

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED
05 JUN -3 PM 12:34
STATE OF FLORIDA
ELECTIONS COMMISSION

FLORIDA ELECTIONS COMMISSION,
PETITIONER,

v.

AGENCY CASE No.: FEC 04-170
F.O. No.: DOSFEC 05-143

DAVID STEINFELD,
RESPONDENT.

FINAL ORDER

THIS CAUSE came on to be heard at an informal hearing held before the Florida Elections Commission (Commission) on May 19, 2005, in Tallahassee, Florida.

APPEARANCES

For Commission	Charles A. Finkel General Counsel 107 W. Gaines Street Collins Building, Suite 224 Tallahassee, FL 32399
For Respondent	David Steinfeld, pro se 9180 Bryon Avenue Surfside, Florida 33154

STATEMENT OF THE ISSUE

Whether the Respondent violated Section 106.07(5), Florida Statutes, when he certified to the correctness of two campaign treasurer's reports that were incorrect, false, or incomplete.

PRELIMINARY STATEMENT

On May 24, 2004, the Commission received a sworn complaint alleging violations of Florida's election laws. The 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 18, 2005, the staff drafted a Statement of Findings recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated. On March 4, 2005, 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 March 12, 2004, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of a CTR that was incorrect, false, or incomplete, when he failed to report four in-kind contributions on his original G-4 report.

Count 2:

On June 14, 2004, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of a CTR that was incorrect, false, or incomplete, when he incorrectly reported the amounts of the in-kind contributions from Mr. Burkett and Mr. Salzhauer on his amended G-4 report.

Respondent timely requested an informal hearing and was noticed to appear before the Commission on May 19, 2005. At the informal hearing, the staff presented the undisputed facts contained in the Statement of Findings. The staff also introduced a report of Respondent's financial resources. The Respondent appeared at the hearing.

FINDINGS OF FACT

1. The Respondent, David Steinfeld, was a candidate for commissioner for the Town of Surfside, Florida. He was defeated in the election that was held on March 16, 2004. Respondent was a first-time candidate for public office. He is a commercial realtor.
2. The Complainant, Orestes Jiminez, was Respondent's opponent in the March 16, 2004 election. He was elected to office by 51.31% of the vote. Complainant served in the Surfside planning and zoning department prior to running for this election.
3. Respondent's G4 Campaign Treasurer's Report (CTR), covering the period from

February 21, 2004 to March 11, 2004, reported a \$250 payment to the Sydney Corp for endorsement cards and a voter registration list as the only expenditure. The CTR omitted expenditures for paper and labels, photocopies, and bulk mailing. The original CTR also failed to include several in-kind contributions. Respondent certified that the G4 report was correct, true and complete.

4. Newspaper advertisements supporting the election of the "Slate of 5" were published on February 29, March 7, and March 14, 2004. Copies of the advertisements are attached to the investigator's report as Exhibits 2, 3, and 4. In a written response, Respondent stated that when he filed his G4 report, he had not received the totals for many of the amounts of his in-kind contributions because his in-kind donors had either not given him the invoices, or they themselves had not been invoiced at that time.

5. Respondent explained that because the newspaper account was in Charles Burkett's name, he had no control over the final amounts, and Charles Burkett gave him an approximation of the cost, but, "he did not have the final invoice so I did not know the total. I decided to wait until I had more complete information, rather than guess. He told me to estimate \$450 for ad layout and costs for my portion of the [newspaper] ads." The final invoice for the three advertisements showed a total cost of \$2,340 - \$468 per candidate.

6. Respondent was also asked why the yard sign advertisements were not reported in the original G4 report. According to the Termination Report (TR) filed on June 14, 2004, the yard signs were ordered / purchased on March 1, 2004. Respondent stated that the yard signs were another in-kind contribution, and that he did not have the information as to their value until after the election. Respondent stated that Michael Salzhauer, a team member of the "Slate of 5 candidates," contributed the yard signs to him as an in-kind contribution. Respondent said that Mr. Salzhauer told him that he did not have the final receipt, but \$360.00 was the cash value of

the signs he purchased for Respondent. Respondent said that he was afraid to write down the wrong amount and assumed he could amend the report. The value of the signs was actually \$318.00 inclusive of all costs.

