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FLORIDA
ELECTIONS COMMISSION

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

**Florida Elections Commission,
Petitioner,**

v.

**Agency Case No.: FEC 14-039
F.O. No.: FOFEC 16-152W**

**Michael Natale
Respondent.**

FINAL ORDER

THIS MATTER was heard at an informal hearing held before the Florida Elections Commission (Commission) on August 16, 2016.

APPEARANCES

For Commission Eric M. Lipman
 General Counsel
 107 West Gaines Street
 Collins Building, Suite 224
 Tallahassee, FL 32399

For Respondent No Appearance

STATEMENT OF THE ISSUE

Whether Respondent committed the violations charged in the Commission's September 15, 2015 Order of Probable Cause.

PRELIMINARY STATEMENT

On February 10, 2014, the Commission received a sworn complaint alleging violations of Florida's election laws. Staff of the Commission conducted an investigation to determine

whether the facts alleged in the complaint constituted probable cause to believe that Respondent violated the Florida Election Code.

On April 17, 2015, staff recommended to the Commission that there was probable cause to believe that the Florida Election Code was violated. On September 15, 2015, the Commission entered an Order of Probable Cause finding that there was probable cause to charge Respondent with the following violations:

Count 1:

On or about October 15, 2013, Respondent violated Section 106.06(3), Florida Statutes when, as treasurer of David McLean's campaign, he failed to preserve Mc Lean's accounts records until November 6, 2016.

Count 2:

On or about July 30, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's original 2012 F2 Report was true, correct, and complete when it was not.

Count 3:

On or about March 26, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's amended 2012 F3 Report was true, correct, and complete when it was not.

Count 4:

On or about September 24, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's original 2012 G1 Report was true, correct, and complete when it was not.

Count 5:

On or about October 9, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's amended 2012 G1 Report was true, correct and complete when it was not.

Count 6:

On or about April 1, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's second amended 2012 G1 Report was true, correct, and complete when it was not.

Count 7:

On or about October 4, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's original 2012 G2 Report was true, correct, and complete when it was not.

Count 8:

On or about October 9, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's amended 2012 G2 Report was true, correct, and complete when it was not.

Count 9:

On or about April 1, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's second amended 2012 G2 Report was true, correct, and complete when it was not.

Count 10:

On or about October 22, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified McLean's original 2012 G3 Report was true, correct, and complete when it was not.

Count 11:

On or about April 1, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's amended 2012 G3 Report was true, correct, and complete when it was not.

Count 12:

On or about November 5, 2012, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's original 2012 G4 Report was true, correct, and complete when it was not.

Count 13:

On or about April 1, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's amended 2012 G4 Report was true, correct, and complete when it was not.

Count 14:

On or about February 4, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's Original TR was true, correct, and complete when it was not.

Count 15:

On or about February 13, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's amended TR was true, correct, and complete when it was not.

Count 16:

On or about February 20, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's second amended TR was true, correct, and complete when it was not.

Count 17:

On or about March 14, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's third amended TR was true, correct, and complete when it was not.

Count 18:

On or about March 26, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's fourth amended TR was true, correct, and complete when it was not.

Count 19:

On or about April 1, 2013, Respondent violated Section 106.07(5), Florida Statutes, when Respondent certified that McLean's fifth amended TR was true, correct, and complete when it was not.

Count 20:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's 2012 original F2 Report.

Count 21:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's original and amended 2012 F3 Report.

Count 22:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's original and amended 2012 G1 Reports

Count 23:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's original and amended 2012 G2 Reports.

Count 24:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's original and amended 2012 G3 Reports.

Count 25:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's original and amended 2012 G4 Reports.

Count 26:

Respondent violated Section 106.19(1)(c), Florida Statutes, when he falsely reported or deliberately failed to include information on McLean's original and amended 2012 TR Reports.

Count 27:

On or about October 10, 2012, Respondent violated Section 106.08(1), Florida Statutes, when Respondent made a \$400 contribution to McLean's campaign, making the aggregate amount of Respondent's contributions to McLean's account \$504.18.

Count 28:

On or about October 10, 2012, Respondent violated Section 106.08(5), Florida Statutes, when he gave a \$400 cash contribution to McLean's campaign in the name of his sister, Victoria Suggs.

Count 29:

On or about October 10, 2012, Respondent violated Section 106.09(1)(a), Florida Statutes, when he made a \$400 cash contribution to McLean's campaign.

