

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

IN RE: Mayra Rivero

Case No.: FEC 97-076
F.O. No.: DOSFEC 99-127-W

DEFAULT FINAL ORDER

THIS CAUSE came on to be heard before the Florida Elections Commission (Commission) at its regularly scheduled meeting held on August 25 and 26, 1999 in Tampa, Florida

FINDINGS OF FACT

1. On January 19, 1999, the staff of the Commission drafted a Statement of Findings recommending to the Commission that there was probable cause to believe that the Respondent violated Section(s) 106.11(3); 106.19(1)(d); 106.07(5); 106.08(3)(b); 106.19(1)(b); 106.19(1)(c), and three separate provisions in 106.141(1), Florida Statutes.

2. On February 10, 1999, the Commission entered an Order of Probable Cause finding there was probable cause to believe that the Respondent violated Section(s) 106.11(3); 106.19(1)(d); 106.07(5); 106.08(3)(b); 106.19(1)(b); 106.19(1)(c), and three separate provisions in 106.141(1), Florida Statutes

3. On February 24, 1999, Jose Herrera, Respondent's attorney of record, was served by certified mail with a copy of the Commission's Order of Probable Cause to which the Statement of Findings was attached and incorporated by reference.

4. Neither Respondent nor her attorney requested a hearing before the Commission within 30 days of receiving the Order of Probable Cause, thereby waiving the right to a hearing.

5. On April 12, 1999, the staff filed a Motion for Default that was served on the Respondent's attorney of record by U. S. Mail.

6. On May 10, 1999, Mr. Herrera, filed a Response to and Motion to Strike Motion for Default arguing that he was not the Respondent's attorney and he was not authorized to accept service of "any charging document for or on behalf of the respondent . . ."

7. On May 17, 1999, the Commission issued an Order Continuing Case directing that the Respondent be personally served with a copy of the Commission's Order of Probable Cause to which the Statement of Findings was attached and incorporated by reference and a copy of the Commission's Order.

8. On May 20, 1999, The Respondent was served by the Sheriff of Miami-Dade County with a copy of the Commission's Order of Probable Cause to which the Statement of Findings was attached and incorporated by reference and a copy of the Commission's Order.

9. The Respondent failed to request a hearing within 30 days of receiving the Order of Probable Cause, thereby waiving the right to a hearing.

10. Respondent appeared at the Commission meeting on August 25, 1999 and was given the opportunity to provide information as to why she failed to request a hearing within 30 days of the filing of the Order of Probable Cause.

11. After considering the information provided by both Respondent and the Commission staff, the Commission granted the Motion for Default. Therefore, the facts set forth in the Statement of Findings that is attached and incorporated by reference are deemed admitted as true.

CONCLUSIONS OF LAW

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

13. The Respondent violated Section 106.11(3), Florida Statutes, when she failed to pay for previously authorized good or services upon final delivery.

14. The Respondent violated Section 106.19(1)(d), Florida Statutes, when she made or authorized expenditures prohibited by Chapter 106, Florida Statutes.

15. The Respondent violated 106.07(5), Florida Statutes, when she certified to the correctness of a campaign treasurer's report that was incorrect, false, or incomplete, on multiple occasions.

16. The Respondent violated 106.08(3)(b), Florida Statutes, when she failed to return contributions received after the date she was eliminated as a candidate.

17. The Respondent violated 106.141(1), Florida Statutes, when she failed to properly dispose of surplus campaign funds within 90 days after she was eliminated as a candidate.

18. The Respondent violated 106.141(1), Florida Statutes, when she failed to file a report of the disposition of surplus campaign funds within 90 days after she was eliminated as a candidate.

19. The Respondent violated 106.141(1), Florida Statutes, when she accepted a contribution after she was eliminated as a candidate.

20. The Respondent violated 106.19(1)(b), Florida Statutes, when she failed to report a contribution required to be reported by Chapter 106, Florida Statutes.

21. The Respondent violated 106.19(1)(c), Florida Statutes, when she falsely reported or failed to report information required by Chapter 106, Florida Statutes.

ORDER

22. Based upon the foregoing facts and conclusions of law, the Commission finds that the Respondent violated Section(s) 106.11(3); 106.19(1)(d); 106.07(5); 106.08(3)(b); 106.19(1)(b); 106.19(1)(c), and three separate provisions in 106.141(1), Florida Statutes.

Therefore, it is

ORDERED that the Respondent shall remit a civil penalty in the amount of \$500. The civil penalty shall be paid to the Commission, Room 2002, The Capitol, Tallahassee, Florida 32399-1050, within 30 days of the date this Final Order is received by the Respondent.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on September 7, 1999 in Tallahassee, Florida.



Susan A. MacManus, Chairman
Florida Elections Commission
Room 2002, The Capitol
Tallahassee, Florida 32399-1050

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 120.68, Florida Statutes, the Respondent may appeal the Commission's Final Order to the appropriate district court of appeal by filing a notice of appeal both with the Clerk of the Florida Elections Commission and the Clerk of the district court of appeal. The notice must be filed within 30 days of the date this Final Order was filed and must be accompanied by the appropriate filing fee.

Attachment: Statement of Findings

Copies furnished to:

Phyllis Hampton, Assistant General Counsel
Mayra Rivero, Respondent (certified mail)
Gilda Cabrera, Complainant
Clerk of Hialeah Gardens, Filing Officer