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STATE OF FLORIDA
ELECTIONS COMMISSION

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Bruce Antone,
Respondent.**

Agency Case No.: FEC 13-054
F.O. No.: FOFEC 14-028W

FINAL ORDER

THIS MATTER was heard at an informal hearing held before the Florida Elections Commission (Commission) on February 25, 2014.

APPEARANCES

For Commission David Grossman
Assistant General Counsel
107 West Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

For Respondent No Appearance

STATEMENT OF THE ISSUE

Whether the Respondent violated Section 106 141(1), Florida Statutes, as alleged in the Order of Probable Cause.

PRELIMINARY STATEMENT

On February 22, 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 the Respondent violated the Florida Election Code.

On July 1, 2013, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On August 29, 2013, 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 November 12, 2012, Respondent violated Section 106 141(1), Florida Statutes, by failing to file his Termination Report within 90 days after he withdrew, became unopposed, was eliminated, or elected, reflecting the disposition of all his remaining funds.

Respondent failed to elect a formal administrative hearing to be conducted by an administrative law judge from the Division of Administrative Hearings (within 30 days after the date of the filing of the Commission's Order of Probable Cause) 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's recommendation, which were adopted as the Commission's findings of fact. The Respondent did not appear at the hearing.

FINDINGS OF FACT

1. Respondent was a candidate for the House of Representatives, District 46 in the 2012 election. Respondent served as a State Representative from 2002-2006.
2. By letter dated June 1, 2012, Kristi Bronson, Bureau Chief, Bureau of Election Records, mailed Respondent a letter with instructions for filing campaign treasurer's reports electronically. The letter instructed Respondent that it was his responsibility to read, understand, and follow the requirements of Florida's election laws, and to print the 2012 Calendar of Reporting Dates.
3. The letter also advised Respondent that all of the Division's publications and reporting forms are available on their website, including Chapter 106, Florida Statutes; the

Campaign Treasurer Handbook; and the Calendar of Reporting Dates.

4. Respondent was elected, and became unopposed, in the August 14, 2012 primary election. Therefore, Respondent's Termination Report was due by November 12, 2012.

5. By letters dated November 13, 2012, December 3, 2012, and January 10, 2013, the Division sent Respondent written notification that it had not received his Termination Report. The letters were sent to Post Office Box 616691, Orlando, Florida 32861, which was the address listed on Respondent's Appointment of Campaign Treasurer and Designation of Campaign Depository for ("DS-DE 9") forms he previously filed with the Division.

6. The Respondent and his treasurer received the Division's November 13, 2012 letter. However, the Division's letters dated December 3, 2012, and January 10, 2013, were returned to the Division marked "RETURN TO SENDER ATTEMPTED - NOT KNOWN UNABLE TO FORWARD," even though all three letters were sent to the address Respondent provided on his DS-DE 9 forms.

7. In addition to sending three letters, the Division also contacted Respondent via email to remind him that his Termination Report had not been filed. The email included copies of the previously mailed notices.

8. On December 26, 2012, Respondent responded to the email and stated:

Theresa,

I was under the mistaken impression that the termination report was not due until 90 days after the November Election. I will file my report by [] Sunday December 30th. I'm traveling and don't have access to my records until I return to my residence. The letters from your office went to my PO Box and I have not seen those letters as I allowed the box to expire and I stopped using that box after the election.

This will be taken care of asap

Bruce Antone

9. However, Respondent did not file his Termination Report until February 5, 2013, 85 days late.

10. Respondent's conduct was willful. 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

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

2. Section 106.141, Florida Statutes, provides that:

106.141 Disposition of surplus funds by candidates.—

(1) Each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds.

* * * * *

(7)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and shall, on or before the date by which such disposition is to have been made, file with the officer with whom reports are required to be filed pursuant to s. 106.07 a form prescribed by the Division of Elections listing:

3. Despite receiving written notification by mail and an email reminding Respondent to file his Termination Report, Respondent did not file his Termination Report until February 5, 2013, 85 days late.

4 Respondent's conduct was willful. 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.

5 Respondent violated Section 106.141(1), Florida Statutes, when he failed to file timely his 2012 Termination Report after receiving notice from his filing officer that his Termination Report was due.

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

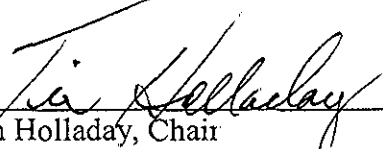
ORDER

WHEREFORE the Commission finds that Respondent has violated Section 106.141(1), Florida Statutes, and imposes a \$1,000 fine.

Therefore it is

DONE AND ORDERED that Respondent shall remit a civil penalty in the amount of \$1,000, inclusive of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, the Collins Building, Suite 224, 107 West Gaines Street, Tallahassee, Florida 32399-0250, within 30 days of the date this Final Order is received by the 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 February 25, 2014.



Tim Holladay, Chair
Florida Elections Commission

Copies furnished to:

Eric Lipman, General Counsel
Bruce Antone, Respondent (certified mail)
Division of Elections, Complainant/Filing Officer

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.