of any and all records of appointments of treasurers and deputy treasurers. Ms. Jones agreed that she would fax the documents to me ASAP.  
**Memo to File?** No  
**Entered by:** dbf
2. **Date and time:** October 1, 2012 @ 11:49 a.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and thanked Ms. Jones for the documents I had requested. I also asked for the date when the candidate-qualifying period had ended. I explained that while I noted her reference to a termination report on our complaint form, I found no complainant attachment documenting a failure-to-file letter. Ms. Jones advised me that the qualifying period ended on August 24, 2012. Therefore, it appears that Respondent has until late November to file a termination report. If the report is not received, the supervisor of elections will send a failure-to-file letter at that time.  
**Memo to File?** No  
**Entered by:** dbf
3. **Date and time:** October 1, 2012 @ 12:51 p.m.  
**Name:** Terese Jones, Deputy City Clerk for Palm Bay  
**Phone #:** 321.952.3414  
**Summary:** I telephoned and asked the deputy city clerk whether Respondent has filed any of the outstanding reports. Ms. Jones advised me that he has not.  
**Memo to File?** No  
**Entered by:** dbf
4. **Date and time:** April 8, 2013; 2:05 p.m.  
**Name:** Terese Jones  
**Phone #:** 321-952-3414  
**Summary:** Ms. Jones was not available; I left a voicemail asking that she return my call.  
**Memo to File?** No  
**Entered by:** ta
5. **Date and time:** April 8, 2013; 2:09 p.m.  
**Name:** Terese Jones  
**Phone #:** returned my call



**Summary:** I stated that I would be investigating the complaint against R. I asked if she had contact with R; Ms. Jones stated no. I asked Ms. Jones to describe the last positive contact she had with R. Ms. Jones stated it was an e-mail regarding his treasurer report due January 2011; she has not had contact since then. I stated that in the previous failure to file case R stated he discussed withdrawing from the election with her; I asked if she recalled such a conversation; she stated no. I asked if had anything in writing from R that indicated he wanted to withdraw; Ms. Jones stated no. I asked Ms. Jones if she was familiar with R treasurer; she stated the treasurer came in the office on one occasion when R filed his paperwork and that was the only time she had contact with the treasurer. I stated that I had received information that R had relocated to New Jersey; I asked Ms. Jones if she had any information on his possible whereabouts. Ms. Jones stated she had no idea and that as far as she knew R was still residing in Florida. I asked Ms. Jones to clarify whether R was notified that his termination report was due; she stated, "No, it doesn't look like it." I stated that since an affidavit of filing officer was done in the previous case I would just mail an affidavit of additional information for her to complete.

**Memo to File?** No

**Entered by:** ta

6. **Date and time:** May 8, 2013; approximately 3 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** I introduced myself as the investigator assigned to investigate the complaint filed against R. R acknowledged receiving a copy of the "judgment" against him for \$500 and stated he could not afford to pay all at one time (regarding case no. FEC 11-107). I stated that there was a new complaint filed against him for several reports that were not filed while he was a candidate. I asked if he received a copy of the new complaint or letter of legal sufficiency; R stated he no longer lives at the address where the final order was sent. I reviewed the content of the legal sufficiency letter with R and we discussed that I am investigating whether he violated Section 106 19(1)(c), Florida Statutes, deliberately failing to provide information required by Chapter 106, by not filing campaign treasurers reports while he was a candidate. R expressed concern and stated he would be hiring an attorney. R was adamant that he had withdrawn from the election and that the city clerk was aware of his withdrawal. I informed R that I had spoken with the city clerk and she had no record of his withdrawal. I asked R if he filed notice in writing with the city clerk's office that he was withdrawing; he stated yes, and agreed to provide a copy of the withdrawal notice. I informed R that I had spoken with the clerk's office and that there was no record of him withdrawing from the race; in fact, the clerk's office stated he had not contacted them since January 2011. R stated that is incorrect. R again agreed to provide a copy of his withdrawal notice. I asked R to provide me with his current mailing address, which he gave as 1627 Prospect Avenue, Plainsfield, NJ 07060. R gave his e-mail address as [purposemercado@yahoo.com](mailto:purposemercado@yahoo.com). I stated I would e-mail a copy of the complaint and legal sufficiency letter; R agreed to acknowledge receipt of these documents.

