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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).

38. Respondent stated that he did not willfully violate the laws. However, he admitted that he made some mistakes in the handling of his campaign. Respondent stated that throughout his campaign he chose to use his personal credit cards to pay some expenses and he treated the expenditures as loans because he needed to report them. Respondent further stated that he has learned a lot through experience in how to properly manage his campaign.

39. In an affidavit, Jennifer Romaker, the filing officer stated that she provided Respondent with a copy of *Chapter 106, Florida Statutes*, a copy of the *2004 Candidate Handbook* and a copy of the *Calendar of Reporting Dates*. She said that she reviewed with Respondent the necessary steps to become a candidate and also spoke directly with Respondent on or about July 7 or 8, 2005, regarding missing occupations for itemized contributions over \$100 in his quarterly report.

40. In an affidavit, Respondent stated he received a copy of *Chapters 104 and 106, Florida Statutes*, and a copy of the *2004 Candidate Handbook*. Although Respondent indicated that he has not read *Chapters 104 and 106, Florida Statutes*, he did indicate that he has browsed through the *Handbook for Candidates*. Respondent signed his Statement of Candidate form on April 11, 2005, indicating that he read and understood Chapter 106, Florida Statutes.

41. Respondent should note that Section 106.265(1), Florida Statutes, provides that the Commission is authorized upon finding a violation of Chapter 104 and 106, Florida Statutes, to impose civil penalties in the form of fines not to exceed \$1000 per count.

42. Respondent should note that in addition to the penalty provided for in Section 106.265(1), Florida Statutes, Section 106.19(2), Florida Statutes, provides for a civil penalty equal to three times the amount involved in the illegal act if a Respondent is found to have violated Section 106.19(1)(a), 106.19(1)(b), or 106.19(1)(d), Florida Statutes.

43. During the investigation of the allegations contained in the sworn complaint, the investigator found that Respondent signed his campaign checks, but failed to appoint himself as treasurer or deputy treasurer. She also found that Respondent failed to deposit some contributions within five days of receipt. However, because these violations were not alleged in the complaint, she did not further investigate this information.

## V. Summary of Charges.

44. Under these circumstances, I recommend that the Commission find probable cause that Respondent committed 64 counts of violating Chapter 106, Florida Statutes.

### 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.