

FILED

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STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

**In Re: MOCA Yes! Political Action
Committee and Michael L.
McDearmaid, Chair, Respondent**

**Case No.: FEC 12-188
F.O. No.: FOFEC 14-025W**

CONSENT FINAL ORDER

The Respondent, MOCA Yes!, and the Florida Elections Commission ("Commission") agree that this Consent Order resolves all of the issues between the parties in the above case. The parties jointly stipulate to the following facts, conclusions of law, and order:

FINDINGS OF FACT

1. A complaint was filed with the Commission alleging that Respondent violated the Florida Election Code.
2. On July 3, 2013, staff of the Commission issued a Staff Recommendation in FEC 12-188, recommending to the Commission that there was probable cause to believe that Respondent violated the Florida Election Code.
3. The Respondent expressed a desire to enter into negotiations directed toward reaching a consent agreement in order to avoid further cost, expenses, and time.
4. The Respondent and the staff stipulate to the following facts:
 - a. The Respondent, Michael L. McDearmaid was the chairman of MOCA Yes!, a political action committee that participated in a special bond referendum election that was held on August 14, 2012, in the city of North Miami.
 - b. Respondent failed to file a Statement of Organization within 10 days of receiving contributions or making expenditures that exceeded \$500 during the 2012

calendar year.

c. Respondent failed to timely file its 2012 F1 Report of all contributions received and expenditures made by MOCA Yes!

d. Respondent failed to timely file its 2012 F2 Report of all contributions received and expenditures made by MOCA Yes!

e. Respondent failed to report information required by Chapter 106, Florida Statutes, on its 2012 F1 Report.

f. Respondent failed to report information required by Chapter 106, Florida Statutes, on its 2012 F2 Report.

g. Respondent failed to mark prominently its political advertisements website with a proper disclaimer.

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 Respondent stipulate that staff can prove the facts in paragraph four above and to the Commission's ability to impose a civil penalty against Respondent in this case.

ORDER

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

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

9. The Respondent understands that before the Consent Order becomes final agency

action, it must be approved by the Commission. The Commission will consider the Consent Order at its next available meeting.

10. The Respondent voluntarily waives the right to any further proceedings under Chapters 104, 106, and 120, Florida Statutes, and the right to appeal the Consent Order.

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

12. If the Commission does not receive the signed Consent Order by the close of business on February 24, 2014, and the first installment payment (\$250) of the civil penalty by the close of business March 5, 2014, the staff withdraws this offer of settlement and will proceed with the case.

13. Payment in full of the civil penalty of \$750 by May 2, 2014, by cashier's check or attorney trust account check that is good for no less than 120 days is a condition precedent to the Commission's consideration of the Consent Order. Following the first installment payment, Respondent shall remit to the Commission the second installment payment of \$250 by April 4, 2014. The third and final installment payment of \$250 shall be remitted to the Commission by May 2, 2014. The installment payments are to be received on or before the above-referenced due dates. If Respondent fails to comply with any of the above-referenced installment payments, the Commission withdraws this offer of settlement, no further continuances will be granted, and Commission staff will proceed with the case at the May 2014 meeting

PENALTY

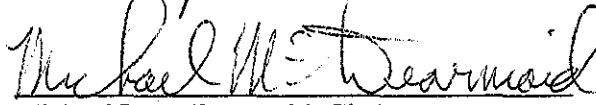
WHEREFORE, based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent has violated Section 106.03(1)(a), Section 106.07(1), Section 106.071(2), Section 106.19(1)(c), and Section 106.071(2), Florida Statutes, and imposes a fine of \$750.

Therefore it is

ORDERED that the Respondent shall remit to the Commission a civil penalty in the amount of \$750 in three (3) installment payments of \$250, inclusive of fees and costs, by cashier's check or attorney trust account check that is good for at least 120 days. The civil penalty should be paid to the Florida Elections Commission, and sent to 107 W. Gaines Street, Collins Building, Suite 224, Tallahassee, Florida, 32399-1050.

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

2/24, 2014.



Michael L. McDearmaid, Chair
840 NE 127th Street
North Miami, FL 33161



Joseph S. Geller
Greenspoon Marder, P.A.
100 W. Cypress Creek Rd, Suite 700
Fort Lauderdale, Florida 33309-2195

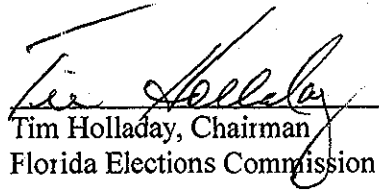
The **Commission staff** hereby agrees and consents to the terms of this Consent Order on

April 2, 2014.



Jaakan A. Williams
Assistant General Counsel
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held
on May 6, 2014.


Tim Holladay, Chairman
Florida Elections Commission

Copies furnished to:

Jaakan A. Williams, Assistant General Counsel
Joseph S. Geller, Attorney for Respondent

RAY ELLEN YARKIN

20
63-843/670
BRANCH 09032

3.18.14
Date

Pay to the Order of Florida Elections Commission \$ 700.00

Seven hundred and 00/100 ——— Dollars

 **WACHOVIA**
Wachovia Bank, a division of Wells Fargo Bank, N.A.

For: FEC 12-188 MOCA Yes Ray Ellen Yarkin RP



MICHAEL McDEARMAID
840 NE 127TH STREET
NORTH MIAMI, FL 33161

124
63-8262/670
682

3/14/14
Date

Pay to the Order of Florida Elections Commission \$ 50.00

Fifty and 00/100 ——— Dollars

 **First Citizens Bank**

For: FEC 12-188 MOCA YES M. P. [Signature] RP

