

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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STATE OF FLORIDA
ELECTIONS COMMISSION

In Re: Ax the Tax Committee
_____ /

Case No.: FEC 99-171

F.O. No.: DOSFEC 01-177 W

CONSENT ORDER

The Respondent, Ax the Tax Committee and the Florida Elections Commission (Commission) agree that this Consent Order resolves all of the issues between the parties. The parties jointly stipulate to the following facts, conclusions of law, and order:

FINDINGS OF FACT

1. On October 9, 2000, the staff of the Commission issued a Statement of Findings, recommending to the Commission that there was probable cause to believe that the Respondent violated Section 106.19(1)(a), Florida Statutes.
2. The facts set forth in the Statement of Findings, which is attached hereto and incorporated by reference, are deemed admitted as true for the purpose of executing this Consent Order.
3. On November 6, 2000, the Commission entered an Order of Probable Cause finding there was probable cause to believe that the Respondent violated Section 106.19(1)(a), Florida Statutes.
4. On November 6, 2000, the Respondent was served by certified mail with a copy of the Order of Probable Cause.
5. The Respondent timely requested a hearing before the Division of Administrative Hearings ("DOAH").
6. The Commission transferred the case to DOAH and a hearing was scheduled.

CONCLUSIONS OF LAW

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

8. The Commission staff and the Respondent stipulate that, although the violations charged in the Order of Probable Cause were unintentionally and not knowingly committed, the violations could be proven.

ORDER

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

9. Douglas M. Guetzloe is hereby individually dismissed as a Respondent with the sole responsibility for this Consent Order lying with the Ax the Tax Committee.

10. The Respondent shall bear their own attorney fees and costs that are in anyway associated with this case.

11. The Respondent understands that before the Consent Order is final agency action, the Commission must approve it at a public meeting.

12. After it is approved by the Commission, this Consent Order constitutes final agency action on the violations charged in the Order of Probable Cause.

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

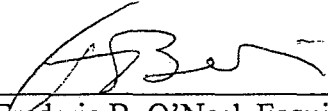
14. This Consent Order is enforceable under Sections 106.265 and 120.69, Florida Statutes. The Respondent expressly waives any venue privileges and agrees that if enforcement of this Consent Order is necessary, venue shall be in Leon County, Florida.

15. The Respondent shall remit to the Commission a civil penalty in the amount of \$500 for violating Section 106.19(1)(a), Florida Statutes. The civil penalty shall be paid to the

Florida Elections Commission, Room 2002, The Capitol, Tallahassee, Florida, 32399-1050, as a condition precedent to the Commission's execution of this Consent Order.

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

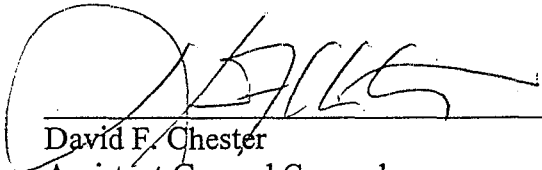
MARCH 19, 2001.



Frederic B. O'Neal, Esquire
Attorney for Ax the Tax Committee
P.O. Box 842
Windermere, Florida 34786

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

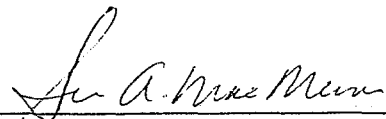
April 3, 2001.



David F. Chester
Assistant General Counsel
Florida Elections Commission
Room 2002, The Capitol
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held on May 9 and 10, 2001 at Orlando, Florida and filed with the Clerk of the Commission on

May 22, 2001, in Tallahassee, Florida.



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

Bank of America 

Personal Money Order

No. 3076565

VOID AFTER 90 DAYS
BAY HILL BANKING CENTER

30-101140 (F5)

Date MARCH 23, 2001

Pay To The Order Of FLORIDA ELECTIONS COMMISSION

\$

FIVE HUNDRED DOLLARS AND 00 CENTS

500.00

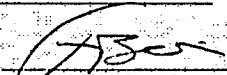
Dollars

Not Valid Over \$1000

09-14-3665B 10-1999

Bank of America is not liable for lost or stolen Money Orders. For your protection against loss or theft, sign and ~~return~~ ^{return} Money Order as soon as possible.

Bank of America, N.A.
San Antonio, Texas


Signature Of Purchaser (Drawer)

Eric B. D'Neil
Name Of Purchaser (Drawer)

P.O. Box 842, Wilkes-Barre, PA 18706
Address City, State, Zip



REFLECTIVE WATERMARK ON THE BACK

Copies furnished to:

David F. Chester, Assistant General Counsel
Ax the Tax Committee, Respondent
Frederic B. O'Neal, Esq., Attorney for Respondent
Grant Maloy, Complainant
Casselberry City Clerk, Filing Officer

