

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

FILED
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STATE OF FLORIDA
ELECTIONS COMMISSION

Florida Elections Commission,
Petitioner,

v.

Agency Case No.: FEC 10-294

Robert Hunsicker,
Respondent.

F.O. No.: FOFEC 11-102W

ORDER OF PROBABLE CAUSE AND ORDER OF DISMISSAL

THIS CAUSE came on to be heard before the Florida Elections Commission at its meeting held on May 10, 2011.

The Commission has reviewed the complaint, Report of Investigation, Staff Recommendation, all relevant documents and written statements submitted by the Respondent and considered all oral statements made at the probable cause hearing. Based on the facts set forth in the Staff Recommendation, which is incorporated herein and attached to this order, the Commission finds that there is probable cause that Respondent committed the following count(s):

Count 1

On or about July 12, 2010, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2010 Q2 report was true, correct, and complete when it was not.

Count 2

On or about July 12, 2010, Respondent violated Section 106.19(1)(b), Florida Statutes, by failing to report a contribution required to be reported by Chapter 106, Florida Statutes, when Respondent accepted an in-kind contribution from Curtis Holmes and failed to report it on his 2010 Q2 report.

Section 106.25(4)(j), Florida Statutes, empowers the Commission, at its discretion, to dismiss any complaint at any stage of disposition if it determines that the public interest would not be served by proceeding further. The Commission finds that the public interest would not be served by pursuing any further action in this matter. Therefore, it is

ORDERED and **ADJUDGED** that this matter is hereby **DISMISSED** pursuant to Section 106.25(4)(j), Florida Statutes.

DONE AND ORDERED by the Florida Elections Commission on May 18TH, 2011, in Tallahassee, Florida.



Jose Luis Rodriguez
Vice-Chair / Acting Chair
Florida Elections Commission

Copies Provided:

Rosanna Catalano, Executive Director
Robert Hunsicker, Respondent
Robert J. Avery, Complainant
Largo City Clerk, Filing Officer

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: Robert Hunsicker

Case No.: FEC 10-294

STAFF RECOMMENDATION FOLLOWING INVESTIGATION

Pursuant to section 106.25(4)(c), Florida Statutes, undersigned staff counsel files this written recommendation for disposition of the complaint in this case recommending that there is **probable cause** to charge Respondent with violating **Section 106.07(5), and 106.19(1)(b), Florida Statutes**, and **no probable cause** to charge Respondent with violating **Section 106.19(1)(c), Florida Statutes**. Based upon a thorough review of the Report of Investigation submitted on January 19, 2011, the following facts and law support this staff recommendation:

1. On October 21, 2010, the Florida Elections Commission ("Commission") received a sworn complaint from Robert J. Avery ("Complainant") alleging that Robert Hunsicker ("Respondent") violated Chapter 106, Florida Statutes.

2. By letter dated October 27, 2010, the Executive Director notified Respondent that staff would investigate an alleged violation of the following statutory provision:

Sections 106.07(5) Florida Statutes: Robert Hunsicker, candidate for the Largo City Commission, Seat 5, certified that his 2010 Q1, 2010 G1, 2010 G2 and 2010 G3 campaign reports were true, correct, and complete when they were not as alleged in the complaint.

Sections 106.19(1)(c), Florida Statutes: Robert Hunsicker, candidate for the Largo City Commission, Seat 5, falsely reported or deliberately failed to include information required by Chapter 106, Florida Statutes on his 2010 Q1, 2010 G1, 2010 G2, and 2010 G3 campaign reports as alleged in the complaint.

Section 106.19(1)(b), Florida Statutes: Robert Hunsicker, candidate for the Largo City Commission, Seat 5, failed to report any contribution required to be reported in Chapter 106, Florida Statutes as alleged in the complaint. Robert Hunsicker failed to report expenditures and or in-kind contributions pertaining to the costs of a domain name, internet server, site development, maintenance, and reoccurring operating costs for his campaign website.

3. Respondent was a candidate for the Largo City Commission in the November 2, 2010, general election.

4. Complainant alleged that Respondent certified his 2010 Q2, 2010 G1, 2010 G2,

and 2010 G3 reports were true, correct, and complete when they were not. More specifically, Complainant alleged that Respondent failed to report contributions in connection with his website www.hansicker4largo.com.