**Memo to File?** No

**Entered by:** ta

7. **Date and time:** May 30, 2013; 3:56 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a voicemail asking R to return my call. I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter.

**Memo to File?** No

**Entered by:** ta

8. **Date and time:** May 31, 2013; 5:23 p.m.

**Name:** Respondent

**Phone #:** 678-361-8290

**Summary:** There was no answer; I left a detailed message stating I was calling to ascertain whether R would be returning the affidavit and/or providing a copy of his withdrawal letter as he agreed to during our previous conversation. I stated that if I did not hear from him by close of business Monday, June 3, I would proceed with the investigation.

**Memo to File?** No

**Entered by:** ta

9. **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**

10. **Date and time:**

**Name:**

**Phone #:**

**Summary:**

**Memo to File?** No

**Entered by:**



DM

## FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street,  
Suite 224 Collins Building  
Tallahassee, Florida 32399-1050  
Telephone: (850) 922-4539  
Fax: (850) 921-0783

March 26, 2013

**CERTIFIED MAIL 7004 2510 0001 4740 1877**

Mr David Mercado  
13 Forest Brook Drive  
North Plainfield, New Jersey 07060

**RE: Case No.: FEC 12-274**

Dear Mr. Mercado:

On September 26, 2012, the Florida Elections Commission received a complaint (previously provided to you) alleging that you violated Florida's election laws. I have reviewed the complaint and find that it contains one or more legally sufficient allegations. Along with all allegations in the complaint, the Commission staff will investigate the following alleged violation:

**Section 106.19(1)(c), Florida Statutes:** David A Mercado was a candidate for Palm Bay City Council, Seat 2. He failed to qualify during the qualifying period. Maritza Ramos-Mercado is the campaign treasurer of record for the Respondent's campaign. As alleged in the complaint, one or more of the required treasurer reports have not been filed and Respondent, as candidate, has thus deliberately failed to provide information required by ch. 106, Florida Statutes.

You may respond to the allegation above by filing a notarized statement providing any information regarding the facts and circumstances surrounding the allegation. If you choose to file a response to the alleged violation, you should do so within 20 days of the date you receive this letter. Your response will be included as an attachment to the investigator's report.

When we conclude the investigation, you will receive a copy of the Report of Investigation. You may file a response to the report within 14 days from the date the report is mailed to you. Based on the results of the investigation, legal staff will make a written recommendation to the Commission on whether there is probable cause to believe you have violated Chapter 104 or 106, Florida Statutes. You will receive a copy of the Staff Recommendation and may file a response within 14 days from the date the recommendation is mailed to you. Your timely filed response(s) will be considered by the Commission when determining probable cause.

The Commission will then hold a hearing to determine whether there is probable cause to believe you have violated Chapter 104 or 106, Florida Statutes. You and the complainant will receive a notice of hearing at least 14 days before the hearing. The notice of hearing will indicate the location, date, and time of your hearing. You will have the opportunity to make a brief oral statement to the Commission, but you will not be permitted to testify or call others to testify, or introduce any documentary or other evidence. The Commission also may allow the complainant to make a brief oral statement.

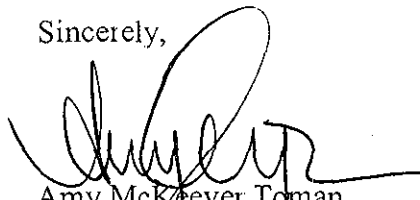
At any time before a probable cause finding, you may notify us in writing that you want to enter into negotiations directed towards reaching a settlement via consent agreement.

The Report of Investigation, Staff Recommendation, and Notice of Hearing will be mailed to the same address as this letter. Therefore, if your address changes, you must notify the investigator assigned to this case of your new address. Otherwise, you may not receive the correspondence from the staff. Failure to receive the documents will not delay the probable cause hearing.

Under section 106 25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapters 104 and 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing. The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

If you have any questions or need additional information, please contact **Tracie Aulet**, the investigator assigned to this case, at extension 114.