Attachment: Statement of Findings

STATEMENT OF FINDINGS

Case Number: FEC 99-171

Respondent: Ax the Tax Committee and Douglas M. Guetzloe, Chairman

Complainant: Grant Maloy

On June 30, 1999, the Florida Elections Commission received a sworn complaint alleging that the Respondent violated Chapter 106, Florida Statutes. The Commission staff investigated the allegations and based on the facts and conclusions of law contained in the Complaint, the Report of Investigation, and this statement, the staff recommends that the Commission find that there is:

No Probable cause to believe that the Respondent violated Section 106.144, Florida Statutes, failure of an organization that endorses or opposes a candidate by means of political advertisements to file timely a statement of endorsement or opposition with the filing officer;

Probable cause to believe that the Respondent violated Section 106.19(1)(a), Florida Statutes, prohibiting a person or organization from accepting a contribution in excess of \$500 for each election, on 31 separate occasions; and

No Probable cause to believe that the Respondent violated Section 106.19(1)(c), Florida Statutes, prohibiting a person or organization from falsely reporting or failing to report information required by this chapter.

Summary of Facts and Conclusions of Law

1. Respondent is a statewide political committee with activity primarily in Seminole and Orange Counties. Respondent first became active in 1982. Douglas M. Guetzloe has been the political committee chairman and treasurer since the committee's inception. Mr. Guetzloe last filed a statement of organization for the committee on August 1, 1993 and was the Respondent in two previous Commission cases, FEC 92-009 and FEC 93-66.¹

2. Complainant is the Seminole County Commissioner for District 1. He was elected to office in November 1996. He was not a candidate on the November 4, 1997 or the November 3, 1998 ballots.

3. The complaint alleged that the Respondent violated Section 106.144, Florida

¹ In FEC 93-66, the Respondent was found to have violated ss. 106.03(5), 106.07(5), 106.19(1)(b) and 106.19(1)(c), Fla. Stat., and fined \$3,000. Respondent appealed the case to the D.C.A. The FEC's decision was per curiam affirmed.

Statutes, by endorsing and opposing candidates by means of political advertisements without filing a statement of endorsement or opposition with the filing officer. The Commission has been enjoined from enforcing this section.² However, it is essential to know if the Respondent endorsed or opposed candidates to know if the Respondent violated Section 106.19(1)(a), Florida Statutes, since the Ax the Tax committee is registered as an issues only committee. Issues only political committees may not support or oppose candidates and are limited to accepting contributions of no more than \$500 per contributor per election.

4. A copy of a political advertisement mailer that endorsed two municipal candidates and a referendum issue in the November 1997 election was enclosed with the complaint. The ad has printing on both sides. The following table summarizes the ad:

# Pgs	Return Address	Political Disclaimer	Bulk Rate Permit	Message Page 1	Message Page 2 ³
2	Ax the Tax, 3660 Maguire Blvd., Suite 103, Orlando, Florida 32803	Pd. Pol. Adv. Pd. for by Seminole County Ax the Tax Committee Endorsements were made based on published news reports, our own investigation and a review of campaign literature of the candidates. Ax the Tax was established in 1982 and has successfully defeated \$1.5 billion in proposed tax increases.	Bulk Rate US Postage PAID Advantage Consultants	Forget all the campaign literature... Find out who an independent tax fighting organization recommends in the upcoming city elections... Important Voter Information	Recommends ⁴ two candidates, Tom Ecker for Mayor and Earl McMullen for City Commission, and a referendum, each based on "a six (6) month comprehensive review" by the Ax the Tax.

5. The two candidates, Tom Ecker and Earl McMullen, were running for political office in Casselberry during the November 1997 election cycle. The Casselberry filing officer, Thelma McPherson, confirmed that the ad was distributed during the November 1997 election cycle.

6. When the Respondent filed its statement of organization in 1993, the Respondent stated that it would be supporting "Efficiency in government" and opposing "Tax increases and tax referenda."

7. On December 2, 1993, Florida Division of Elections personnel spoke with Douglas Guetzloe "to clarify if they support or oppose candidates or/an[d] issues." Respondent's chairman told Division staff that his political committee was an issues committee. The committee has filed nothing to change the committee's status to include endorsing or opposing

² *Right to Life v. Mortham*, Case No. 98-770-CIV-ORL-19A (M.D. Fla).

³ This is a synopsis of the message. To see in its entirety, see exhibit 1 in Report of Investigation.

⁴ The Commission found that a document is a political advertisement if the document when read as a whole "expressly advocates" the election or defeat of a candidate or issue. *FEC v. Furgatch*, 807 F.2d 857 (9th Cir. 1987)

candidates.

8. The bulk rate permit that appears on the advertisement belongs to Advantage Consultants. Douglas Guetzloe, is the president of Advantage Consultants, which is located at 3660 Maguire Boulevard, Suite 103, Orlando, Florida 32803. This address is also the address for Ax the Tax and The Guetzloe Communications Group, Inc.

9. Douglas Guetzloe has a radio show, *The Guetzloe Report*, which costs Mr. Guetzloe approximately \$450 an hour to air. Mr. Guetzloe frequently endorses candidates on this radio show. The Respondent's campaign treasurer reports show frequent in-kind donations of radio airtime and advertising from Respondent's businesses, including *The Guetzloe Report*.