Count 30:

On or about September 5, 2012, Respondent violated Section 106.11(4), Florida Statutes, Respondent incurred a \$35 bank fee from TD Bank when there were insufficient funds in McLean's bank campaign account to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 31:

On or about September 17, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent incurred a \$20 Overdraft Fee in McLean's campaign account when there were

insufficient funds in McLean's campaign account to pay campaign account to pay the full amount of the fee, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 32:

On or about September 19, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent wrote a check for \$150 to Ryan Parsall and did not have sufficient funds in McLean's campaign account to pay the full amount of the check, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 33:

On or about September 19, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent made an expenditure for \$400 to Inspiration Museum when there were insufficient funds in McLean's campaign account to pay the full amount of the check, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 34:

On or about September 20, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent incurred a \$70 Overdraft Fee from TD Bank when McLean's campaign account had insufficient funds in his campaign account to pay the full amount of the fee, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 35:

On or about September 24, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent made an expenditure for \$300 to the Margate Chamber of Commerce when McLean did not have sufficient funds in his campaign account to pay the full amount of the check, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 36:

On or about September 25, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent incurred a \$35 Overdraft Fee from TD Bank when there were insufficient funds in McLean's campaign account to pay the full amount of the expense, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 37:

On or about October 9, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent made an expenditure for \$300 to the Margate Chamber of Commerce when Respondent did not have sufficient funds in McLean's campaign account to pay the full amount of the check, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 38:

On or about October 10, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent made an expenditure for \$200 to Ryan Parsyl when Respondent did not have sufficient funds in McLean's campaign account to pay the full amount of the check, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 39:

On or about October 10, 2012, Respondent violated Section 106.11(4), Florida Statutes, when McLean's campaign account incurred a \$35 Overdraft Fee when Respondent did not have sufficient funds in McLean's campaign account to pay the full amount of the expense, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 40:

On or about October 11, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent made an expenditure for \$807.57 to Vinylot when Respondent did not have sufficient funds in McLean's campaign account to pay the full amount of the expense, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 41:

On or about October 11, 2012, Respondent violated Section 106.11(4), Florida Statutes, when Respondent made an expenditure for \$435 to Top of Google when Respondent did not have sufficient funds in McLean's campaign account to pay the full amount of the check, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 42:

On or about October 12, 2012, Respondent violated Section 106.11(4), Florida Statutes, when McLean's campaign account incurred 70 in Overdraft Fees when Respondent did not have sufficient funds in McLean's campaign account to pay the full amount of the expense, to honor all other checks drawn on such account, which checks were outstanding, and to meet all expenses previously authorized but not yet paid.

Count 43:

On or about September 5, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent incurred a \$35 Overdraft Fee in violation of Section 106.11(4), Florida Statutes.

Count 44:

On or about September 17, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent incurred a \$20 Overdraft Fee in violation of Section 106.11(4), Florida Statutes.

Count 45:

On or about September 19, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, Respondent account authorized or incurred an expenditure to Ryan Parsall for \$150 in violation of Section 106.11(4), Florida Statutes.

Count 46:

On or about September 19, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent authorized or incurred an expenditure to Inspiration Museum for \$400 in violation of Section 106.11(4), Florida Statutes.

Count 47:

On or about September 20, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent incurred a \$70 overdraft fee in McLean's campaign account in violation of Section 106.11(4), Florida Statutes.

Count 48:

On or about September 24, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent authorized or incurred an expenditure to Margate Chamber of Commerce for \$300 in violation of Section 106.11(4), Florida Statutes.

Count 49:

On or about September 25, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent incurred a \$35 Overdraft Fee in violation of Section 106.11(4), Florida Statutes.

Count 50:

On or about October 9, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent authorized or incurred an expenditure to Margate Chamber of Commerce for \$300 in violation of Section 106.11(4), Florida Statutes.

Count 51:

On or about October 10, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent authorized or incurred an expenditure to Ryan Parsyl for \$200 in violation of Section 106.11(4), Florida Statutes.

Count 52:

On or about October 10, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent incurred a \$35 Overdraft Fee in violation of Section 106.11(4), Florida Statutes.

Count 53:

On or about October 11, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent authorized or incurred an expenditure to Vinylot for \$807.57 in violation of Section 106.11(4), Florida Statutes.

Count 54:

On or about October 11, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent authorized or incurred an expenditure to Top of Google for \$435 in violation of Section 106.11(4), Florida Statutes.

Count 55:

On or about October 12, 2012, Respondent violated Section 106.19(1)(d), Florida Statutes, when Respondent incurred a \$70 Overdraft Fee in McLean's campaign account in violation of Section 106.11(4), Florida Statutes.

