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FOFEC 11-016W

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

**In Re: Mark L. McCarty**  
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**Case No.: FEC 10-279  
F.O. No.: FOFEC 11-016W**

**CONSENT ORDER**

The Respondent, Mark L. McCarty, and the Florida Elections Commission (Commission) agree that this Consent Order resolves all pending issues between the parties in this case. The parties jointly stipulate to the following facts, conclusions of law, and order.

**FINDINGS OF FACT**

1. The Respondent is a candidate for the Sanford City Commission, District 1.
2. On October 12, 2010, the Commission received a sworn complaint alleging that

Respondent violated the following section(s) of The Florida Election Code on one occasion:

**Section 106.143(1)(a), Florida Statutes:** Mark McCarty, candidate for the Sanford City Commission, District 1, failed to mark his campaign website, [www.markmccarty.info](http://www.markmccarty.info), with the required disclaimer as alleged in the complaint.

**Section 106.143(5), Florida Statutes:** Mark McCarty, candidate for the Sanford City Commission, District 1, failed to include the word "for" on his campaign signs between his name and the title of the office for which he is running as alleged in the complaint.

3. No other legally sufficient violation of Chapter 104 or 106, Florida Statutes, was alleged in the complaint.
4. The Respondent against whom the complaint was filed has not been notified of an allegation of the same violation before the conduct about which the complaint was filed.
5. If the alleged violation occurred less than 14 days before the election in which the Respondent is participating, the complainant did not allege that the political advertisement was either deceptive or influenced the outcome of the election.

6. Respondent used his name in the political advertisement.

### **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 considers the allegation(s) contained in the complaint a minor violation, pursuant to Rule 2B-1.003, Florida Administrative Code.

9. The Respondent neither admits nor denies that he violated Section(s) 106.143(1)(a), Florida Statutes, and Section(s) 106.143 (5), Florida Statute.

### **ORDER**

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

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

12. The Respondent understands that before the Consent Order is final agency action, it is must be approved by the Commission. The Commission will consider the Consent Order at its next available meeting.

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. The Respondent will carefully review Chapter 106, Florida Statutes, and avoid any future violation of the chapter.

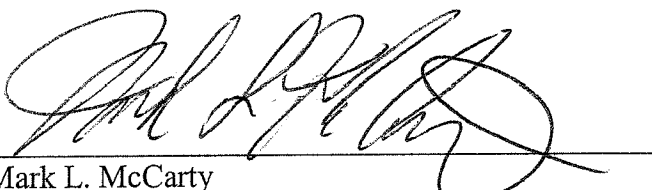
15. The Respondent agrees to correct immediately, if feasible, the violations alleged in the complaint.

16. If the Commission does not receive the signed Consent Order and the fine within 20 days of the date you received this order, the staff withdraws this offer of settlement and

will proceed with an investigation of the allegations in the complaint.

17. The Respondent shall remit to the Commission a fine in the amount of \$350.00. The fine shall be paid to the Florida Elections Commission, 107 W. Gaines Street, Collins Building, Room 224, 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 November 1, 2010.

  
Mark L. McCarty  
459 South Summerlin Avenue  
Sanford, Florida 32771

The **Commission staff** hereby agrees and consents to the terms of this Consent Order on November 9, 2010.

  
Rosanna Catalano, Executive Director  
Florida Elections Commission  
107 W. Gaines Street  
Collins Building, Suite 224  
Tallahassee, FL 32399-1050

Approved by the Florida Elections Commission at its regularly scheduled meeting held on this 21<sup>st</sup> day of February <sup>2011</sup>~~2010~~ in Tallahassee, Florida.

  
Jose Luis Rodriguez, Vice-Chair  
Interim Acting Chair  
Florida Elections Commission

FEBRUARY 15, 2011

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Date

Copies furnished to:

Rosanna Catalano, Executive Director  
Henry Dieckhaus, Respondent