

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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FLORIDA ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Agency Case No.: FEC 10-328
F.O. No.: FOFEC 11-178W

Southeastern Hearing,
Respondent.

FINAL ORDER

THIS CAUSE came on to be heard at an informal hearing held before the Florida Elections Commission (Commission) on November 15, 2011.

APPEARANCES

For Commission Joshua B. Moye
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 106.08(1)(a), Florida Statutes, when it made a contribution to a candidate in excess of \$500.

PRELIMINARY STATEMENT

On November 3, 2010, 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 April 6, 2011, staff drafted a Staff Recommendation recommending to the

Commission that there was probable cause to believe that The Florida Election Code was violated. On May 24, 2011, 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 November 3, 2008, Respondent violated Section 106.08(1)(a), Florida Statutes, prohibiting a person from making a contribution to a candidate in excess of \$500 for each election, when Respondent gave an in-kind contribution of \$8,377.26 to Jim Fuller's campaign for Duval County Clerk of Courts.

Respondent did not elect to have a formal or informal hearing conducted before the commission, and did not elect to settle the case with a consent order within 30 days after the filing of the Commission's allegations. Therefore, an informal hearing was scheduled, and Respondent was noticed to appear before the Commission on November 15, 2011. At the informal hearing, staff presented the undisputed facts contained in the Staff Recommendation. Respondent did not attend the hearing.

FINDINGS OF FACT

1. Respondent is a for-profit corporation that has been registered with the Division of Corporations since March 23, 1992, and does business as "Miracle Ear – Jacksonville." On June 14, 2004, Troy C. Mahan became the President, Secretary, Treasurer, and Registered Agent for the corporation, and is currently its only officer.

2. Complainant alleged that Respondent made an excessive in-kind contribution to Jim Fuller's campaign for Duval County Clerk of Courts. Complainant included a copy of a full-page newspaper advertisement.

3. On November 3, 2008, a full-page advertisement for Jim Fuller's campaign for Duval County Clerk of Courts appeared in the *Florida Times Union*. The advertisement's disclaimer read, "Paid Political Advertisement sponsored and paid for in-kind by Southeastern

Hearing, Inc, dba Miracle Ear, 1871 Wells Rd. Approved by Jim Fuller, Republican, for Clerk of Courts.”

4. On November 30, 2008, the *Florida Times Union* sent Respondent an invoice that included a charge of \$8,377.26 for the advertisement that was published on November 3, 2008, and on December 29, 2008, Respondent paid for the entire invoice.

5. Respondent committed the acts while knowing that, or showing reckless disregard for whether, the acts were prohibited or failed to commit an act while knowing that, or showing reckless disregard for whether, the acts were required.

CONCLUSIONS OF LAW

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

7. Respondent’s conduct was willful.

8. The Respondent committed one count of violating Section 106.08(1)(a), Florida Statutes, when it made a contribution to a candidate in excess of \$500.

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

ORDER

WHEREFORE the Commission finds that Respondent has violated Section 106.08(1)(a), Florida Statutes, and imposes a \$1,000 fine for the violation.

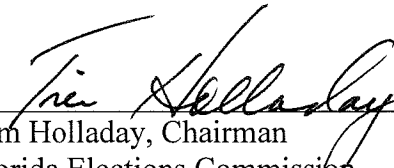
Therefore, it is

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

DONE AND ORDERED by the Florida Elections Commission on

11-30, 2011.



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:

Joshua B. Moye, Assistant General Counsel
Southeastern Hearing, Inc., Respondent (certified mail)
John S. Winkler, Complainant