Count 56:

On or about October 10, 2012, 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 a contribution in the amount of \$250 from David K. Sigerson and failed to report it on McLean's 2012 G3 Report.

Count 57:

On or about October 11, 2012, 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 a cash contribution the amount of \$400 from himself and failed to report it on McLean's 2012 G3 Report.

Count 58:

On or about October 11, 2012, 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 anonymous cash contribution in the amount of \$35 and failed to report it on McLean's 2012 G3 Report.

Count 59:

On or about October 10, 2012, 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 a contribution in the amount of \$200 from Pedro Lopez and failed to report it on McLean's 2012 G3 Report.

Count 60:

On or about October 23, 2012, 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 a contribution in the amount of \$250 from Emerald Transportation Corporation and failed to report it on McLean's 2012 G4 Report.

Count 61:

On or about October 8, 2012, 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 a contribution in the amount of \$250 from Peter Moore and failed to report it on McLean's 2012 G3 Report.

Count 62:

On or about October 30, 2012, 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 a contribution in the amount of \$250 from Brown & Brown, Inc. and failed to report it on McLean's 2012 G4 Report.

Respondent elected to have a formal administrative hearing before an administrative law judge from the Division of Administrative Hearings. Thereafter, Respondent decided to have an informal hearing before the Commission which was set for August 16, 2016.

At the informal hearing, the Commission adopted the undisputed facts set forth in the Staff's Recommendation as its findings of fact.

FINDINGS OF FACT

1. Respondent was the treasurer for David McLean's (McLean) campaign for re-election to the Margate City Commission, Seat 2, in the 2012 election.
2. Respondent made a \$400 cash contribution to McLean's campaign. Respondent reported the \$400 cash contribution was from Victoria Suggs.
3. Respondent expended \$1,010 on behalf of McLean's campaign. After the election, McLean's campaign reimbursed Respondent \$905.82. The difference between the \$1,010 Respondent expended on behalf of the campaign and the \$905.82 the campaign reimbursed Respondent was a \$104.18 in-kind contribution from Respondent to McLean's campaign.
4. The term of office for a Margate City Commissioner is 4 years. On October 15, 2013, the Broward County Office of the Inspector General subpoenaed copies of McLean's bank account records, bank statements, deposit slips, contribution checks, invoices, expenditure

Count 62:

On or about October 30, 2012, 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 a contribution in the amount of \$250 from Brown & Brown, Inc. and failed to report it on McLean's 2012 G4 Report.

Respondent elected to have a formal administrative hearing before an administrative law judge from the Division of Administrative Hearings. Thereafter, Respondent decided to have an informal hearing before the Commission which was set for August 16, 2016.

At the informal hearing, the Commission adopted the undisputed facts set forth in the Staff's Recommendation as its findings of fact.

FINDINGS OF FACT

1. Respondent was the treasurer for David McLean's (McLean) campaign for re-election to the Margate City Commission, Seat 2, in the 2012 election.
2. Respondent made a \$400 cash contribution to McLean's campaign. Respondent reported the \$400 cash contribution was from Victoria Suggs.
3. Respondent expended \$1,010 on behalf of McLean's campaign. After the election, McLean's campaign reimbursed Respondent \$905.82. The difference between the \$1,010 Respondent expended on behalf of the campaign and the \$905.82 the campaign reimbursed Respondent was a \$104.18 in-kind contribution from Respondent to McLean's campaign.
4. The term of office for a Margate City Commissioner is 4 years. On October 15, 2013, the Broward County Office of the Inspector General subpoenaed copies of McLean's bank account records, bank statements, deposit slips, contribution checks, invoices, expenditure

reports, contractual agreements and loan agreements from Respondent. However, Respondent could not produce the records.

5. Respondent certified 18 of McLean's campaign reports were true, correct, and complete when they were not.

6. Respondent falsely reported or deliberately failed to include information required to be reported on 7 of McLean's original reports.¹

7. Respondent failed to report 7 contributions made to McLean's campaign.

8. Respondent made 13 prohibited expenditures when there were insufficient unencumbered funds in McLean's campaign account.

9. Respondent's actions were willful. Respondent committed the acts while knowing that, or showing reckless disregard for whether, the acts were prohibited, or failed to perform an act while knowing that, or showing reckless disregard for whether, the acts were required.

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. Respondent violated Section 106.08(5), Florida Statutes, on one occasion when he made a \$400 cash contribution to McLean's campaign in the name of Victoria Suggs.

12. The maximum cash contribution a person can make to a candidate in an election is \$50. Respondent violated Section 106.09(1)(a), Florida Statutes, on one occasion when he made a \$400 cash contribution to McLean's campaign.

