

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

FILED

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STATE OF FLORIDA  
ELECTIONS COMMISSION

Florida Elections Commission,  
Petitioner,

v.

Agency Case No.: FEC 11-070  
F.O. No.: FOFEC 13-048W

Kevin Burns,  
Respondent.

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**FINAL ORDER**

**THIS CAUSE** came on to be heard at an informal hearing held before the Florida Elections Commission ("Commission") on February 19, 2013.

**APPEARANCES**

For Commission	Jaakan A. Williams Assistant 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 07(1), Florida Statutes, and Section 106.141(1), Florida Statutes, as alleged in the Order of Probable Cause.

**PRELIMINARY STATEMENT**

On March 18, 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.

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On September 27, 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 November 30, 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:**

On or about August 23, 2010, Respondent violated Section 106 07(1), Florida Statutes, when he failed to timely file with his filing officer his 2010 F3 Campaign Finance Report; and

**Count 2:**

On or about November 22, 2010, Respondent violated Section 106 141(1), Florida Statutes, when he failed to timely file with his filing officer his 2010 Termination Report.

Respondent failed to elect within 30 days after the date of the filing of the Commission's Order of Probable Cause to elect a formal administrative hearing conducted by an administrative law judge from the Division of Administrative Hearings, or elect to resolve the case by Consent Order, and therefore the matter was set for an informal hearing before the Commission. At the informal hearing, staff presented the undisputed facts contained in the Staff Recommendation, which were entered into evidence. Respondent did not appear at the hearing.

**FINDINGS OF FACT**

1. The Respondent was Kevin Burns. The Complainant was Division of Elections.
2. Respondent was a candidate for State Senate, District 35, in the August 2010 primary election.
3. Respondent's 2010 F3 Report was due on August 20, 2010.
4. Respondent received a written notice on August 24, 2010, and a second notice on September 7, 2010, notifying him that his 2010 F3 report had not been received. The Division also emailed Respondent a third reminder regarding his outstanding 2010 F3 Report on March 8,

2011.

5. Respondent's 2010 Termination Report was due on November 22, 2010. Respondent received a written notice on November 29, 2010, and a second notice was sent on December 23, 2010, notifying him that his 2010 Termination report had not been received. On March 8, 2011, the Division emailed Respondent a third reminder regarding his outstanding 2010 Termination Report.

6. Respondent's actions were willful.

### **CONCLUSIONS OF LAW**

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

8. The Respondent committed one count of violating Section 106.07(1), Florida Statutes, when he failed to timely file with his filing officer his 2010 F3 Campaign Finance Report; and committed one count of violating Section 106.141(1), Florida Statutes, when he failed to timely file with his filing officer his 2010 Termination Report.

9. Respondent's conduct was willful because he failed to file the two reports while knowing that he was required to file the two reports.

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

11. 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 the following provisions of Chapter 106, Florida Statutes, and imposes the following fines, inclusive of fees and costs:

A) Respondent violated Section 106.07(1), Florida Statutes, on one occasion.  
Respondent is fined \$500 for the violation.

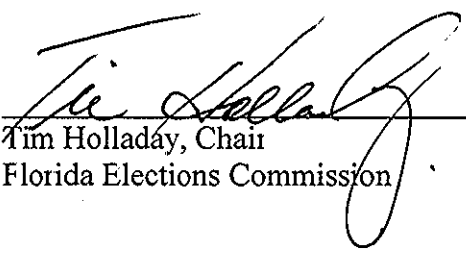
B) Respondent violated Section 106.141(1), Florida Statutes, on one occasion. Respondent is fined \$500 for the violation.

Therefore, it is

**DONE AND ORDERED** that Respondent shall remit a civil penalty in the amount of \$1,000. 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 Respondent and must be paid by money order, cashier's check, or attorney trust account check.

**DONE AND ORDERED** by the Florida Elections Commission on

Feb 19, 2013.

  
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Tim Holladay, Chair  
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:

Jaakan A. Williams, Assistant General Counsel  
Kevin Burns, Respondent (certified mail)  
Division of Elections, Complainant  
Kristi Reid Bronson, Filing Officer