10. Commission staff interviewed Douglas Guetzloe, by telephone on July 22, 1999. The Respondent stated that the Seminole County Ax the Tax Committee is not his committee and that the advertisement submitted with the complaint was not his committee's advertisement. Respondent emphasized that he is the chairman of the Ax the Tax Committee, and not the Seminole County Ax the Tax Committee. Respondent emphasized that the political disclaimer on the advertisement reads Seminole County Ax the Tax Committee. Respondent said that the chairman of the Seminole County Ax the Tax Committee is Alice Carlson. He said that although his committee is not responsible for the advertisement, he was "not without knowledge" of the advertisement mailer.

11. On July 30, 1999, Commission staff received a written response to the complaint from Respondent. Mr. Guetzloe denied that the advertisement mailer was his committee's advertisement. Respondent wrote, "'Seminole County Ax the Tax Committee' is not the Ax the Tax committee that I founded and currently chair Ax the Tax is not the 'Seminole County Ax the Tax' committee. Ax the Tax is an issues only committee registered and current with the Department of State, Division of Elections."

12. However, the advertisement claims that the Ax the Tax was established in 1982 and has "successfully defeated \$1.5 billion in proposed tax increases." Ax the Tax was established in 1982, and according to a Casselberry police report, Ms. Carlson was born on September 12, 1982 and would have been 11 years old in 1982 when the political committee was established.

13. In the written response, Respondent said that Alice Carlson heads the "Seminole County Ax the Tax Committee" and that she is the person "who caused to be printed the flyer that is the basis of the complaint." He said that it was his understanding that Ms. Carlson "is the only individual involved in this committee" and that Ms. Carlson did not spend more than \$500 on the advertisement. Respondent enclosed a statement from Alice E. Carlson with his written response to the complaint.

14. Ms. Carlson was the Respondent in FEC 99-219. During that investigation, we learned that on September 4, 1998 Ms. Carlson filed a statement of organization for the United Christians of Seminole County. The statement of organization said that she was the chairman and treasurer of the committee. In her cover letter accompanying the statement, she explained that, "This committee was established by me solely . . .so that any future activity may be completely covered by Florida Law." There is no record of a Seminole County Ax the Tax

Committee. The Complainant also filed the complaint in FEC 99-219.

15. In a notarized statement submitted with Respondent's written response to the complaint, Alice E. Carlson wrote, "In 1997, I printed and distributed a flyer with the disclaimer of 'Seminole County Ax the Tax' endorsing two Casselberry city council candidates and one issue on the ballot." She further states that Division of Elections Attorney Mike Cochran was consulted regarding filing requirements, specifically that a committee is two or more people and \$500 is a spending threshold. Ms. Carlson stated that the "Seminole County Ax the Tax" is not the "Ax the Tax Committee."

16. In regard to the mailing permit and return address of the ad, Ms. Carlson wrote, "I asked and received permission to use Advantage Consultants mailing permit which required a return address. Not wishing to subject myself to individuals like Grant Maloy, I asked Doug Guetzloe if I could use his return address for a small bulk mailing.⁵ This is the extent of this flyer." However, the flyer did not have the name of "Advantage Consultants" for the return address--the return address was Ax the Tax. As stated in Paragraph 8, Advantage Consultants and The Guetzloe Communication Group also use the 3660 Maguire Boulevard, Orlando, Florida 32803 address.⁶

17. Casselberry Filing Officer Thelma McPherson provided Commission staff with a variety of original political advertisements for the 1997 and 1998 Casselberry elections. One of those advertisements was the advertisement the complainant included with his complaint. The filing officer also provided Commission staff with four advertisements that were distributed by the Ax the Tax Committee during the 1998 election cycle.

18. One of the Ax the Tax Committee's ads was very similar to the design of the 1997 Seminole County Ax the Tax mailer. The following table summarizes the ad:

# pgs	Return Address	Political Disclaimer	Bulk Rate Permit	Message Page 1	Message Page 2 ⁷
2	Ax the Tax, 3660 Maguire Blvd., Suite 103, Orlando, Florida 32803 www.axthetax.org Toll-free (877)-Ax-Taxes	Pd. Pol. Adv. Pd. for and approved by Ax the Tax Committee. Our contributions and expenditures are on file with the Department of State, Division of Elections, 1801 The Capitol, Tallahassee, Fl.	Bulk Rate US Postage PAID Advantage Consultants	Your City Manager is about to get a \$18,000 pay raise . . . \$102,600 per year!!*) You have a chance to say NO to the Owen Sheppard - Dave Henson Pay Grab. . . *includes deferred compensation Important Taxpayer Information	Opposes two candidates, Dave Henson and Owen Sheppard, for Casselberry City Council based on a "a sixteen (16) month comprehensive review" by the Ax the Tax

⁵ In the Casselberry police report referenced in f. n. 3, Ms. Carlson told the police officer that she did not know Maloy prior to the Sunday before August 31, 1998. However, she said she asked Mr. Guetzloe if she could use his return address in 1997 because she did not want to subject herself to individuals like Grant Maloy.

