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**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

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ELECTIONS COMMISSION

**FLORIDA ELECTIONS COMMISSION,
PETITIONER,**

v.

AGENCY CASE No.: FEC 04-423

F.O. No.: DOSFEC 05-205

**GREGORY PATRICK,
RESPONDENT.**

FINAL ORDER

THIS CAUSE came on to be heard at an informal hearing held before the Florida Elections Commission (Commission) on November 18, 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 Gregory Patrick, pro se
 2315-C Grand Prix Drive
 Indianapolis, Indiana 46224

STATEMENT OF THE ISSUE

Whether the Respondent violated Section 106.07(5), Florida Statutes, when he certified to the correctness of his 2004 campaign treasurer's reports (CTR) that were incorrect, false, or incomplete; Section 106.09(1), Florida Statutes, when he accepted cash contributions in excess of \$100; and Section 106.19(1)(c), Florida Statutes, when he falsely reported information on his 2004 CTRs.

PRELIMINARY STATEMENT

On November 17, 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 July 1, 2005, the staff drafted a Staff Recommendations recommending to the Commission that there was probable cause to believe that The Florida Election Code was violated. On August 26, 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 July 29, 2004, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of his 2004 F1 CTR that was incorrect, false, or incomplete, when the Respondent incorrectly reported a \$2,400 check contribution from himself when there was no such bank record of the contribution from Respondent.

Count 2:

On or about September 31, 2004 (sic), Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of his 2004 G2 CTR that was incorrect, false, or incomplete, when the Respondent incorrectly reported a \$2,167.20 and a \$1606.50 check contribution from himself when there was no such record of the contribution from Respondent, and the bank records showed expenditures for those amounts.

Count 3:

On October 15, 2004, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of his 2004 G3 CTR that was incorrect, false, or incomplete, when the Respondent incorrectly reported a \$1,700 and a \$2,300 check contribution from himself when there was no such record of the contribution from Respondent, and the bank records showed a cash deposit of \$1,700 and a \$2,700 contribution by check signed by Respondent's wife.

Count 4:

On October 29, 2004, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of his 2004 G4 CTR that was incorrect, false, or incomplete, when the Respondent

incorrectly reported three check contributions from himself in the amounts of \$818, \$2,400, and \$5,000 when there was no such record of the contributions from Respondent, and the bank records showed cash deposits on corresponding dates and two additional cash deposits that Respondent failed to report.

Count 5:

On or about September 30, 2004, Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting a contribution in excess of the legal limit allowed by Section 106.09, when the Respondent accepted a cash contribution in the amount of \$1,700.

Count 6:

On or about October 15, 2004, Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting a contribution in excess of the legal limit allowed by Section 106.09, when the Respondent accepted a cash contribution in the amount of \$1,900.

Count 7

On or about October 18, 2004, Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting a contribution in excess of the legal limit allowed by Section 106.09, when the Respondent accepted a cash contribution in the amount of \$5,000.

Count 8

On or about October 12, 2004, Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting a contribution in excess of the legal limit allowed by Section 106.09, when the Respondent accepted a cash contribution in the amount of \$1,600.

Count 9

On or about October 13, 2004, Respondent violated Section 106.19(1)(a), Florida Statutes, by accepting a contribution in excess of the legal limit allowed by Section 106.09, when the Respondent accepted a cash contribution in the amount of \$2,200.

Count 10:

On or about July 29, 2004, Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 F1 CTR a \$2,400 check contribution from himself when there was no bank record of the contribution.

Count 11:

On or about September 31, 2004 (sic), Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G2 CTR a \$2,167.20 check contribution from himself when the bank records reflect that it was an expenditure.

Count 12:

On or about September 31, 2004 (sic), Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G2 CTR a \$1,606.50 check contribution from himself when the bank records reflect that it was an expenditure.

Count 13:

On or about October 15, 2004, Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G3 CTR a \$1,700 check contribution from himself when the bank records reflect that it was a cash deposit.