Sincerely,



Amy McKeever Toman  
Executive Director

cc: Alice I. Passmore, City Clerk, City of Palm Bay, Complainant/Filing Officer

AMT/dam

7004 2510 0001 4740 1877

U.S. Postal Service™  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here  
*PEC 12-274*

Sent To *David Mercado*

Street, Apt. No.,  
or PO Box No. *13 Forest Brook Drive*

City, State, ZIP+4 *North Fairfield, NY 07000*

PS Form 3800, June 2002 See Reverse for Instructions



**FLORIDA ELECTIONS COMMISSION**

107 W. Gaines Street,  
Suite 224 Collins Building  
Tallahassee, Florida 32399-1050  
Telephone: (850) 922-4539  
Fax: (850) 921-0783

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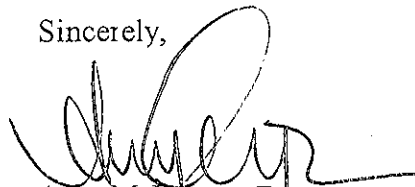
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The Report of Investigation, Staff Recommendation, and Notice of Hearing will be mailed to the same address as this letter. Therefore, if your address changes, you must notify the investigator assigned to this case of your new address. Otherwise, you may not receive the correspondence from the staff. Failure to receive the documents will not delay the probable cause hearing.

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Sincerely,



Amy McKeever Toman  
Executive Director

cc: Alice I Passmore, City Clerk, City of Palm Bay, Complainant/Filing Officer

AMT/dam

CASE # F2012-274

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050  
Telephone Number: (850) 922-4539  
www.fec.state.fl.us

RECEIVED

2012 SEP 26 A 9:45

CONFIDENTIAL COMPLAINT FORM

STATE OF FLORIDA  
ELECTIONS COMMISSION

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: City of Palm Bay (Alice Passmore, City Clerk) Work Phone: (321) 952-3414  
Address: 120 Malabar Road, SE Home Phone: ( )  
City: Palm Bay County: Brevard State: FL Zip Code: 32907

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. If both an individual and a committee or organization are involved, name both.

Name of individual: David Mercado  
Address: 643 Commargo Road, NW Phone: (678) 361-8290  
City: Palm Bay County: Brevard State: FL Zip Code: 32907

If individual is a candidate, list the office or position sought: City Council, Seat 2

Name of committee or organization: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: ( )  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Have you filed this complaint with the State Attorney's Office? (check one)  Yes  No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: **Chapter 104, Chapter 106, Section 98.122, and Section 105.071, Florida Statutes** Also, please include:

- The facts and actions that you believe support the violations you allege,
- The names and telephone numbers of persons you believe may be witnesses to the facts,
- A copy or picture of the political advertisements you mention in your statement,
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

The above candidate has violated Chapter 106.07 - Reports; certification and filing - for the following reporting dates: July 11, 2012; October 10, 2011; January 10, 2012; April 10, 2012; and July 10, 2012. Mr. Mercado did not file paperwork during the City's qualifying period and, subsequently, was also required to complete a Termination Report as he had spent



and received funds during his campaign. To date, none of the above reports have been filed with my office. The emails and letters were drafted and sent by my Deputy City Clerk, Terese Jones. She can be reached at the office number listed above. All supporting documents to this complaint are attached.

Additional materials attached (check one)?  Yes  No

4. OATH

STATE OF FLORIDA  
COUNTY OF Brevard

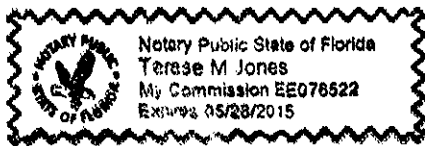
I swear or affirm, that the above information is true and correct to the best of my knowledge.

RECEIVED  
2012 SEP 26 A 9:45  
STATE OF FLORIDA  
ELECTORAL

Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 20th day of  
September, 2012

Signature of Officer Authorized to Administer Oaths or Notary public



TERESE M. JONES

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known X Or Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775 082 and 775 083, Florida Statutes.

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Tuesday, July 05, 2011 11:34 AM  
**To:** 'Brian Anderson'; 'David Mercado'; 'Michele Paccione'; 'Pat Woodard'; 'Sondra Lane Karwel/Sandra Kane Karwel'; 'Willard Conyers'  
**Subject:** Treasurer Reports Due

Reminder – your treasurer report is due Monday, July 11, 2011, by 5:00 P.M., for the period covering April 1, 2011 (or the appointment of your campaign treasurer), through June 30, 2011.