⁶ It is also interesting to note that Ax the Tax campaign treasurer's reports show that Alice Carlson was paid for "date entry" work in 1998 and 1999.

⁷ This is a synopsis of the message. To see in its entirety, see exhibit 10 in Report of Investigation.

19. Dave Henson and Owen Sheppard were candidates in the 1998 Casselberry municipal elections. The filing officer, Thelma McPherson, confirmed that the advertisement mailer was distributed during the 1998 election.

20. The second Ax the Tax ad is summarized in the following table:

# pgs	Return Address	Political Disclaimer	Bulk Rate Permit	Message Page 1	Message Page 2 ⁸
2	Ax the Tax, 3660 Maguire Blvd., Suite 103, Orlando, Florida 32803 www.axthetax.org Toll-free (877)-Ax-Taxes	Pd. Pol. Adv. Pd. for and approved by Ax the Tax Committee. Our contributions and expenditures are on file with the Department of State, Division of Elections, 1801 The Capitol, Tallahassee, Fl.	Bulk Rate US Postage PAID Advantage Consultants	The vote passed for the new \$18,000 a year increase for the city manager. Now let's see who gets a passing grade for saving taxpayer money. Save Taxpayer dollars... vote against 1. Seminole County Ordinance-the "so-called" Decency Referendum-Indecent for taxpayers! VOTE NO! 2. Casselberry Non-binding vote-a YES vote allows our children to enter these establishments at any age. The State Liquor laws are what keep children out! VOTE NO. Important Taxpayer Information	Supports 3 candidates, Kay Robertson, Tom Ecker, and Linda Hart, and opposes three candidates, Owen Sheppard, Dave Henson, and Mark George for Casselberry City Council.

21. The inside of the advertisement (page 2 in chart above) contained the following statements:

Ax the Tax Grade:

Kay Robertson – A

Owen Sheppard – Failure

Tom Ecker – A

Dave Henson – Failure

Linda Hart – A

Mark George - Failure

22. On November 8, 1999, Complainant provided an audiotape of Respondent's radio show, *The Guetzloe Report*, which aired live on November 3, 1998. November 3rd was Election Day. Respondent's show airs on radio station WWNZ 740 AM on every Tuesday and Thursday from 11 a.m. until noon. Respondent can be heard more than once on the tape stating that the

⁸ This is a synopsis of the message. To see in its entirety, see exhibit 11 in Report of Investigation.

date of the show is Election Day.

23. On the audiotape, Respondent stated that his political committee, Ax the Tax, sent out a political advertisement that endorsed three candidates. The Respondent made the following statements:

I will tell you this, any and every political organization, business organization, industry group, any political committee that is a legitimate political committee have all endorsed a clean sweep in Casselberry. Let's sweep out the old and bring in the new. Let's throw open the doors and let the sunshine in. They have all endorsed Kay Robertson, Tom Ecker, and Linda Hart. Now on top of that, the Ax the Tax Committee weighed in on the basis of the city manager's salary. We sent out a flier that basically said, 'Vote for Robertson, Ecker, and Hart

24. The third ad is summarized as follows:

# pgs	Return Address	Political Disclaimer	Bulk Rate Permit	Message Page 1	Message Page 2 ⁹
2	Ax the Tax, 3660 Maguire Blvd., Suite 103, Orlando, Florida 32803 www.axthetax.org Toll-free (877)-Ax-Taxes	Pd. Pol. Adv. Pd. for and approved by Ax the Tax Committee. Our contributions and expenditures are on file with the Department of State, Division of Elections, 1801 The Capitol, Tallahassee, FL.	Bulk Rate US Postage PAID Advantage Consultants	Ax the Tax was founded in 1982 and is a legally registered political committee. Since 1982 Ax the Tax has fought and defeated \$4.1 billion in new taxes...now we are attacked with lies by self-serving politicians! Taxpayers...Mark George is a liar!	Discusses 2 "lies." Says Mark George has lied to you! And liars don't deserve election to public office! States that a Citizens for "Decency" Campaign flyer implies a connection between David Guetzloe and adult clubs. Warns that there are "illegal and misleading political advertisements" maligning Ax the Tax

25. The filing officer, Thelma McPherson, confirmed that the advertisement mailer was distributed during the 1998 election cycle.

26. The fourth ad has four pages and contains the same return address and bulk mail permit that were on three previous ads although the text is a different font size and the suite number was omitted on the return address. The political disclaimer below the addressee label reads, "Pd. Pol. Adv. Pd. for and approved by Ax the Tax Committee."

27. The content of the four pages is summarized in the table that follows:

⁹ This is a synopsis of the message. To see in its entirety, see exhibit 12 in Report of Investigation.