Count 14:

On or about October 15, 2004, Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G3 CTR a \$2,300 check contribution from himself when the bank records reflect that it was \$2,700 check deposit signed by his wife from their joint account.

Count 15:

On or about October 29, 2004, Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G4 CTR a \$818 check contribution from himself when the bank records do reflect any deposit.

Count 16:

On or about October 15, 2004, Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately

failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G4 CTR a \$2,400 check contribution from himself when the bank records reflect that it was a \$1,900 cash and a \$500 check equaling a \$2,400 deposit.

Count 17:

On or about October 15, 2004, Respondent violated Section 106.19(1)(c), Florida Statutes, by falsely reporting or deliberately failing to report information required by Chapter 106, when the Respondent falsely reported on his 2004 G4 CTR a \$5,000 check contribution from himself when the bank records reflect that it was a \$5,000 cash deposit.

Respondent timely requested an informal hearing and was noticed to appear before the Commission on November 18, 2005. Prior to the commencement of the informal hearing, upon staff's motion to amend the order of probable cause and "no objection" voiced by Respondent, the Commission amended Counts 5 through 9 of the Order of Probable Cause *instanter*, as follows:

Count 5:

On or about September 30, 2004, Respondent violated Section 106.09(1), Florida Statutes, by accepting a contribution in cash in excess of \$100, when the Respondent accepted a cash contribution in the amount of \$1,700.

Count 6:

On or about October 15, 2004, Respondent violated Section 106.09(1), Florida Statutes, by accepting a contribution in cash in excess of \$100, when the Respondent accepted a cash contribution in the amount of \$1,900.

Count 7:

On or about October 18, 2004, Respondent violated Section 106.09(1), Florida Statutes, by accepting a contribution in cash in excess of \$100, when the Respondent accepted a cash contribution in the amount of \$5,000.

Count 8:

On or about October 12, 2004, Respondent violated Section

106.09(1), Florida Statutes, by accepting a contribution in cash in excess of \$100, when the Respondent accepted a cash contribution in the amount of \$1,600.

Count 9:

On or about October 13, 2004, Respondent violated Section 106.09(1), Florida Statutes, by accepting a contribution in cash in excess of \$100, when the Respondent accepted a cash contribution in the amount of \$2,200.

At the informal hearing, the staff presented the undisputed facts contained in the Staff Recommendations. Respondent's financial resources were not at issue. Respondent appeared at the hearing.

FINDINGS OF FACT

1. The Respondent, Gregory Patrick, was a candidate for Sheriff of Okaloosa County; he was defeated during the November 2, 2004, election. Respondent had worked at the sheriff's office as a school resource officer prior to resigning from his position on July 16, 2004. He was a first-time candidate.

2. The Complainant is employed as an instructional aide with the Okaloosa County school system.

3. Complainant alleged that Respondent signed an affidavit of "Undue Burden," stating that he was unable to afford paying the charges to have his petitions verified for him to qualify to run for the office of Sheriff of Okaloosa County, and that Respondent filed Form 6, "Full and Public Disclosure of Financial Interests" that reported "no liquid cash assets."

4. Complainant asserted that while Respondent filed these two forms with the supervisor of elections' office, his campaign treasurer's reports declared that he contributed \$21,391.70 of his own funds into his campaign account. Specifically, Complainant was concerned about the contributions reflected in the table below.