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*



**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Monday, July 18, 2011 10:42 AM  
**To:** 'dmercado@votedavidmercado.com'  
**Subject:** Treasurer Reports

Mr Mercado, our office has made several attempts at contacting you with regard to your past two campaign treasurer reports which, to date, have not been filed with our office. We ask that if you intend to continue with your candidacy for Councilmember, please submit the reports that are due or submit a letter to our office withdrawing your candidacy.

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*





July 18, 2011

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer’s report, which was due Monday, July 11, 2011, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

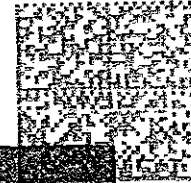
tmj

000005  
Legislative Department



Legislative Department  
120 Malabar Road SE  
Palm Bay, FL 32907-3009

0785 2292 0000 0E2E 8002



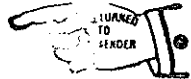
**CERTIFIED MAIL**  
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

049J82052762

\$05.590

07/18/2011

Mailed From 32901  
US POSTAGE



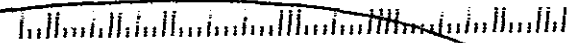
**REASON CHECKED**

- Moved, Left No Address
- Forwarding Order Expired
- Unable To Forward
- Attempted - Not Known
- Unclaimed  Refused
- No Such Street  No Such Number

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

*Handwritten:* 7/19, 6/11, 7/25, 8/3

3290731710 8229



000006



August 4, 2011

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

On July 18, 2011, our office sent you a letter advising that your final campaign treasurer’s report, which was due July 11, 2011, had not been received. To date, your report has not been filed with my office.

Please submit your report to my office by Monday, August 15, 2011. If I do not receive your report by that date, pursuant to Section 106 07(8)(d), Florida Statutes, my office will have no other alternative than to notify the Florida Elections Commission of your failure to file the report.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

for Alice Passmore, CMC  
City Clerk

tmj

000007

Legislative Department

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

Mr. David A. Mercado  
643 Comargo Road, NW  
Palm Bay, FL 32907

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

Josefina Ramos 8-6-19

C. Signature

X Josefina Ramos  Agent  Addressee

D Is delivery address different from item 1?  Yes

YES, enter delivery address below:  No

3 Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4 Restricted Delivery? (Extra Fee)  Yes

2 Article Number (Copy from carrier label)

7008 3230 0000 7627 5327

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Tuesday, October 04, 2011 9:05 AM  
**To:** Brian Anderson; David Mercado; Harry Santiago Jr.; Michele Paccione; Missy Wilson; Pat Woodard; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Monday, October 10, 2011, by 5:00 P.M , for the period covering July 1, 2011 (or the appointment of your campaign treasurer), through September 30, 2011.

If you have already submitted your report, please disregard this message.

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*







October 18, 2011

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer’s report, which was due Monday, October 10, 2011, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

000010

Legislative Department

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

DAVID MERCADO  
643 COMMARCO RD. NW  
PALM BAY FL 32907

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery  
Salvador Ramos 10/30/11

C Signature  
X Salvador Ramos  Agent  
 Addressee

D. Is delivery address different from item 1?  Yes  
If YES enter delivery address below:  No

3 Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4 Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Copy from mail label)  
7008 3230 0000 7627 5273

## Terese Jones

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**From:** Terese Jones  
**Sent:** Friday, December 30, 2011 10:03 AM  
**To:** Brian Anderson; David Mercado; Harry Santiago Jr.; John Mazziotti; Michele Paccione; Missy Wilson; Pat Woodard; Paul Walker; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers; William Capote  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Tuesday, January 10, 2012, by 5:00 P.M., for the period covering October 1, 2011, through December 31, 2011. *If you pre-qualified after October 1<sup>st</sup>, your reporting period should begin with the date you appointed your campaign treasurer and end on December 31<sup>st</sup>.*

*Terese M. Jones, CMC  
Deputy City Clerk  
(321) 952-3414*



000012



January 13, 2012

Mr. David Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer's Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer's report, which was due Monday, January 10, 2012, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