Page 1 Summary	Page 2 Summary	Page 3 Summary	Page 4 Summary
Decide for yourself if Mark George deserves your support for the city commission. Our community standards demand integrity and honesty in our elected officials.	Page 2 & 3 contain a summary of a court case filed 6 days before the election. Patricia Ragan Hoehner filed a complaint for damages in the 18 th Judicial Circuit against Pastor Mark George.	At the bottom of the 3 rd page was the following statement: The polygraph test, which confirmed that the victim's account was truthful, is too sexually graphic to distribute in this mailing. A copy may be obtained by calling 1-877-Ax-Taxes.	The outside back page states: "Read the entire charges about the startling accusation against Seminole Citizen's for Decency Chairman Mark George." The back cover contained a reprint of an <i>Orlando Sentinel</i> article from October 29, 1998. ¹⁰

28. The filing officer also provided Commission staff with a copy of a Casselberry Police "Offense Incident Report." Reporting Officer Goodman identified two men who were handing out copies of the four-page advertisement at 1548 Seminola Boulevard, Casselberry, Florida, on November 1, 1998. Officer Goodman identified the two men as Dale Smith and Michael Link. Both Mr. Smith and Mr. Link provided the officer with 3660 Maguire Boulevard, Orlando, Florida, as their address. Mr. Link told the reporting officer that he was a "campaign person for Ax the Tax."

29. Commission staff reviewed the Ax the Tax Internet web site, www.axthetax.org. Under the Campaign Merchandise hyperlink on the web site, Respondent has a bumper sticker available for a \$1 dollar fee that reads "Dump Smith" and contains the political disclaimer, "Pd. Pol. Adv. Pd. for AX THE TAX COMMITTEE, Doug Guetzloe, Chairman."

30. Commission staff found two persons who could be the focus of the "Dump Smith" bumper sticker. Joseph Smith was a candidate for Orange County Treasurer/Insurance Commissioner in an election in September of 1998. Dennis M. Smith is the current Orange County Superintendent of Schools.

31. The Internet address "www.axthetax.org" contains the political disclaimer "Pd. Pol. Adv. Pd. for by Ax the Tax committee, Doug Guetzloe, Chairman" on the table of contents page as well as other pages within the site. Commission staff consulted *Alexa Internet*, an Internet catalogue, and verified that "www.axthetax.org" is Respondent's Internet site. The owner was given as Advantage Consultants, 3660 Maguire Blvd, Suite 103, Orlando, FL 32806. The site has been online since April 30, 1998.

32. Commission staff listened to a live broadcast of Doug Guetzloe's radio show, *The Guetzloe Report*, on November 30, 1999, and December 2, 1999. The December 2nd broadcast was audio taped. An Ax the Tax Committee commercial aired at least twice during the November 30th broadcast and three times during the December 2nd radio broadcast of *The Guetzloe Report*. The advertisement stated:

¹⁰ The suit was filed was filed six days before the election, but later withdrawn.

Within the next few days, you may be asked to sign a petition to recall Mayor Glenda Hood. Recall is a legal method that allows voters to vote on whether or not that person should remain in office. Recently, Mayor Hood violated the public trust by pushing through a Light Rail vote that endangers the taxpayers of Orlando. This effort, which was followed up by a vote that the Attorney General says is illegal, was done behind closed doors away from our government in the sunshine. We must say no to illegal votes and efforts that can bankrupt Orlando. We must recall Mayor Hood and let the voters decide on Light Rail. Sign the recall petition or call Ax the Tax at 895-0077. That's 895-0077 for your recall petition. Do it today. Our future and your children's future depends on it. Call 895-0077 and Ax the Tax will send you a petition today. Derail Light Rail. Restore the public trust. Recall Mayor Hood. Paid political advertisement, paid for and approved by Ax the Tax.

33. Doug Guetzloe talked at length about the Ax the Tax's initiative to recall the elected mayor of Orlando on his November 30th and December 2nd radio shows. On his December 2nd show, Mr. Guetzloe clearly states about Respondent's initiative, "...we will continue this process and we will bring this to a vote whether the vote occurs in a recall vote in January or February, or the vote occurs in the March 14th election for mayor. She will be removed from office . . ."

34. Respondent's attempt to oust Mayor Hood stems from the mayor's support for a \$325 million light-rail transportation system for the City of Orlando. Respondent is opposed to the light rail transportation system. According to the municipal recall provisions in Section 100.361(1)(b), Florida Statutes, the grounds for removal of elected municipal officials is limited to malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, and conviction of a felony involving moral turpitude. Section 100.361(1)(d), Florida Statutes, gives the city clerk of a municipality the duty to determine whether a recall petition is "facially valid" before submitting the petitions to the supervisor of elections for verification of the signatures.

35. Orlando City Clerk Grace Chewing informed Respondent in a letter dated November 23, 1999 that his petition for recall was invalid because he has not offered any evidence that Mayor Hood has bent or broken any laws in her push for the light rail system. This letter was written seven days before the Respondent aired the November 30 radio show and nine before the Respondent aired the December 2 radio show. Doug Guetzloe urged listeners to call Ax the Tax to request a recall petition and bumper sticker that advocated the recall of Mayor Glenda Hood.

