

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

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STATE OF FLORIDA
ELECTIONS COMMISSION

In Re: Laurel Dick

Case No.: FEC 03-153

F.O. No.: DOSFEC 03-283 W

ORDER OF NO PROBABLE CAUSE

THIS CAUSE came on to be heard by the Florida Elections Commission at its regularly scheduled meeting held on November 13, 2003, in Tallahassee, Florida.

After considering the Statement of Findings and the recommendations of counsel, the Commission finds that there is no probable cause to believe that the Respondent violated:

Section 106.071(1), Florida Statutes, failure of a person who makes independent expenditures of \$100 or more to file timely periodic reports of the expenditures;

Section 106.071(1), Florida Statutes, failure of a person to include the proper disclaimer in a political advertisement paid for by an independent expenditure; and

Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement to state on the advertisement that no candidate approved the advertisement.

Therefore, it is **ORDERED** that this case is **DISMISSED**.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on August 22, 2003, in Tallahassee, Florida.

Chance Irvine

Chance Irvine, Chairman
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 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 appeals by filing a notice of appeal both with the Clerk of the Florida Elections Commission and the Clerk of the district court of appeals. The notice must be filed within 30 days of the date this final order was filed with the Clerk of the Commission and must be accompanied by the appropriate filing fee.

Copies furnished to:

Phyllis Hampton, General Counsel

Laurel Dick, Respondent

Kent H. Marple, Complainant

Escambia County Supervisor of Elections, Filing Officer

Attachment: Statement of Findings

FLORIDA ELECTIONS COMMISSION
STATEMENT OF FINDINGS
Case Number: FEC 03-153

Respondent: Laurel Dick

Complainant: Kent Marple

On May 14, 2003, 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 staff recommends that there is **no probable cause** to charge the Respondent with violating:

Section 106.071(1), Florida Statutes, failure of a person who makes independent expenditures of \$100 or more to file timely periodic reports of the expenditures;

Section 106.071(1), Florida Statutes, failure of a person to include the proper disclaimer in a political advertisement paid for by an independent expenditure; and

Section 106.143(4)(b), Florida Statutes, failure of a person making an independent expenditure for a political advertisement to state on the advertisement that no candidate approved the advertisement.

Summary of Facts and Conclusions of Law.

1. Respondent is a resident of Gulf Breeze; he was not a candidate for public office.
2. Complainant is a member of the Pensacola Beach Residents and Leaseholders Association (PBRLA).

I. Section 106.071(1) and 106.143(4)(b), Florida Statutes:

3. The Commission staff investigated whether Respondent violated these sections of the election laws by failing to report independent expenditures for a political advertisement and not having a proper political disclaimer on the advertisement.

4. As part of the complaint, Complainant submitted a copy of a letter political advertisement that endorsed the candidacy of a number of candidates including candidates for congress, governor, cabinet, and the legislature, as well as one local candidate. Exhibit 1.

5. At the top of the advertisement is "Pensacola Beach Voters Precinct 94" followed by a paragraph that reads, "The Republican Party of Escambia County would like to urge you to

exercise your right to VOTE!" The letter is signed by the Respondent and his wife, Brenda, and includes a notation that they are "Precinct 94 Committee Members."

6. According to Respondent, the advertisement was mailed around the first of Oct. 2002 to 1,671 households. Respondent submitted a letter to the Escambia County Supervisor of Elections office that stated he spent \$704.18 to publish and distribute the advertisement. The letter, which includes a breakdown of how the money was spent, was accepted by the supervisor as an independent expenditure report.

7. However, because the advertisement endorsed gubernatorial, congressional, cabinet and legislative candidates, it should have been filed with the Division of Elections office in Tallahassee. When Commission staff asked the Respondent why he filed this information with the local supervisor's office, he said that office informed him he had to file with that office. The Respondent filed the information on October 17, 2002, the day before the deadline for reporting this expenditure.

8. Commission staff interviewed John Pinzino, the only local candidate whose name appeared in the advertisement. Mr. Pinzino said he was not aware of the advertisement prior to its distribution. He added that he did not know the Respondent.

9. In Respondent's non-sworn response to the complaint, he stated that he and his wife moved to Florida in June of 2001 and, as retirees, they were eager to get involved as volunteers. Respondent said that since their precinct, Pensacola Beach, consists mainly of absentee owners, he and his wife mailed their recommendations to voters rather than contacting everyone by telephone. He added that the main idea behind the letter was to encourage voters to come to the polls and vote. Respondent did not address the reason for not filing an independent expenditure report with the Division of Elections, but he later informed Commission staff that he was never told that he needed to file an independent expenditure report with the Division.