000013

Legislative Department

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

Mr. David Mercado  
643 Comargo Road, NW  
Palm Bay, FL 32907

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

11/4/11

C. Signature *Josefina Ramos*  Agent  
*X Josefina Ramos*  Addressee

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2

7008 3230 0000 7627 5341

000014

## Terese Jones

---

**From:** Terese Jones  
**Sent:** Tuesday, April 03, 2012 10:06 AM  
**To:** Brian Anderson; David Mercado; Harry Santiago Jr ; John Mazziotti; Lucinda Earls; Michele Paccione; Missy Wilson; Paul Walker; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers; William Capote  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Tuesday, April 10, 2012, by 5:00 P.M., for the period covering January 1, 2012, through March 31, 2012. **If you pre-qualified after January 1<sup>st</sup>, your reporting period should begin with the date you appointed your campaign treasurer and end on March 31<sup>st</sup>.**

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*



000015

**Terese Jones**

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**From:** Microsoft Exchange  
**To:** David Mercado  
**Sent:** Tuesday, April 03, 2012 10:06 AM  
**Subject:** Undeliverable: Treasurer Reports Due

**Delivery has failed to these recipients or distribution lists:**

David Mercado

An error occurred while trying to deliver this message to the recipient's e-mail address. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message, or provide the following diagnostic text to your system administrator.

The following organization rejected your message: p3pismtp01-031.prod.phx3.secureserver.net.

---

Sent by Microsoft Exchange Server 2007

**Diagnostic information for administrators:**

Generating server: OWA.palmbayflorida.org

dmercado@votedavidmercado.com

p3pismtp01-031.prod.phx3.secureserver.net #550 #5.1.0 Address rejected dmercado@votedavidmercado.com ##

Original message headers:

Received: from ALASKA.palmbayflorida.org ([192.168.1.69]) by OWA.palmbayflorida.org ([192.168.1.71]) with mapi; Tue, 3 Apr 2012 10:05:44 -0400  
**From:** Terese Jones <[jonest@palmbayflorida.org](mailto:jonest@palmbayflorida.org)>  
**To:** Brian Anderson <[andersonforseat3@yahoo.com](mailto:andersonforseat3@yahoo.com)>, David Mercado <[dmercado@votedavidmercado.com](mailto:dmercado@votedavidmercado.com)>, Harry Santiago Jr. <[harrysantiagojr@gmail.com](mailto:harrysantiagojr@gmail.com)>, John Mazziotti <[mayor@palmbayflorida.org](mailto:mayor@palmbayflorida.org)>, Lucinda Earls <[lucindaearls@yahoo.com](mailto:lucindaearls@yahoo.com)>, Michele Paccione <[shellymk1@aol.com](mailto:shellymk1@aol.com)>, Missy Wilson <[missyforpalmbay@gmail.com](mailto:missyforpalmbay@gmail.com)>, Paul Walker <[pwalker71@cfl.rr.com](mailto:pwalker71@cfl.rr.com)>, Sondra Lane Karwel/Sandra Kane Karwel <[skarwel@gmail.com](mailto:skarwel@gmail.com)>, Willard Conyers <[w622003@yahoo.com](mailto:w622003@yahoo.com)>, William Capote <[seat2@palmbayflorida.org](mailto:seat2@palmbayflorida.org)>  
**Date:** Tue, 3 Apr 2012 10:05:44 -0400  
**Subject:** Treasurer Reports Due  
**Thread-Topic:** Treasurer Reports Due  
**Thread-Index:** Ac0RobxuePxmbqOhT6evAgpZJBmxEQ==  
**Message-ID:** <[2C5B2FFDE2C05540BA8BCFBAF77432B424AF95270F@ALASKA.palmbayflorida.org](mailto:2C5B2FFDE2C05540BA8BCFBAF77432B424AF95270F@ALASKA.palmbayflorida.org)>  
**Accept-Language:** en-US  
**Content-Language:** en-US  
**X-MS-Has-Attach:** yes

000016



April 19, 2012

Mr. David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer's Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer's report, which was due Tuesday, April 10, 2012, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

Alice Passmore, CMC  
City Clerk

tmj

cc: Maritza Ramos-Mercado, Campaign Treasurer

000017

Legislative Department



**SENDER: COMPLETE THIS SECTION**

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

David A. Mercado  
643 Comargo Rd, NW  
Palm Bay, FL 32907

**COMPLETE THIS SECTION ON DELIVERY**

A Signature  
*x Salvador Ramos*  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery  
*Salvador Ramos* *4-24-12*

