

STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION

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STATE OF FLORIDA  
ELECTIONS COMMISSION

Florida Elections Commission,  
Petitioner,

v.

Case Nos.: FEC 09-063 & 09-062  
F.O. No.: FOFEC 11-134W

Denis Neuhut and  
Frances Neuhut,  
Respondents,

\_\_\_\_\_ /

**CONSENT FINAL ORDER**

The Respondents, Denis Neuhut and Frances Neuhut, and the Florida Elections Commission (Commission) agree that this Consent Order resolves all of the issues between the parties in this case. The parties jointly stipulate to the following facts, conclusions of law, and order:

**FINDINGS OF FACT**

1. On July 13 & 14, 2010, the staff of the Commission issued Staff Recommendations, recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated.

2. On November 18, 2010, the Commission entered an Order of Probable Cause finding that there was probable cause to charge Denis Neuhut with the following violations:

**Count 1:**

On April 2, 2007, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2007 G3 Report was true, correct and complete when it was not.

**Count 2:**

On April 5, 2007, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2007 G3 Amended Report was true,

correct and complete when it was not.

**Count 3:**

On April 13, 2007, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2007 G4 Report was true, correct and complete when it was not.

**Count 4:**

On April 17, 2007, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2007 G4 Amended Report was true, correct and complete when it was not.

**Count 5:**

On July 16, 2007, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2007 Termination Report was true, correct and complete when it was not.

**Count 6:**

On March 14, 2008, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2008 G3 Report was true, correct and complete when it was not.

**Count 7:**

On March 28, 2008, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2008 G4 Report was true, correct and complete when it was not.

**Count 8:**

On June 25, 2008, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2008 Termination Report was true, correct and complete when it was not.

**Count 9:**

On March 12, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to the Miami

Herald for \$450 and the campaign account did not have sufficient funds to cover the expense.

**Count 10:**

On March 13, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Office Depot for \$12.84 and the campaign account did not have sufficient funds to cover the expense.

**Count 11:**

On March 14, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to the Town of Bay Harbor Islands for \$50 and the campaign account did not have sufficient funds to cover the expense.

**Count 12:**

On March 21, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Good Catch for \$500 and the campaign account did not have sufficient funds to cover the expense.

**Count 13:**

On March 24, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Office Depot for \$52.94 and the campaign account did not have sufficient funds to cover the expense.

**Count 14:**

On March 24, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Office Depot for \$12.80 and the campaign account did not have sufficient funds to cover the expense.

**Count 15:**

On March 29, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to the Town of Bay Harbor Islands for \$100 and the campaign account did not have sufficient funds to cover the expense.

**Count 16:**

On March 29, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to IBC/Dolly Madison Cakes for \$85.92 and the campaign account did not have sufficient funds to cover the expense.

**Count 17:**

On March 29, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Party City for \$38.68 and the campaign account did not have sufficient funds to cover the expense.

**Count 18:**

On March 29, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Office Depot for \$18.18 and the campaign account did not have sufficient funds to cover the expense.

**Count 19:**

On March 30, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to the Board of County Commissioners for \$22.00 and the campaign account did not have sufficient funds to cover the expense.

**Count 20:**

On March 30, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to the Town of Bay Harbor Islands for \$50 and the campaign account did not have sufficient funds to cover the expense.

**Count 21:**

On March 31, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Party City for \$5.62 and the campaign account did not have sufficient funds to cover the expense.

**Count 22:**

On March 31, 2007, Respondent violated Section 106.11(4), Florida Statutes, by failing to have sufficient funds on deposit in the campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on the account which are outstanding and to meet all expenses previously authorized but not yet paid, when Respondent incurred an expense to Big Lots for \$60 and the campaign account did not have sufficient funds to cover the expense.

**Count 23:**

On December 28, 2010, Respondent violated Section 106.021(1)(a), Florida Statutes, by making a prohibited expenditure before appointing a campaign treasurer and designating a campaign depository, when Respondent made an expenditure in the amount of \$3,600 before filing an Appointment of Campaign Treasurer and Designation of Campaign Depository form.

**Count 24:**

During his 2009 election campaign, Respondent violated Section 106.143(1)(a), Florida Statutes, when Respondent purchased and distributed a tri-fold palm political advertisement, "Independent Choice," to the residents of Bay Harbor Islands, that failed to include the required political disclaimer.

3. On November 23, 2010, the Respondents were served with a copy of the Orders of Probable Cause.

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

- a. Denis Neuhut was candidate for Bay Harbor Islands Town Council during the 2007, 2008 and 2009 municipal elections. Denis Neuhut was a medical doctor in Bay Harbor Islands.
- b. Denis Neuhut appointed Frances Neuhut to be his campaign treasurer during the 2007 campaign. Frances Neuhut had no previous experience as a campaign treasurer, but was the office manager of Denis Neuhut's

medical practice. Denis Neuhut was his own treasurer during his 2008 and 2009 campaigns.

