

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Shelly Leonard,
Respondent.**

**Agency Case No.: FEC 10-188
F.O. No.: FOFEC 11-174W**

FILED
11 DEC -6 AM 8:47
FLORIDA ELECTIONS COMMISSION

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	Eric M. Lipman General Counsel 107 W. Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399
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For Respondent	No appearance
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STATEMENT OF THE ISSUE

Whether the Respondent violated Section 106.143(1)(a), Florida Statutes, when she distributed a political advertisement that lacked the statutorily required disclaimer.

PRELIMINARY STATEMENT

On August 19, 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 January 4, 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 August 24, 2011, the Commission entered an Order of Probable Cause finding that there was probable cause to charge the Respondent with the following violation:

Count 1:

Section 106.143(1)(a), Florida Statutes – The complaint alleges that Shelly J. Leonard, candidate for the Florida House of Representatives, District 50, distributed a political advertisement at an event which lacked the statutorily required disclaimer

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 was a first time candidate for the House of Representatives, District 50, in the November 2, 2010 general election.
2. Complainant alleged that Respondent failed to mark a political advertisement flyer with the required disclaimer. Complainant submitted a political advertisement flyer with a disclaimer that reads, "APPROVED BY SHELLY LEONARD AND PAID FOR BY THE COMMITTEE TO ELECT SHELLY LEONARD STATE REPRESENTATIVE – (727) 729-6887 SHELLY@VOTESHELLYLEONARD.COM. (ROI Exhibit 2)
3. However, Respondent claimed she found errors in the first draft of the flyer she planned to distribute, and made corrections prior to sending it out. Respondent stated one of the errors she corrected was the political disclaimer.

4. The disclaimer on Respondent's political advertisement that was distributed contained the following disclaimer, "POLITICAL ADVERTISEMENT PAID FOR BY THE CAMPAIGN FOR SHELLY LEONARD AND APPROVED BY SHELLY LEONARD DEMOCRAT FOR FLORIDA HOUSE, DISTRICT 50." (ROI Exhibit 3)

5. Both of the political disclaimers are incorrect. A correct political disclaimer would be, "Political Advertisement paid for and approved by Shelly Leonard, Democrat, for House of Representatives, District 50."

6. Respondent received a letter dated May 7, 2010, from Kristi Reid Bronson, Bureau Chief of the Division of Elections, Bureau of Election Records, advising Respondent that her name had been placed on the list of active 2010 candidates. Ms. Bronson's letter suggested that Respondent print a copy of the *Candidate and Campaign Treasurer Handbook* ("Handbook") from the Division's website.

7. The 2010 Candidate and Campaign Treasurer's Handbook instructs the candidate to include a prominent disclaimer—"Political advertisement paid for and approved by (name of candidate), (party affiliation), for (office sought)"—in any political advertisement that is paid for by a candidate and that is published, displayed, or circulated prior to, or on the day of, any election.

8. 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

9. The Commission has jurisdiction over the parties to and subject matter of this

cause, pursuant to Section 106.26, Florida Statutes.

10. Respondent's actions were willful.

9. The Respondent committed one count of violating Section 106.143(1)(a), Florida Statutes, when she distributed a political advertisement without the statutorily required disclaimer.

10. Respondent's conduct was willful.

12. 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 106.143(1)(a), Florida Statutes, and imposes a \$250 fine for the violation.

Therefore, it is

ORDERED AND ADJUDGED that Respondent shall remit a civil penalty in the amount of \$250. 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:

Eric M. Lipman, General Counsel
Shelly Leonard, Respondent (certified mail)
Peter Schorsch, Complainant
Florida Division of Elections, Filing Officer