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7008 3230 0000 7627 5358

000018

**Terese Jones**

---

**From:** Terese Jones  
**Sent:** Thursday, July 05, 2012 9:44 AM  
**To:** Bill Rettinger; Brian Anderson; David Mercado; Harry Santiago Jr ; John Mazziotti; Michele Paccione; Missy Wilson; Sondra Lane Karwel/Sandra Kane Karwel; Willard Conyers; William Capote  
**Subject:** Treasurer Reports Due

Reminder – treasurer reports are due Tuesday, July 10, 2012, by 5:00 P M., for the period covering April 1, 2012, through June 30, 2012. The report type is Q2.

*Terese M. Jones, CMC*  
*Deputy City Clerk*  
*(321) 952-3414*



000019

**Terese Jones**

---

**From:** Microsoft Exchange  
**To:** David Mercado  
**Sent:** Thursday, July 05, 2012 9:44 AM  
**Subject:** Undeliverable: Treasurer Reports Due

**Delivery has failed to these recipients or distribution lists:**

David Mercado

An error occurred while trying to deliver this message to the recipient's e-mail address. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message, or provide the following diagnostic text to your system administrator

The following organization rejected your message: p3pismtp01-035.prod.phx3.secureserver.net

---

Sent by Microsoft Exchange Server 2007

**Diagnostic information for administrators:**

Generating server: OWA.palmbayflorida.org

dmercado@votedavidmercado.com

p3pismtp01-035.prod.phx3.secureserver.net #550 #5.1 0 Address rejected. ##

Original message headers:

Received: from ALASKA.palmbayflorida.org ([192.168.1.69]) by  
OWA.palmbayflorida.org ([192.168.1.71]) with mapi; Thu, 5 Jul 2012 09:44:19  
-0400

From: Terese Jones <jonest@palmbayflorida.org>

To: Bill Rettinger <electbill4pbseat2@gmail.com>, Brian Anderson  
<andersonforseat3@yahoo.com>, David Mercado <dmercado@votedavidmercado.com>,  
Harry Santiago Jr <harrysantiagojr@gmail.com>, John Mazziotti  
<mayor@palmbayflorida.org>, Michele Paccione <shellymk1@aol.com>, "Missy  
Wilson" <missyforpalmbay@gmail.com>, Sondra Lane Karwel/Sandra Kane Karwel  
<skarwel@gmail.com>, Willard Conyers <w622003@yahoo.com>, William Capote  
<seat2@palmbayflorida.org>

Date: Thu, 5 Jul 2012 09:44:19 -0400

Subject: Treasurer Reports Due

Thread-Topic: Treasurer Reports Due

Thread-Index: Ac1atEboYCs24jDWT46Qq1kiBLbl6Q==

Message-ID: <2C5B2FFDE2C05540BA8BCFBAF77432B424AF952E68@ALASKA.palmbayflorida.org>

Accept-Language: en-US

Content-Language: en-US

X-MS-Has-Attach: yes

000020

X-MS-TNEF-Correlator:  
acceptlanguage: en-US  
Content-Type: multipart/related;  
  boundary="\_004\_2C5B2FFDE2C05540BA8BCFBAF77432B424AF952E68ALASKApaimbay\_";  
  type="multipart/alternative"  
MIME-Version: 1.0

000021



July 13, 2012

Mr David A. Mercado  
643 Commargo Road, NW  
Palm Bay, FL 32907

**CERTIFIED/RETURN RECEIPT REQUESTED**

RE: City Council Seat 2 – Campaign Treasurer’s Report, Quarterly

Dear Mr. Mercado:

Your quarterly campaign treasurer’s report, which was due Tuesday, July 10, 2012, has not been received.

Pursuant to Section 106.07(8)(b), Florida Statutes, a fine is to be assessed of \$50 per day for the first three (3) days late and thereafter, \$500 per day. However, fines cannot exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Once your report is filed, this office will notify you of the specific amount of your fine. Your report is required to be filed within three (3) days from receipt of this letter.

If you should have any questions, please contact me at 321-952-3414.

