

**STATE OF FLORIDA  
FLORIDA ELECTIONS COMMISSION**

Division of Elections,  
Petitioner,

v.

Case No : FEC 94-091  
F.O. No.: DOSFEC 97-041

Citrus County Builders' Association, Inc  
Respondent.

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**FINAL ORDER**

**THIS CAUSE** came on to be heard at an informal hearing held before the Florida Elections Commission on April 4, 1997, in Tampa, Florida.

**APPEARANCES**

For Division:           Julia P. Forrester  
Assistant General Counsel  
Department of State  
Division of Elections  
Room 2002 The Capitol  
Tallahassee, FL 32399-0250

For Respondent:       Richard E. Gentry  
Florida Home Builders Association  
P.O. Box 1259  
Tallahassee, Florida 32302-1259

**STATEMENT OF THE ISSUE**

Whether Respondent, Citrus County Builders' Association, Inc. (CCBA), violated Sections 106.071(1), 106.143(1) and (2), and 106.144 Florida Statutes, when it distributed a political advertisement that endorsed candidates without having filed a statement of organization as a political committee, without marking the advertisement as a "pd. pol. adv." or a "paid political advertisement," without having stated whether the permission of the candidate was

obtained and without filing a statement of endorsement or opposition with the filing officer.

### PRELIMINARY STATEMENT

On September 22, 1994, the Division of Elections received a sworn complaint alleging violations of Florida's election laws. The Division conducted an investigation to determine whether the facts alleged in the complaint constituted probable cause to believe that the Respondent violated the following sections of Chapter 106, Florida Statutes:

Section 106.071(1), Florida Statutes, failure of a person to include the proper disclaimer in a political advertisement paid for by an independent expenditure;

Section 106.143(2), Florida Statutes, failure of a person producing a political advertisement endorsing a candidate to state whether permission of the candidate was obtained; and

Section 106.144, Florida Statutes, failure of an association that endorses or opposes a candidate by means of political advertisements to file a statement of endorsement or opposition with the filing officer.

On July 29, 1996, the staff of the Division of Elections drafted a Statement of Findings recommending to the Florida Elections Commission that there was probable cause to believe that Chapter 106, Florida Statutes, was violated. On August 19, 1996, the Florida Elections Commission entered an Amended Order of Probable Cause finding that there was probable cause to believe that the Respondent violated Sections 106.071(1), 106.143(2) and 106.144, Florida Statutes. Respondent timely requested an informal hearing and was noticed to appear before the Commission on April 4, 1997. At the informal hearing, the Division presented the undisputed facts contained in the Division's Statement of Findings. Respondent's counsel, with Respondent's consent, did not appear at the hearing. John Osborne, Respondent's treasurer, appeared at the hearing and testified in support of mitigation of a penalty. Mr. Osborne testified that the current officers were not aware of political advertising requirements and were making a

good faith effort to participate in the political process. Further, Respondent's current financial resources are limited.

### FINDINGS OF FACT

1. The Commission is charged with enforcing Section 104.271 and Chapter 106, Florida Statutes, the campaign financing law.

2. The Respondent is a not-for-profit corporation organized on April 10, 1979. It is not currently registered as a political committee. However, it was a registered political committee and a committee of continuous existence until 1987.

3. In August of 1994, Respondent distributed a political advertisement entitled "Election '94" which recommended specific candidates for election during the first primary.

4. The advertisement was distributed to CCBA members who were encouraged to copy it and distribute it to employees, friends and family.

5. The advertisement contained the following statement. "The CCBA Governmental Affairs Committee is not a Political Action Committee. Accordingly, it does not endorse candidates." No other disclaimer appeared on the advertisement.

6. Respondent did not file a statement of endorsement or opposition with the filing officer.

### CONCLUSIONS OF LAW

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

8. Respondent violated Section 106.071(1), Florida Statutes, by failing to include the proper disclaimer in a political advertisement paid for by an independent expenditure; Section 106.143(2), Florida Statutes, by failing to include a statement on a political advertisement which endorses candidates, whether the candidate's permission was obtained; and Section 106.144,

Florida Statutes, by failing to file a statement of endorsement with the filing officer prior to distributing its political advertisement which endorsed candidates.

9. Respondent's exhibited its knowledge of disclaimer requirements by its statement on the advertisement, contrary to the content of the advertisement, that it was not a political committee and therefore did not endorse candidates. Further Respondent's past experience as a registered political committee and a registered committee of continuous existence indicates that it was aware or should have been aware of the requirements of law. Accordingly, the conduct was willful.

**ORDER**

Based upon the foregoing facts and conclusions of law, the Florida Elections Commission finds that the Respondent violated Sections 106.071(1), 106.143(2) and 106.144, Florida Statutes. Therefore, it is

**ORDERED** that the Respondent shall remit a civil penalty in the amount of \$250 for each violation for a total penalty of \$750. The civil penalty shall be paid to the Florida Elections Commission, Room 2002, the Capitol, Tallahassee, Florida 32399-0250, within 30 days of the date this Final Order is received by the Respondent.

**DONE AND ENTERED** by the Florida Elections Commission and filed with the Clerk of the Commission April 11, 1997 in Tallahassee, Florida.



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Carlos Alvarez, Chairman  
Florida Elections Commission  
Room 2002, The Capitol  
Tallahassee, FL 32399-0250

**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:

Julia P. Forrester, Assistant General Counsel  
Citrus County Builders Association, Respondent (certified mail)  
Richard E. Gentry, Attorney for Respondent  
Louis Keith, Complainant  
Susan Gill, Filing Officer