7. The newspaper advertisement, yard signs, and web site costs were not reported on Respondent's amended G4 expenditure page. On the amended G4 contribution page, Respondent reported that he received in-kind contributions for signs, newspaper advertisements, and web-site as follows:

DATE	FULL NAME STREET ADDRESS & CITY, STATE, ZIP CODE	CONTRIBUTOR		CONTRIBUTION TYPE	IN-KIND DESCRIPTION	AMENDMENT	AMOUNT
		TYPE	OCCUPATION				
03/01/04 3	Salzhauer, Michael ¹ 9241 Byron Ave. Surfside, Fl. 33154	I	Doctor	INK	Signs	ADD	\$360.00
03/11/04 6	Burkett, Charles ² 1322 Biscaya Dr. Surfside, Fl 33154	I	Landlord	INK	Newspaper ads in Miami Herald	ADD	\$450.00
03/11/04 7	Slatko, Mark 8919 Carlyle Ave. Surfside, Fl, 33154	I	Assoc. Adv. Exec.	INK	Creative Services & website	ADD	\$150.00
03/08/04 5	McGlaughlin, Barbara 9573 Byron Ave. Surfside, Fl. 33154	I	Retired	INK	Postage	ADD	\$300.00

8. Although Respondent could have obtained the exact amounts of the in-kind contributions prior to filing his amended G4 CTR, he apparently failed to do so and merely recorded the approximate numbers that he should have recorded in his original G4 report. Respondent acted as his own campaign treasurer during the election cycle.

9. At the hearing, staff introduced a report of Respondent's financial resources. The

¹ Michael Salzhauer was a candidate running in the same election. He was one of the "Slate of 5" candidates.

² Charles Burkett was also a candidate running in the same election. He too was one of the "Slate of 5" candidates.

Respondent has sufficient financial resources to pay the fine imposed by the Commission.

CONCLUSIONS OF LAW

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

11. The Respondent committed two counts of violating Section 106.07(5), Florida Statutes, when he certified to the correctness of his original and his amended G4 CTRs that were incorrect false or incomplete. Respondent's original G4 CTR filed on March 12, 2004, failed to report in-kind contributions from Michael Salzhauer, Charles Burkett, Mark Slatko, and Barbara McGlaughlin. Respondent's amended G4 CTR filed on June 14, 2004, incorrectly reported the in-kind contribution of \$318 from Michael Salzhauer as \$360, and incorrectly reported the in-kind contribution of \$468 from Charles Burkett as \$450. The amounts of those two incorrect entries were de minimis.

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.

13. The Respondent's actions were willful. Nancy Fernandez, the Surfside City Clerk, provided a copy of Respondent's file and a list of individuals who purchased the "2004 TOWN OF SURFSIDE ELECTION SCHEDULE FOR CANDIDATES." Respondent's name was not within the city clerk's submitted list of individuals who purchased the qualifying package.

14. Respondent had been asked in a questionnaire-affidavit as to what actions he had taken to determine his responsibilities under Florida's election laws. Respondent stated that he reviewed "the booklet" in the very narrow window of time that was given to him, because the town did not make the booklet available to candidates. Respondent stated: "the town said it was 'not ready.' They specifically and intentionally did not make them available ... I obtained the

booklet at an event at a friend's house the evening of January 21, 2004.”

15. Ms. Fernandez stated that any individual that obtained a qualifying package from her office would have received a copy of the “2004 Town of Surfside Election Schedule for Candidates” and a copy of “Qualifying Handbook Municipal Candidates.” The “Qualifying Handbook Municipal Candidates” includes a copy of Chapter 106, Florida Statutes, as well as a copy of the “2004 Candidate and Campaign Treasurer Handbook,” and the “Statement of Candidate” form.

16. On February 10, 2004, Respondent had signed a Statement of Candidate, certifying that he had received, read and understood the requirements of Chapter 106, Florida Statutes.

ORDER

WHEREFORE the Commission finds that Respondent has violated the following provisions of Chapter 106, Florida Statutes, and imposes the following fines:

A. Respondent violated Section 106.07(5), Florida Statutes, on two occasions for certifying to the correctness of two campaign treasurer's reports that were incorrect, false, or incomplete. Respondent is fined a total of \$250 for Count 1.

ORDERED that the Respondent shall remit a civil penalty in the amount of \$250. The civil penalty shall be paid 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 the Respondent.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on June 3, 2005, in Tallahassee, Florida.



Chance Irvine, Chairman
Florida Elections Commission

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.

Copies furnished to:

Charles A. Finkel, General Counsel
David Steinfeld, Respondent (certified mail)
Orestes Jimenez, Complainant
Town of Surfside Clerk, Filing Officer