Sincerely,

CITY OF PALM BAY

  
for Alice Passmore, CMC  
City Clerk

tmj

cc: Maritza Ramos-Mercado, Campaign Treasurer

000022

Legislative Department

7011 1570 0001 2869 2442

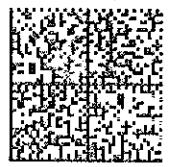
U.S. Postal Service™  
**CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only - No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 5.15	

Sent to David Mercado  
 Street, Apt. No. 643 Commargo Rd. NW  
 or PO Box No. Palm Bay FL 32907  
 City, State ZIP+4  
 PS Form 3800, August 2006 See Reverse for Instructions

2442 6992 1000 0251 1102



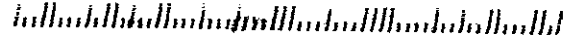
U.S. POSTAGE >>> PITNEY BOWES  
 ZIP 32907 \$ 005.75<sup>0</sup>  
 02 1W  
 0001375906 JUL 16 2012

**CERTIFIED MAIL™**  
 PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
 OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

INSUFFICIENT ADDRESS  
 NO SUCH NUMBER  
 UNCLAIMED  
 ATTEMPTED - NOT KNOWN  
 NO SUCH STREET  
 VACANT  
 NO MAIL RETURNED  
 NO DELIVERY AT THIS ADDRESS  
 ADDRESS NOT MAILED  
 NO FORWARD  
 NO

Mr. David A. Mercado  
 643 Commargo Road, NW  
 Palm Bay, FL 32907

32907\$1710 R035



Legislative Department  
 120 Malabar Road SE  
 Palm Bay, FL 32907-3009

*AMK*

*(Handwritten initials in a circle)*

000023

**Terese Jones**

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**From:** Microsoft Exchange  
**To:** David Mercado  
**Sent:** Tuesday, August 14, 2012 3:25 PM  
**Subject:** Undeliverable: Candidate Qualifying Packet

**Delivery has failed to these recipients or distribution lists:**

David Mercado

An error occurred while trying to deliver this message to the recipient's e-mail address. Microsoft Exchange will not try to redeliver this message for you. Please try resending this message, or provide the following diagnostic text to your system administrator.

The following organization rejected your message: p3pismtp01-048.prod.phx3.secureserver.net.

---

Sent by Microsoft Exchange Server 2007

**Diagnostic information for administrators:**

Generating server: OWA.palmbayflorida.org

dmercado@votedavidmercado.com

p3pismtp01-048.prod.phx3.secureserver.net #550 #5.1.0 Address rejected. ##

Original message headers:

Received: from ALASKA.palmbayflorida.org ([192.168.1.69]) by  
OWA.palmbayflorida.org ([192.168.1.71]) with mapi; Tue, 14 Aug 2012 15:24:39  
-0400  
From: Terese Jones <jonest@palmbayflorida.org>  
To: Bill Rettinger <electbill4pbseat2@gmail.com>, Brian Anderson  
<andersonforseat3@yahoo.com>, David Mercado <dmercado@votedavidmercado.com>,  
Harry Santiago Jr <harrysantiagojr@gmail.com>, John Mazziotti  
<mayor@palmbayflorida.org>, Michele Paccione <shellymk1@aol.com>, "Missy  
Wilson" <missyforpalmbay@gmail.com>, Pat Woodard <electwoodard@aol.com>,  
Sondra Lane Karwel/Sandra Kane Karwel <skarwel@gmail.com>, Willard Conyers  
<w622003@yahoo.com>, William Capote <seat2@palmbayflorida.org>  
Date: Tue, 14 Aug 2012 15:24:39 -0400  
Subject: Candidate Qualifying Packet  
Thread-Topic: Candidate Qualifying Packet  
Thread-Index: Ac16UnKx2vz8ow3cRHS+ZsLizi1QGQ==  
Message-ID: <2C5B2FFDE2C05540BA8BCFBAF77432B424AF95318D@ALASKA.palmbayflorida.org>  
Accept-Language: en-US  
Content-Language: en-US  
X-MS-Has-Attach: yes

000024

X-MS-TNEF-Correlator:

acceptlanguage: en-US

Content-Type: multipart/mixed;

boundary="\_006\_2C5B2FFDE2C05540BA8BCFBAF77432B424AF95318DALASKApalmbay\_"

MIME-Version: 1.0

000025