CONTRIBUTIONS REPORTED TO RESPONDENT'S CAMPAIGN	
Date	Amount
07/01/04	\$2,400
09/22/04	\$2,167.20
09/29/04	\$1,606.50
09/29/04	\$1,700
10/06/04	\$2,300
10/10/04	\$818
10/15/04	\$2,400
10/18/04	\$5,000
10/27/04	\$3,000
Total	\$21,391.70

5. The table below compares the information on Respondent's campaign reports with records from his campaign depository.

COMPARISON OF INFORMATION ON RESPONDENT'S CTR WITH INFORMATION FROM BANK			
Date Filed	Reporting Period	Information on CTR	Information from bank
07/29/04	07/01/04 to 07/23/04 Original F1	<ul style="list-style-type: none"> • \$2,400 check contribution from Respondent on 07/01/04. 	<ul style="list-style-type: none"> • No record of contribution from Respondent for \$2,400.
09/31/04 (sic)	09/11/04 to 09/24/04 Original G2	<ul style="list-style-type: none"> • \$2,167.20 check contribution from Respondent on 09/22/04. • \$1,606.50 check contribution reported as coming from Respondent on 09/29/04. 	<ul style="list-style-type: none"> • No record of contribution from Respondent. Rather, bank records show a \$2,167.20 expenditure on 09/29/04. • No record of contribution from Respondent. Bank records show a \$1,606.50 expenditure on 10/01/04.
10/15/04	09/25/04 to 10/08/04 Original G3	<ul style="list-style-type: none"> • \$1,700 check contribution from Respondent on 09/29/04. • \$2,300 check contribution from Respondent on 10/06/04. 	<ul style="list-style-type: none"> • No record of check contribution from Respondent for \$1,700. However, a \$1,700 cash deposit was made. Respondent does not have records available. • No record of check contribution from Respondent for \$2,300. According to Respondent, it should have been reported as a \$2,700 contribution on 10/06/04. Respondent's wife signed a check in the amount of \$2,700 on 10/06/04.

10/29/04	10/09/04 to 10/28/04 Original G4	<ul style="list-style-type: none"> • \$818 check contribution from Respondent on 10/10/04. • \$2,400 check contribution from Respondent on 10/15/04. • \$5,000 check contribution reported as coming from Respondent on 10/18/04. • \$3,000 check contribution from Respondent on 10/27/04. • Contribution not reported. <p>Contribution not reported.</p>	<ul style="list-style-type: none"> • No record of check contribution from Respondent for \$818. • Records show \$1,900 cash deposit along with a \$500 check, totaling \$2,400, made to the campaign account on 10/15/04. • Records show a \$5,000 cash deposit made to the campaign account. According to Respondent the contribution was from his personal funds. Respondent does not have records available. • Records show a \$3,000 deposit made to the campaign account on 10/27/04. Respondent said this is a joint account. • \$1,600 cash deposit made to the account on 10/12/04. • \$2,200 cash deposit made to the account on 10/14/04.
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6. Respondent’s wife, Lisa Patrick, served as the campaign treasurer, and Respondent served as the deputy treasurer. She had not served as the campaign treasurer for a candidate or a political committee in the past.

7. Complainant was concerned that Respondent reported contributing \$21,391.70 to his campaign while various forms filed with the supervisor of elections’ office suggested that Respondent had “no liquid cash assets.” In his response, Respondent did not specifically address Complainant’s concern about the contributions other than to state that he tried to put as much of his own money earned while working with hurricane disaster relief in his campaign account. At the informal hearing, Respondent testified that all of the contributions to his campaign came from his own money.

8. Section 106.09(1), Florida Statutes, prohibits a person from making or accepting a cash contribution in excess of \$100. The table in paragraph 6 above compares the information on Respondent’s campaign reports with records from his campaign depository. The table reflects

that on five occasions a cash deposit in excess of \$100 was made to Respondent's campaign account.