- c. Denis Neuhut certified that his 2007 G3, 2007 G3 Amended, 2007 G4, 2007 G4 Amended, 2007 Termination, 2008 G3, 2008 G4 and 2008 Termination campaign treasurer's reports were true, correct, and complete when they were not. Denis Neuhut later filed amended reports with the assistance of assistance of a Certified Public Accountant.
- d. Although no checks were returned for non-sufficient funds because money was deposited into the account, Denis Neuhut's 2007 campaign failed to have sufficient funds on deposit in the campaign account to pay the full amount of authorized expenses, to honor all other checks drawn on the account which were outstanding and to meet all expenses previously authorized but not yet paid at the time of incurring the expenses at the time checks were written.
- e. During his 2009 campaign, Denis Neuhut made an expenditure before appointing a campaign treasurer and designating a campaign depository.
- f. During his 2009 campaign, Denis Neuhut purchased and distributed a tri-fold palm political advertisement to the residents of Bay Harbor Islands that failed to include the required political disclaimer. When the campaign realized the disclaimer was missing, all distribution of the incomplete advertisement was stopped, the campaign quickly corrected the advertisement by inserting the required disclaimer, and then distributed the corrected advertisements.

## **CONCLUSIONS OF LAW**

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

6. The Commission staff and the Respondents stipulate that the commission could prove all elements for violations of Sections 106.07(5), 106.11(4), 106.021(1)(a), and 106.143(1)(a), Florida Statutes, by clear and convincing evidence as to Denis Neuhut.

## **ORDER**

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

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

9. The complaint in Case Number FEC 09-062 against Frances Neuhut is hereby dismissed.

10. The Respondents understand that before the Consent Order becomes final agency action, the Commission must approve it at a public meeting. The Commission will consider the Consent Order at its next available meeting.

11. The Respondents voluntarily waive the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal the Consent Order.

12. This Consent Order is enforceable under Sections 106.265 and 120.69, Florida Statutes. The Respondents expressly waive any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida, and the Respondents shall be responsible for all fees and costs associated with enforcement.

13. If the Commission does not receive the signed Consent Order within 5 days of the



Attention: Ben Kuehne

date Respondents received this order, the staff withdraws this offer of settlement and will proceed with the case.

14. Payment of the civil penalty by money order, cashier's check, or attorney's trust account check is a condition precedent to the Commission's consideration of the Consent Order.

**PENALTY**

**WHEREFORE**, based upon the foregoing facts and conclusions of law, the Commission finds that Denis Neuhut has violated Sections 106.07(5), 106.11(4), 106.021(1)(a) and 106.143(1)(a), Florida Statutes. Denis Neuhut is fined \$13,000.00 for the violations.

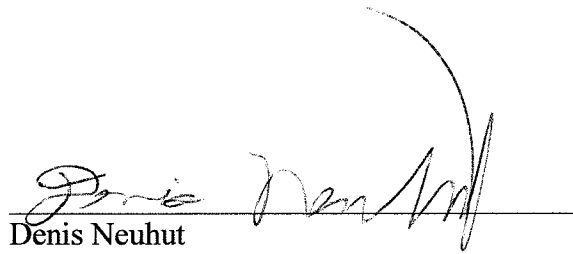
Therefore it is

**ORDERED** that Denis Neuhut shall remit to the Commission a civil penalty in the amount of \$13,000.00, inclusive of fees and costs. The civil penalty shall be paid by money order, cashier's check, or attorney's trust account check, and made payable to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

**ORDERED** that the case against Frances Neuhut is **DISMISSED** with prejudice.

The **Respondent**, Denis Neuhut, hereby agrees and consents to the terms of this Order on

June 30, 2011.

  
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Denis Neuhut  
9920 West Broadview Drive  
Bay Harbor Islands, Florida 33154

The **Respondent**, Frances Neuhut, hereby agrees and consents to the terms of this Order on June 30, 2011.

Frances Neuhut  
Frances Neuhut  
9920 West Broadview Drive  
Bay Harbor Islands, Florida 33154

The **Commission staff** hereby agrees and consents to the terms of this Consent Order on July 28<sup>th</sup>, 2011.

J. Moye  
Joshua B. Moye  
Associate Legal Counsel  
Florida Elections Commission  
107 W. Gaines Streets  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held on August 9<sup>th</sup> in Tallahassee, Florida.

Tim Holladay  
~~Jose Luis Rodriguez~~ Tim Holladay  
Vice-Chair / ~~Acting~~ Chair  
Florida Elections Commission  
8-18-2011  
Date

Copies furnished to:  
Joshua B. Moye, Assistant General Counsel  
Benedict P. Kuehne, Attorney for Respondents