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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 05-253

DENNIS E. MULDER,  
RESPONDENT.

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ORDER OF PROBABLE CAUSE

**THIS CAUSE** came on to be heard before the Florida Elections Commission at its meeting held on May 18 & 19, 2006, in Tallahassee, Florida.

Based on the complaint, Report of Investigation, Staff Recommendations submitted by staff, written statements submitted by the Respondent, and any oral statements made at the probable cause hearing, the Commission finds that there is **probable cause** to charge the Respondent with the following violations:

Count 1:

On or about July 7, 2005, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of his 2005 Q2 CTR that was incorrect, false, or incomplete, when he incorrectly reported a contribution, three loans from himself, and five expenditures that were not reflected in the campaign's bank records.

Count 2:

On or about September 8, 2005, Respondent violated Section 106.07(5), Florida Statutes, by certifying to the correctness of his 2005 F1 CTR that was incorrect, false, or incomplete, when he incorrectly reported a loan from himself, an in-kind contribution, and the receipt of five checks as contributions that were not reflected in the campaign's bank records.

Count 3:

On or about September 23, 2005, Respondent violated Section

**FLORIDA ELECTIONS COMMISSION**  
**STAFF RECOMMENDATION**  
**CASE NUMBER: FEC 05-253**

**RESPONDENT: Dennis E. Mulder**

**COMPLAINANT: Jeffrey P. Ensminger**

On September 28, 2005, 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 Report of Investigation, and this statement, the staff recommends that there is **probable cause**<sup>1</sup> to charge the Respondent with:

**Three** counts of violating Section 106.07(5), Florida Statutes, prohibiting a candidate from certifying to the correctness of a campaign treasurer's report that is incorrect, false, or incomplete;

**Ten** counts of violating Section 106.09(1), Florida Statutes, prohibiting a person from making or accepting a contribution in cash or by a cashier's check in excess of \$100;

**Thirty-four** counts of violating Section 106.11(4), Florida Statutes, prohibiting a candidate from authorizing or incurring an expense for the purchase of goods or services without sufficient funds on deposit in the primary depository account;

**Nine** counts of violating Section 106.143(1)(a), Florida Statutes, failure of a candidate making an expenditure for a political advertisement to mark prominently the political advertisement with the required disclaimer; and

**Eight** counts of violating Section 106.19(1)(b), Florida Statutes, failure of a person or organization to report a contribution required to be reported by Chapter 106, Florida Statutes.

The staff further recommends the Commission find there is **no probable cause** to charge Respondent with violating:

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<sup>1</sup> The term **probable cause** means a 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. 1<sup>st</sup> DCA 1995).

08/23/05	Temp Check	Sady Garcia	(\$1,990.00)	(\$4,118.80)
08/31/05	Deposit		\$200.00	(\$3,918.80)
09/01/05	Temp Check	Market Concepts	(\$83.34)	(\$4,002.14)
09/06/05	Temp Check	Market Concepts	(\$83.34)	(\$4,085.48)
09/07/05	Credit Card	Designer Graphics	(\$1,648.42)	(\$5,733.90)
09/13/05	Temp Check	Galaxy Fundraising	(\$330.15)	(\$6,064.05)
09/13/05	Temp Check	Hollywood Productions	(\$350.00)	(\$6,414.05)
09/13/05	Temp Check	Dolly Fun Toys	(\$239.63)	(\$6,653.68)
09/14/05	Deposit		\$1,396.00	(\$5,257.68)

17. Respondent did not use campaign funds to pay the City of Deltona on June 12, 2005. Heather Mulder, Respondent's wife, issued two checks from the Mulder's joint checking account, each for \$110, on April 30, 2005. Respondent stated to the investigator that he paid this expenditure by personal check and considered it a loan. The City of Deltona verified the expenditures were \$110 for a security deposit and \$110 for a permit fee.

18. Respondent did not use campaign funds to pay Designer Graphics \$2,592.50 on May 16, 2005; \$480.18 on June 14, 2005; and \$1648.42 on September 7, 2005. Respondent used his personal credit cards.

19. Respondent did not use campaign funds to pay Office Depot \$475.46 on June 17, 2005. Although Respondent stated that he paid this expenditure by campaign check, the payment was not reflected in the bank records.

20. Respondent did not use campaign funds to pay GoJayne.com \$51.64 on June 17, 2005. In an affidavit dated February 2, 2006, Respondent swore that he paid this expenditure by campaign check card. In a telephone interview, Jayne Vance, the owner of GoJayne.com, confirmed that Respondent paid her for website services. A copy of the payment instrument and invoice was requested, but as of April 7, 2006, the records have not been provided.

21. In a telephone interview, the filing officer verified that there is no written statement on file indicating Respondent had a campaign credit card or debit card. In a telephone interview on January 23, 2006, the legal processing department for Wachovia Bank verified there are no credit or debit cards assigned to Respondent's campaign account.

22. Under these circumstances, I recommend that the Commission find probable cause that Respondent violated Section 106.11(4), Florida Statutes, on 34 occasions.