

**FILED**

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STATE OF FLORIDA  
ELECTIONS COMMISSION

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FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,  
Petitioner,**

v.

**Phillip J. Brutus,  
Respondent.**

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Agency Case No.: FEC 13-336  
F.O. No.: FOFEK 15-042W

**FINAL ORDER**

**THIS MATTER** was heard at an informal hearing held before the Florida Elections Commission ("Commission") on February 25, 2015.

**APPEARANCES**

For Commission     Eric M. Lipman  
                              General Counsel  
                              107 West Gaines Street  
                              Collins Building, Suite 224  
                              Tallahassee, FL 32399

For Respondent     No Appearance

**STATEMENT OF THE ISSUE**

Whether Respondent violated Sections 106 07(7) and 106 19(1)(c), Florida Statutes, as alleged in the Commission's Order of Probable Cause.

**PRELIMINARY STATEMENT**

On December 20, 2013, the Commission received a referral from the Florida Division of Elections ("Division") 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 Respondent violated the Florida Election Code.

On June 19, 2014, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On October 28, 2014, the Commission entered an Order of Probable Cause finding that there was probable cause to charge Respondent with the following violations:

**Count 1:**

On or about October 10, 2012, Respondent violated Section 106.07(7), Florida Statutes, when on the date that his 2012 Q3 Report was due, Respondent failed to notify his filing officer in writing that he would not be filing a 2012 Q3 Report;

**Count 2:**

On or about January 10, 2013, Respondent violated Section 106.07(7), Florida Statutes, when on the date that his 2012 Q4 Report was due, Respondent failed to notify his filing officer in writing that he would not be filing a 2012 Q4 Report;

**Count 3:**

On or about April 10, 2013, Respondent violated Section 106.07(7), Florida Statutes, when on the date that his 2013 Q1 Report was due, Respondent failed to notify his filing officer in writing that he would not be filing a 2013 Q1 Report;

**Count 4:**

On or about July 10, 2013, Respondent violated Section 106.07(7), Florida Statutes, when on the date that his 2013 Q2 Report was due, Respondent failed to notify his filing officer in writing that he would not be filing a 2013 Q2 Report;

**Count 5:**

On or about October 10, 2012, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent failed to notify his filing officer in writing by the filing due date that he

would not be filing a 2012 Q3 Report;

**Count 6:**

On or about January 10, 2013, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent failed to notify his filing officer in writing by the filing due date that he would not be filing a 2012 Q4 Report;

**Count 7:**

On or about April 10, 2013, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent failed to notify his filing officer in writing by the filing due date that he would not be filing a 2013 Q1 Report; and

**Count 8:**

On or about July 10, 2013, Respondent violated Section 106.19(1)(c), Florida Statutes, by deliberately failing to report information required by Chapter 106, when Respondent failed to notify his filing officer in writing by the filing due date that he would not be filing a 2013 Q2 Report

Respondent did not timely elect to have a formal administrative hearing before an administrative law judge from the Division of Administrative Hearings and, therefore, the matter was set for an informal hearing before the Commission. At the informal hearing, the Commission adopted the undisputed facts set forth in the Staff's Recommendation as its findings of fact

At the beginning of the informal hearing, staff made an Ore Tenus Motion to Dismiss Counts 5-8 of the Order of Probable Cause

**FINDINGS OF FACT**

1. Respondent was a candidate for the Florida House of Representatives, District 107, in the 2014 elections. This was Respondent's seventh campaign for political office.

2 During his campaign, Respondent was required to file periodic reports listing all contributions received and all expenditures made during the reporting period.

3 Respondent was required to file the following reports during his campaign:

2012 Q3 Report (due by October 10, 2012);  
2012 Q4 Report (due by January 10, 2013);  
2013 Q1 Report (due by April 10, 2013); and  
2013 Q2 Report (due by July 10, 2013)

4 Respondent eventually filed a waiver for each of the four reporting periods listed above

5 Section 106 07(7), Florida Statutes, requires:

Notwithstanding any other provisions of this chapter, in any reporting period during which a candidate or political committee has not received funds, made any contributions, or expended any reportable funds, the filing of the required report for that period is waived. However, the next report filed must specify that the report covers the entire period between the last submitted report and the report being filed, and any candidate or political committee not reporting by virtue of this subsection on dates prescribed elsewhere in this chapter **shall notify the filing officer in writing on the prescribed reporting date that no report is being filed on that date.**

(Emphasis added)

6 Because Respondent had no financial activity during the four reporting periods, he was required to notify the Division in writing on each of the prescribed reporting dates that he would not be filing a report.

7 However, Respondent failed to notify the Division in writing on the prescribed reporting dates for the 2012 Q3, 2012 Q4, 2013 Q1, and 2013 Q2 Reports that he would not be filing a report.

8 Respondent's actions were willful. Respondent is a seasoned candidate. This was

Respondent's seventh political campaign, and he is familiar with Florida's election laws. Additionally, in the initial letter Respondent acknowledging his candidacy, Ms. Kristi Reid Bronson, Chief, Bureau of Election Records highlighted that Respondent should download a copy *Candidate and Campaign Treasurer's Handbook* from the Division's website. Respondent knew or should have known that if his campaign had no financial activity during the reporting period, he was required to notify his filing officer in writing on the prescribed reporting due date that he would not be filing a report. However, Respondent failed to provide the Division with the required written notice on four occasions.

### CONCLUSIONS OF LAW

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

10. Respondent committed 4 counts of violating Section 106.07(7), Florida Statutes, when he failed to notify his filing officer in writing on the prescribed reporting dates for the 2012 Q3, 2012 Q4, 2013 Q1 and 2013 Q2 Reports that he would not be filing a report.

11. 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

Staff's Ore Tenus Motion to dismiss Counts 5-8 of the Order of Probable Cause is hereby **GRANTED**; and

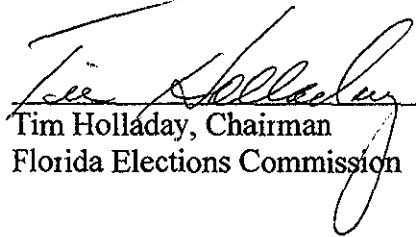
The Commission finds that Respondent has violated Section 106.07(7), Florida Statutes, on 4 occasions and imposes a \$500 fine for each count, for a total of \$2,000.

Therefore it is

**ORDERED** that Respondent shall remit a civil penalty in the amount of \$2,000,

inclusive of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, Collins Building, Suite 224, 107 West Gaines Street, Tallahassee, Florida 32399, within 30 days of the date this Final Order is filed with the Commission and must be paid by money order, cashier's check or attorney trust account check.

**DONE AND ORDERED** by the Florida Elections Commission on February 25, 2015.

  
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Tim Holladay, Chairman  
Florida Elections Commission

Copies furnished to:  
Eric M. Lipman, General Counsel  
Phillip Brutus, Respondent  
Division of Elections, Complainant

**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 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.