5. Respondent filed a Statement of Candidate form and an Appointment of Campaign Treasurer and Designation of Campaign Depository form with the Largo City Clerk on June 28, 2010, naming his wife, Christel Hunsicker, as his campaign treasurer. (ROI Exhibit 1)¹ Respondent received a copy of the city charter and a handbook on campaign financing on June 24, 2010. Respondent also attended candidate-training seminars on July 17, 2010 and September 9, 2010. (ROI Exhibits 7 & 9)

6. Commissioner Curtis Holmes purchased a package from Microsoft that included several website domains. Mr. Holmes had not used one of the domains and gave it to Respondent to use for his campaign. The value of the domains was, at a minimum, \$8.95.² Thereafter, Respondent paid \$14.95 to change the domain name. Respondent's treasurer paid the fee using her Visa card and then reimbursed herself with petty cash.³ (ROI Exhibit 5) Respondent's website was created on June 25, 2010, and expires on June 25, 2011. (ROI Exhibit 3) Respondent knew about the in-kind contribution from Mr. Holmes, and that \$14.95 was paid to change the domain name, but did not know why the information was not disclosed on his campaign reports.

7. Respondent filed periodic reports of contributions received and expenditures made during his campaign. Respondent and Respondent's treasurer certified that each report was true, correct, and complete. Respondent did not report the value of the domain given to him as an in-kind contribution from Mr. Holmes, or the \$14.95 expenditure to change the website domain name on his 2010 Q2 report. (ROI Exhibit 4)

8. "Probable Cause" is defined as reasonable ground of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged. *Schmitt v. State*, 590 So.2d 404, 409 (Fla. 1991). Probable cause exists where the facts and circumstances, of which an [investigator] has reasonably trustworthy information, are sufficient in themselves for a reasonable man to reach the conclusion that an offense has been committed. *Department of Highway Safety and Motor Vehicles v. Favino*, 667 So.2d 305, 309 (Fla. 1st DCA 1995).

¹ The Report of Investigation is referred to herein as ROI.

² If Respondent's name was considered a "premium" domain name, then the cost would have been between \$388 to \$3,900.

³ §106 12(3), Fla. Stat., provides that petty cash may be used only for office supplies, transportation expenses, and other necessities. In DE 06-10, the Division of Elections opined that the term other necessities refers, "to an item... which is purchased to meet an essential, urgent need that is unavoidable due to conditions or circumstances." Respondent should not have reimbursed herself with petty cash. Moreover, this would be a violation of §106.021(1)(a), Fla. Stat., because Respondent had not filed his Designation of Campaign Depository and Appointment of Campaign Treasurer prior to receiving the domain as an in-kind contribution and making the expenditure to change the domain information. However, because this violation was not alleged in the complaint Respondent cannot be charged with violating that provision of the Election Code.

9. The above facts show that Respondent was a candidate for the Largo City Commission, Seat 5, in the 2010 election. Respondent's wife, Christel Hunsicker, was his treasurer. Curtis Homes purchased a package from Microsoft that included several web domains. During the 2010 Q2 reporting period, Mr. Homes donated one of his inactive domains to Respondent for his campaign. Respondent's treasurer paid \$14.95 to change the domain name to hansicker4largo.com, and reimbursed herself from petty cash. Although Respondent knew about the in-kind contribution, and the cost to change the domain name, he did not report either transaction on his 2010 Q2 report.

Based upon the foregoing, I recommend that the Commission find probable cause that Respondents committed the following violations:

Count 1


On or about July 12, 2010, Respondent violated Section 106.07(5), Florida Statutes, by certifying that his 2010 Q2 report was true, correct, and complete when it was not.

Count 2

On or about July 12, 2010, Respondent violated Section 106.19(1)(b), Florida Statutes, by failing to report a contribution required to be reported by Chapter 106, Florida Statutes, when Respondent accepted an in-kind contribution from Curtis Holmes and failed to report it on his 2010 Q2 report.

I further recommend that the Commission find no probable cause that Respondent committed a violation of Section 106.19(1)(c), Florida Statutes.

Respectfully submitted on March 8, 2011,



Eric M. Lipman
General Counsel

I have reviewed this Staff Recommendation this 16th day of March 2011.



Rosanna Catalano
Executive Director