¹ A candidate may correct mistakes on an original report by filing an amended report.

13. Respondent violated Section 106.08(1)(a), Florida Statutes, on one occasion when Respondent made contributions to McLean's campaign that in the aggregate were in excess of the legal limit.

14. Respondent violated Section 106.06(3), Florida Statutes, on one occasion when he failed to preserve McLean's campaign account information for four years.

15. Respondent violated Section 106.07(5), Florida Statutes, on 18 occasions when Respondent certified 18 of McLean's campaign reports were true, correct, and complete when they were not.

16. Respondent violated Section 106.19(1)(c), Florida Statutes, on seven occasions when Respondent falsely reported or deliberately failed to include information on 7 of McLean's original campaign reports.

17. Respondent violated Section 106.19(1)(b), Florida Statutes, on seven occasions when Respondent failed to report 7 contributions made to McLean's campaign.

18. Respondent violated Section 106.11(4), Florida Statutes, on 13 occasions when Respondent made 13 expenditures without sufficient unencumbered funds in McLean's campaign account.

19. Respondent violated Section 106.19(1)(d), Florida Statutes, on 13 occasions when Respondent made 13 expenditures in violation of Section 106.11(4), Florida Statutes.

20. 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 perform an act while knowing that, or showing reckless disregard for whether, the acts were required.

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

ORDER

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

A. Respondent violated Section 106.08(5), Florida Statutes, on 1 occasion. Respondent is fined \$400 for the count plus an enhanced penalty of twice the amount contributed (\$400) of \$800 for a total of \$1,200.

B. Respondent violated Section 106.09(1)(a), Florida Statutes, on 1 occasion. Respondent is fined \$75 for the count.

C. Respondent violated Section 106.08(1), Florida Statutes, on 1 occasion. Respondent is fined \$491.64 for the count plus an enhanced penalty of twice the amount of the excess contribution (\$4.18) of \$8.36 for a total of \$500.

D. Respondent violated Section 106.06(3), Florida Statutes, on 1 occasion. Respondent is fined \$75 for the count.

E. Respondent violated Section 106.07(5), Florida Statutes, on 18 occasions. Respondent is fined \$75 for each of the 18 counts for a total of \$1,350.

F. Respondent violated Section 106.19(1)(c), Florida Statutes, on 7 occasions. Respondent is fined \$75 for each of the 7 counts for a total of \$525.

G. Respondent violated Section 106.19(1)(b), Florida Statutes, on 7 occasions. Respondent is fined \$75 for each of the 13 counts for a total of \$525.

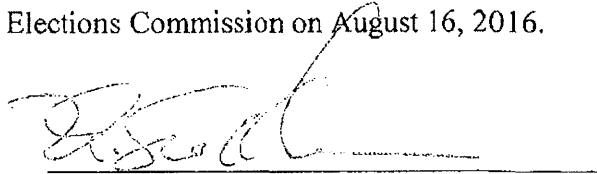
H. Respondent violated Section 106.11(4), Florida Statutes, on 13 occasions. Respondent is fined \$75 for each of the 13 counts for a total of \$975.

I. Respondent violated Section 106.19(1)(d), Florida Statutes, on 13 occasions. Respondent is fined \$75 for each of the 13 counts for a total of \$975.

Therefore it is

ORDERED that Respondent shall remit a civil penalty in the amount of \$6,200, inclusive of fees and costs. The civil penalty shall be paid to the Florida Elections Commission, Collins Building, Suite 224, 107 West Gaines Street, Tallahassee, Florida 32399, within 30 days of the date this Final Order is filed with the Commission and must be paid by money order, cashier's check or attorney trust account check.

DONE AND ORDERED by the Florida Elections Commission on August 16, 2016.



M. Scott Thomas
Florida Elections Commission

Copies furnished to:
Eric M. Lipman, General Counsel
Michael Natale, Respondent
Michael Mee, Complainant

NOTICE OF RIGHT TO APPEAL

This order is final agency action. Any party who is adversely affected by this order has the right to seek judicial review pursuant to Section 120.68, Florida Statutes, by filing a notice of administrative appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Florida Elections Commission at 107 West Gaines Street, Suite 224, Collins Building, Tallahassee, Florida 32399-1050 and by filing a copy of the notice of appeal with the appropriate district court of appeal. The party must attach to the notice of appeal a copy of this order and include with the notice of appeal filed with the district court of appeal the applicable filing fees. **The notice of administrative appeal must be filed within 30 days of the date this order is filed with the Commission.** The date this order was filed appears in the upper right-hand corner of the first page of the order.