36. Commission staff received an original Ax the Tax-sponsored "recall" bumper sticker from Complainant on December 3, 1999. Complainant submitted the bumper sticker at the request of staff. The bumper sticker states: "RECALL MAYOR HOOD." The political disclaimer reads: "Pd. Pol. Adv. Pd. for AX THE TAX COMMITTEE, Doug Guetzloe, Chairman."

37. Pursuant to Section 100.361(7), Florida Statutes, a committee sponsoring a municipal recall is subject to Chapter 106, Florida Statutes, and “[n]o expenditures for campaigning for or against an officer being recalled shall be made until the date on which the recall election is to be held is publicly announced.”¹¹ Since the recall effort was not successful, no election date was ever set for the recall election. Therefore, no political committee could have legally expended money in its efforts to recall Mayor Hood.

38. Commission staff received a statement of filing officer from Casselberry City Clerk Thelma McPherson on November 2, 1999. The filing officer stated that her office did not receive any statements of endorsement or opposition of candidates from any organization bearing the name “Seminole County Ax the Tax” or “Ax the Tax.” The filing officer stated that the only record her office had for Ax the Tax was an oath signed by Respondent’s chairman as a receipt for a computer generated list of absentee voters for the City of Casselberry during the election in November of 1997.

39. Commission staff received a statement of filing officer from Seminole County Supervisor of Elections Sandra Goard on October 12, 1999. Supervisor Goard stated that her office did not receive any statements of endorsement or opposition of candidates from Ax the Tax.

40. Commission staff received a statement of filing officer from Orange County Supervisor of Elections Bill Cowles on October 13, 1999. Supervisor Cowles stated that his office had records for Doug Guetzloe’s Ax the Tax Committee, but none of the records were statements of endorsement or opposition of candidates.

41. Supervisor Cowles provided the following statement on his contact with Ax the Tax, “In 1997, it was brought to my attention that Mr. Guetzloe was involved in a fundraising effort for a County Commission candidate – CLARENCE HOENSTINE. Mr. Hoenstine has expressed some concern about the matter and filed the attached letter in his (Mr. Hoenstine’s) campaign folder.”

42. In the letter, Mr. Hoenstine stated that Respondent might have caused a violation of Chapter 106, Florida Statutes, if he, Mr. Hoenstine, had not caught the possible violation. Mr. Hoenstine listed three things that Respondent did. First, Respondent mailed a fundraising invitation without the Hoenstine campaign’s knowledge or permission and without authorization. Second, Respondent instructed the recipients of the invitations to “Make all checks payable to Hoenstine Campaign Fund c/o Advantage Consultants,” circumventing the Hoenstine campaign treasurer. Third, Respondent placed a disclaimer on the invitations that reads, “Pd. Pol. Adv., Pd. for by the Hoenstine Campaign Fund, Orange County Commission, Non-partisan.” Mr. Hoenstine pointed out to Respondent and Mr. Cowles that his campaign did not pay for the invitations.

¹¹On October 14, 1999, the Florida Division of Elections received an amendment to the “Area, Scope and Jurisdiction” of the Ax the Tax Committee statement of organization. Doug Guetzloe added the following to his existing statement: “To promote recall of elected officials who promote unnecessary taxes.”

43. Commission staff requested records on all organizations using the name of Ax the Tax from Orange County Supervisor Cowles. Supervisor Cowles only had records for Respondent's Ax the Tax. Respondent's Internet site has pictures, with captions, identifying an Orange County Ax the Tax chairman, Jim Barden. There were no public records found to indicate that Orange County Ax the Tax is a separate political committee. Likewise, there were no public records found to indicate that Seminole County Ax the Tax was a separate political committee.

44. Commission staff sent a questionnaire affidavit to Respondent's chairman, Douglas Guetzloe by certified mail on October 22, 1999. Mr. Guetzloe called Commission staff on October 29, 1999, and acknowledged receiving the questionnaire. Mr. Guetzloe said that he wanted copies of the four advertisements from 1998 that were referred to in the questionnaire. He said that Respondent has made a lot of advertisements and that he was not sure as to which advertisements the affidavit was referring. The interviewer described each of the advertisements to Mr. Guetzloe, and he said that he recalled each advertisement. He insisted that none of the advertisements that were described to him opposed or endorsed any candidates. He said that the advertisements only dealt with issues.

45. Respondent's chairman, Douglas Guetzloe, did not return a completed copy of the questionnaire affidavit. Commission staff made several attempts to interview Mr. Guetzloe by telephone on the whereabouts of the affidavit. Messages were left on Respondent's voicemail, but Mr. Guetzloe did not return the telephone calls. The interviewer spoke with an unidentified male phone receptionist at Mr. Guetzloe's place of business on December 13, 1999. The man said that Mr. Guetzloe was expected to arrive at his place of business "shortly." Mr. Guetzloe did not return the call.