10. Commission staff interviewed Escambia County Assistant Supervisor of Elections Lynn Kowalchuk by telephone on June 13, 2003. During the course of the interview, it was brought to her attention that Respondent's advertisement endorsed congressional, legislative and gubernatorial candidates as well as the one local candidate. Ms. Kowalchuk told Commission staff that she did not realize that the letter advertisement endorsed congressional, legislative and gubernatorial candidates. She said that she only noticed the name of the local candidate. Since she saw only the name of the local candidate, she did not advise Respondent to file with the Division of Elections.

11. As part of a letter to Escambia County Supervisor of Elections Bonnie Jones, dated October 13, 2002, Respondent related that the lack of a political disclaimer occurred "because we did not realize a disclaimer was required by us." Respondent added that he and his wife thought a disclaimer was required for publications made by candidates. Respondent stated, "Since we were not working for the campaign of any candidate, our intent was strictly a message to 'get out the vote.'" Respondent further stated, "After the fact, we now realize we should have included a disclaimer statement at the bottom of our letter to state that we paid for the publication of the letter."

12. Escambia County Supervisor of Elections Bonnie Jones told Commission staff that she has not had any discussion with Respondent regarding the election laws. She also does not have any record of Respondent having been a candidate for public office nor serving as the chairperson for a political committee.

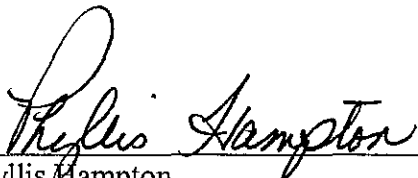
13. Respondent stated in a questionnaire-affidavit that he has never been a candidate for public office nor has he served as the chairperson for a political committee or committee of continuous existence, past or present. In addition, Respondent stated that he does not possess a copy of Chapter 106, Florida Statutes, nor has he read the law. Respondent also explained that he and his wife were named as "Precinct 94 Committee Members" more or less by default. He explained that he and his wife were the only two individuals in their district to join the local executive committee.

IV. Conclusion.

14. Under these circumstances, I recommend to the Commission that they find no probable cause that the Respondent violated Sections 106.071(1) and 106.143(4)(b), Florida Statutes. The Respondent should have filed the independent expenditure report with the Division of Elections, but was not told by the supervisor's office that this was necessary. That office told him that he should file with the local supervisor and he did.

15. In addition, the Respondent should have stated in the advertisement that the advertisement was paid for by an independent expenditure and that no candidate had approved the advertisement. According to the Respondent, who has never been a candidate or a member of a political committee in Florida, he was unaware that his letter to voters required such a disclaimer. The Respondent is cautioned that should he distribute political advertisements in the future, he must have a proper disclaimer on the advertisements and that failure to comply with elections laws can result in a fine of up to \$1,000 per violation. He should obtain either the *Candidate Handbook* or the *Committee Handbook* from his local supervisor of elections to determine what political disclaimers are required.

Respectfully submitted on July 17, 2003,



Phyllis Hampton
General Counsel

Copy furnished to:
Barbara M. Linthicum, Executive Director
Keith Smith, Investigator Specialist

**Pensacola Beach Voters
Precinct 94**

Tuesday, November 5, 2002, is ELECTION DAY!

The Republican Party of Escambia County would like to urge you to exercise your right to VOTE!

Remember! You can vote by Absentee Ballot at your convenience. You need no special reason to request an Absentee Ballot. Simply CALL or stop in the office of the Supervisor of Elections in Pensacola and request your Absentee Ballot today!

**Escambia County Supervisor of Elections
223 Palafox Place, Room 400
(850) 595-3900**

Voter turnout rate is extremely low in America. Today, every American citizen should be registered to vote and determined to cast their vote. Let's show our patriotism and make November 5, the highest voter turnout day ever recorded for Pensacola Beach. The freedom to vote is a precious right we should never forget. Please join your neighbors on Election Day and come out to Vote!

We hope you will remember the following REPUBLICAN candidates this November!

JEB BUSH	GOVERNOR of the State of Florida
FRANK BROGAN	LT. GOVERNOR of the State of Florida
Jeff MILLER	Representative in Congress, District 1
Charles BRONSON	State Commissioner of Agriculture
Charlie CRIST	State Attorney General
Charlie CLARY	State Senator, District 4
Dave MURZIN	State Representative, District 2

To bring common-sense management on Pensacola Beach, we urge you to vote for John PINZINO as the next S.R.I.A. Beach Board Member!

Thank you for your consideration,

**Brenda and Laurel Dick
Brenda and Laurel Dick
Precinct 94 Committee Members
(850) 934-9019**

EXHIBIT 1