9. The following table lists the false information on Respondent's CTRs:

FALSE INFORMATION ON RESPONDENT'S CTRS			
Date Filed	Reporting Period	Information on CTR	Correct Information
07/29/04	07/01/04 to 07/23/04 Original F1	<ul style="list-style-type: none"> • \$2,400 check contribution from Respondent on 07/01/04. 	<ul style="list-style-type: none"> • No record of \$2,400 contribution from Respondent.
09/31/04 (sic)	09/11/04 to 09/24/04 Original G2	<ul style="list-style-type: none"> • \$2,167.20 check contribution from Respondent on 09/22/04. • \$1,606.50 check contribution from Respondent on 09/29/04. 	<ul style="list-style-type: none"> • \$2,167.20 expenditure to Daily News • \$1,606.50 expenditure to Daily News (Should have been reported on the G3 report).
10/15/04	09/25/04 to 10/08/04 Original G3	<ul style="list-style-type: none"> • \$1,700 check contribution from Respondent on 09/29/04. • \$2,300 check contribution from Respondent on 10/06/04. 	<ul style="list-style-type: none"> • \$1,700 cash deposit. • \$2,700 contribution from joint account on 10/06/04.
10/29/04	10/09/04 to 10/28/04 Original G4	<ul style="list-style-type: none"> • \$818 check contribution from Respondent on 10/10/04. • \$2,400 check contribution from Respondent 10/15/04. • \$5,000 check contribution from Respondent on 10/18/04. • \$3,000 check contribution from Respondent 10/27/04. 	<ul style="list-style-type: none"> • No record of contribution. • \$1,900 cash and \$500 check equaling \$2,400 deposit. • \$5,000 cash deposit. Respondent has said that funds came from his personal account although he did not have records available. • \$3,000 contribution from withdrawal from joint account.

10. Respondent acknowledged that he does possess a copy of Chapter 106, Florida Statutes, and that he has read the law as well as the candidate handbook. Respondent was asked what action had he taken to determine his responsibilities under Florida's election laws. Respondent reported, "Read attachments and asked questions of the SOE."

11. Respondent signed a Statement of Candidate form on October 1, 2003, indicating that he had received, read and understood the requirements of Chapter 106, Florida

Statutes. Respondent included a cover letter explaining that he is in the process of relocating to Indiana. Additionally, Respondent stated, "I wish to relay my regrets about this incident and to assure you that I have been very forth coming about my actions during my campaign. I have admitted that mistakes were made do (sic) to poor record keeping and a lack of communication on my part."

12. Kelly Davis, candidate coordinator with the Okaloosa County Supervisor of Elections' office, attested that before pre-filing to run for office, she briefs each candidate and discusses the basics of being a candidate. She met with Respondent on October 1, 2003, and supplied him with a copy of the statutes and the candidate handbook.

13. Additionally, Ms. Davis attested that Respondent attended a workshop that was given by the Division of Elections in Pensacola, Florida on February 27, 2004. Ms. Davis added that Respondent made many "short impromptu" visits and telephone calls to the supervisor's office.

CONCLUSIONS OF LAW

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

15. The Respondent committed four counts of violating Section 106.07(5), Florida Statutes, when he certified to the correctness of his 2004 F1, G2, G3, and G4 CTRs that were incorrect; committed five counts of violating Section 106.09(1), Florida Statutes, when he accepted cash contributions in the amounts of \$1,700, \$1,900, \$5,000, \$1,600, and \$2,200; and eight counts of violating 106.19(1)(c), Florida Statutes, when he falsely reported information on his 2004 CTRs.

16. 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.

17. In determining the amount of the civil penalty, the Commission considered the mitigating and aggravating circumstances set forth in Section 106.265, Florida Statutes.

18. The Commission finds that Respondent has sufficient financial resources to pay the fine imposed by the Commission.

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 four occasions. Respondent is fined \$5.89 for each of the four counts for a total of \$23.56

B) Respondent violated Section 106.09(1), Florida Statutes, on five occasions. Respondent is fined \$5.88 for each of the five counts for a total of \$29.40.

C) Respondent violated Section 106.19(1)(c), Florida Statutes, on eight occasions. Respondent is fined \$5.88 for each of the eight counts for a total of \$47.04.

Therefore, it is

ORDERED that Respondent shall remit a civil penalty in the amount of \$100. 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 Respondent.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on December 2, 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
Gregory Patrick, Respondent (certified mail)
Joyce Valdez, Complainant
Okaloosa County Supervisor of Elections, Filing Officer