46. Respondent reported four in-kind "mailing" contributions totaling \$7,920 from Doug Guetzloe's business, Advantage Consultants, on "10/28/98." Individually, each "mailing" was valued at \$1,980. The date that the in-kind contributions were reported was five days before the November 1998 General Election.

47. In summary, it appears that the Respondent did endorse and oppose candidates on at least seven separate occasions. The first occasion was the 1997 political ad recommending Casselberry candidates Ecker and McMullen. While the disclaimer credits the advertisement to the Seminole Ax the Tax Committee, there is no such organization. The flyer has the Respondent's return address and uses Advantage Consultant's company's bulk rate permit. Advantage Consultant is owned by Mr. Guetzloe. The Respondent also mailed four flyers in 1998 that supported or opposed candidates. The Respondent issued one bumper sticker urging voters to "Dump Smith." And finally, the Respondent encouraged Orlando voters to recall Mayor Hood, whether by a recall election or the March 2000 city election and sold bumper stickers urging this action. Since the recall petition had already been found facially invalid by the City Clerk and there would be no recall election, the Respondent's efforts were in reality an effort to defeat Mayor Hood in the March city election.

48. The Respondent's chairman and treasurer, Douglas Guetzloe, is thoroughly experienced in politics, political committees, and Chapter 106, Florida Statutes, as evidenced by his involvement with Ax the Tax since 1982, his radio program, and his Internet site. Mr. Guetzloe ran for the Florida Senate in 1986 and 1990, and he filed papers to run a third time, in

1992, but withdrew. Furthermore, Mr. Guetzloe is an Orlando area political consultant with extensive political experience and has been a Respondent in two previous Commission cases, FEC 92-009 and FEC 93-66. The Respondent was well aware that an issues committee could not support or oppose candidates.

49. Commission staff investigated whether Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting contributions in excess of \$500 per election. In addition to being chairman of Ax the Tax, Mr. Guetzloe has also been the treasurer since the committee filed its papers with the Division of Elections on August 1, 1993.

50. If the Commission determines that Respondent published advertisements endorsing and opposing candidates, the committee would be bound by this section's limitation of contributions to \$500 per person or organization per election. The committee would not be allowed to solicit unlimited contributions as an "issues only" political committee.

51. Respondent's Internet site, www.axthetax.org, contains three documents that solicit monetary donations to the political committee. The first solicitation is in a letter titled "From the Desk of Doug Guetzloe . . ." and is signed by Mr. Guetzloe. The solicitation reads:

Please send your donation and help us Ax the Tax! Ax the Tax is an "issues only" political committee and according to Florida law there is no limit on the amount you may contribute. Corporations, partnerships, individuals all may contribute. Be as generous as you can and send it today

52. The second solicitation is in a letter titled "Call to Action . . . Call to Action.. August '98 Alert." The solicitation reads: "We need contributions. This effort is 100% voluntary. We need your check for ANY amount today! Be as generous as you can." The "August '98 Alert" is dated on the document as August 1998, a date prior to the publication of the four advertisements for the November 1998 election. The letter further instructs the reader to call statewide chairman "Doug Guetzloe or" Orange County Ax the Tax Chairman "Jim Barden" for further information.

53. The third solicitation is in a letter titled "Call to Action... Call to Action . . . The solicitation reads: "We also need contributions. This effort is 100 percent voluntary. We need your check for any amount today! Be as generous as you can." The solicitation contains no date, but it is listed on the Internet site as "Call to Action #2." The letter further instructs the reader to "Ask for Doug Guetzloe or Orange County Ax the tax [sic] Chairman Jim Barden" for further information.

54. A review of Respondent's campaign treasurer's report shows that Respondent has accepted 19 contributions in excess of \$500 since August 13, 1997. The treasurer's reports also showed that Respondent accepted multiple contributions from four individuals or organizations that, in the aggregate, were in excess of \$500 for an election. Each contribution in excess of \$500 is summarized the chart below in the same chronological order as on the treasurer's report.

Date of Contribution	Amount of Contribution	Contributor's Name	Contribution Type
08/13/97	\$1,000.00	Daniels, George (Manufacturer)	Check
12/09/97	2,500.00	Guetzloe, Douglas M.	Check
11/04/97	1,500.00	The Guetzloe Report	In-kind radio advertising
11/04/97	3,000.00	Advantage Consultants	In-kind office rent
02/28/98	501.00	Daniels, George	Check
03/31/98	3,000.00	Guetzloe Communications Group	In-kind office rent
03/12/98	750.00	Guetzloe, Doug	Loan (No record of repayment)
06/30/98	3,000.00	Guetzloe Communications Group	In-kind office space
07/24/98	840.00	Guetzloe, Douglas	In-kind radio advertising
10/28/98	1,980.00	Advantage Consultants	In-kind mailing of advertisements
10/28/98	1,980.00	Advantage Consultants	In-kind mailing of advertisements
10/28/98	1,980.00	Advantage Consultants	In-kind mailing of advertisements
10/28/98	1,980.00	Advantage Consultants	In-kind mailing of advertisements
12/31/98	2,800.00	Advantage Consultants	In-kind radio advertising
01/21/99	2,500.00	Alamo Rental Car Co.	Check
03/01/99	3,900.00	Advantage Consultants	In-kind radio advertising
05/14/99	580.00	Daniels, George	Check
6/29/99	500.00	Daniels, George	Check
06/30/99	4,000.00	Guetzloe Communications Group	In-kind
09/28/99	1,000.00	Brumback Jr., John	Not disclosed
09/30/99	1,500.00	Guetzloe Communications Group	Not disclosed
09/30/99	720.00	The Guetzloe Report	In-kind radio spot
09/30/99	700.00	Guetzloe Communications Group	In-kind direct mailing
09/30/99	848.70	Cunningham's Inc.	In-kind printing
07/15/99	620.00	Daniels, George	Check
07/12/99	1,000.00	Attraction Concepts, LTD.	Check
TOTAL	\$44,679.70		

55. The contributions exceeding \$500, in the aggregate, are summarized by contributor in the chart below.¹²

¹² Respondent is a statewide political committee. The dates of statewide elections are being assumed as the next

Election Date (Location)	Contribution Date	Contribution Amount	Aggregate Amount	Contributor's Name	Contribution Type
11/04/97 (Casselberry)	08/13/97 10/17/97	\$1,000.00 500.00	\$1,500.00	Daniels, George	Check Check
11/02/99 (Statewide) Previous State Election: 11/3/98	12/10/98 02/10/99 04/09/99 09/28/99	500.00 300.00 500.00 1,000.00	2,300.00	Brumback, John	Check Check Check Not disclosed
11/02/99 (Statewide)	01/14/99 06/30/99	500.00 200.00	700.00	Sharp, Frank	Check Check
11/02/99 (Statewide)	03/01/99 06/30/99	200.00 500.00	700.00	Land Plus	Check Check
TOTAL		\$2,000.00¹³			

56. Thus, from the chart following Paragraph 54, it appears that the Respondent did not comply with Section 106.19(1)(a), Florida Statutes, on at least 26 occasions when he accepted contributions in excess of \$500 from a contributor. From the chart following Paragraph 55, we can see that another five contributions totaling \$2,000 were accepted in the aggregate, which exceeded \$500 per contributor per election. This is a total of 31 contributions, which exceeded the limits of what a political committee supporting candidates could accept. As stated in Paragraph 48, Respondent's chairman and treasurer is thoroughly experienced in politics, political committees, and Chapter 106, Florida Statutes. As chairman, he was aware of the people who had contributed to Ax the Tax. Mr. Guetzloe prepared the treasurer's reports and signed them as both chairman and treasurer of the political committee. He was very aware that only a political committee, which supported only issues, could accept contributions in excess of \$500. Under these circumstances, it appears that the Respondent willfully violated Section 106.19(1)(a), Florida Statutes, on 31 occasions.¹⁴ The potential penalty for 31 violations could be \$31,000.

57. Pursuant to Section 106.19(2), Florida Statutes, any political committee or agent of a political committee who violates Section 106.19(1)(a), Florida Statutes, is subject to an additional penalty of three times the amount involved in the illegal acts. The amount of the contributions involved in the 31 illegal contributions is \$46,679.70 (\$44,679.70 + \$2,000.00 +

election for Respondent. It is also being assumed that Respondent did not participate in any local elections, except as noted for the Casselberry election.

¹³ The figures in bold were not included in the chart following Paragraph 54.

¹⁴ Section 106.37, Florida Statutes, provides that a person willfully violates Chapter 106, Florida Statutes, if the person:

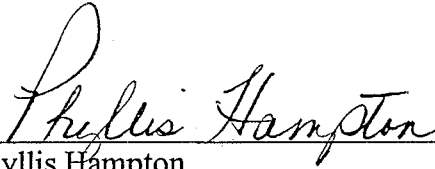
...commits an act while knowing that, or showing reckless disregard for whether, the act is prohibited...or does not commit an act while knowing that, or showing reckless disregard for whether the act is required....A person knows that an act is prohibited or required if the person is aware of the provision...which prohibits or required the act, understands the meaning of that provision, and performs the act that is prohibited or fails to perform the act that is required. A person shows reckless disregard for whether an act is prohibited or required under this chapter if the person wholly disregards the law without making any reasonable effort to determine whether the act would constitute a violation...(Emphasis added.)

\$46,679.70). Three times \$46,679.70 would be \$140,039.10.

58. Commission staff investigated whether Respondent complied with the requirements of Section 106.19(1)(c), Florida Statutes, by filing or reporting information required by Chapter 106, Florida Statutes. However, since Section 106.144, Florida Statutes, is unenforceable, there is no violation of this section.

59. Therefore, the total potential fines for the Respondent are \$171,039.10.

Respectfully submitted,



Phyllis Hampton
Assistant General Counsel



Date

Copy furnished to:

Barbara M. Linthicum, Executive Director
Douglas Sisson, Investigator Specialist