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STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

STATE OF FLORIDA
ELECTIONS COMMISSION

In Re: Farm Sanctuary, Inc., and Gene Bauston,
President

Case No.: FEC 02-093

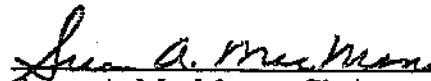
ORDER OF PROBABLE CAUSE

THIS CAUSE came on to be heard before the Florida Elections Commission at its meeting held on August 15, 2002, in Orlando, Florida.

Based on the Complaint, Report of Investigation, and Statement of Findings, which is incorporated in its entirety as a part of this order, the Commission finds that there is **probable cause** to charge the Respondent with :

210 separate counts of violating Section 106.021(3), Florida Statutes, prohibiting a person from making contributions to or receiving contributions on behalf of a political committee except through the campaign treasurer.

DONE AND ENTERED by the Florida Elections Commission and filed with the Clerk of the Commission on August 23, 2002, in Tallahassee, Florida.



Susan A. MacManus, Chairman
Florida Elections Commission
107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, FL 32399-1050

FLORIDA ELECTIONS COMMISSION
STATEMENT OF FINDINGS
Case Number: FEC 02-093

Respondent: Farm Sanctuary, Inc., and Gene Bauston, President

Complainant: [REDACTED]

On April 29, 2002, 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** to charge the Respondent with:

210 separate counts of violating Section 106.021(3), Florida Statutes, prohibiting a person from making contributions to or receiving contributions on behalf of a political committee except through the campaign treasurer.

Summary of Facts and Conclusions of Law.

1. Respondent is a non-profit organization dedicated to rescuing and protecting farm animals. Respondent has operations in Orland, California and Watkins Glen, New York. The New York based organization is the Respondent in this case.

2. Respondent is one of three animal protection groups coordinating the campaign activities of Floridians for Humane Farms, a statewide political committee supporting a ballot initiative for the 2002 general election to ban factory farming. Gene Bauston is the president of Farm Sanctuary.

3. Floridians for Humane Farms is a political committee which registered with the Division of Elections on September 18, 2000. The committee was formed to support a "proposed amendment to limit confinement of pigs." According to its statement of organization, the committee's "Area, Scope and Jurisdiction," is the "sponsor of proposed amendment to the constitution by initiative in Florida."

4. Complainant is an attorney residing in Northridge, California who represents non-profit organizations.

I. Section 106.021(3), Florida Statutes. (Counts 1-210)

5. The Commission staff investigated whether Respondent violated this section of the election laws by receiving contributions on behalf of a political committee except through the campaign treasurer. Specifically in this case, Commission staff investigated whether Respondent received contributions on behalf of Floridians for Humane Farms.

6. Complainant alleged Respondents sent a solicitation letter to its members, dated June 27, 2001. Respondent's president, Gene Bauston, stated in the solicitation, "As a major sponsor, we need to provide \$250,000 for campaign costs." The letter, addressed to "Dear Farm Sanctuary Members," includes a paragraph stating, "We're asking you today to please make a personal commitment to help protect pigs and help stop the spread of inhumane factory farming by sending as generous a contribution as you can for the Factory Farm Initiative." The mailing included a "contribution return card" on which contributors could confirm they wanted to help pass the first state ballot initiative to outlaw cruel pig farms.

7. On July 24, 2002, Respondent provided Commission staff with copies of the front of all checks received by Farm Sanctuary, Inc., in response to the June 27, 2001 solicitation which were at least \$100. In an affidavit submitted with the check copies, Holly McNulty, the administrative director of Farm Sanctuary, Inc., testified Farm Sanctuary sent the June 27, 2001 solicitation to 5,121 of its 7,208 members in the State of Florida. Based upon the information provided by Farm Sanctuary, Inc., Respondent received at least 210 separate donations in direct response to its June 27, 2001 solicitation.

8. Shortly after the June 27, 2001 solicitation was sent to Farm Sanctuary's membership, Respondent made a \$150,000 contribution to Floridians for Humane Farms. A review of the political committee's campaign treasurer's report for the reporting period covering October 1, 2001 through December 31, 2001, indicates Floridians for Humane Farms accepted a \$150,000 contribution from Respondent on October 1, 2001. Commission staff secured a copy of the check issued from Respondent to the political committee. The check was signed by Holly McNulty. The reverse side of the check indicates that it was deposited into the campaign account of Floridians for Humane Farms.

9. Complainant also expressed his concern about Respondent's newsletter published in the fall of 2000. Complainant was concerned about one part of the newsletter which stated, "Donations are greatly appreciated for the campaign - please send to: Farm Sanctuary, P.O. Box 150, Watkins Glen, NY 14891, with a note specifying that your contribution is for the 'Florida Ballot Initiative Campaign.'"

10. Complainant stated "just a few months" after the fall 2000 newsletter was published, Respondent made a \$50,000 contribution to Floridians for Humane Farms. A review of the political committee's campaign treasurer's report for the reporting period covering April 1, 2001 through June 30, 2001, indicates Floridians for Humane Farms accepted a \$50,000 contribution from Respondent on May 15, 2001. Commission staff secured a copy of the check issued from Respondent to the political committee. The check was signed by Holly McNulty, Respondent's administrative director. The reverse side of the check indicates that it was deposited into the campaign account of Floridians for Humane Farms.

11. Commission staff was unsuccessful in its attempts to obtain copies of checks which were sent to Farm Sanctuary in response to the fall 2000 newsletter and ear-marked for the Florida Ballot Initiative. In her July 18, 2002 affidavit, Ms. McNulty testified, "Farm Sanctuary does not have any means by which it can identify which donations, if any, were

received directly in response to the its fall 2000 newsletter mention of the Florida Ballot Initiative Campaign as compared to general donations from the fall 2000 newsletter.”

12. Respondent’s counsel, Karen D. Walker, submitted a response to the complaint on June 3, 2002. Ms. Walker advised Respondent is a non-profit 501(c)(3) corporation organized under the laws of Delaware, and based in New York. Further, counsel noted that Respondent has an active 501(h) election approved by the IRS, allowing it to participate in legislative activities on political issues, including ballot issues.

13. Ms. Walker further stated that in the course of conducting its business, Respondent receives donations from individuals who have expressed an interest in rescuing and protecting farm animals. The June 27, 2001 letter was mailed to its customary mailing list of interested individuals. Ms. Walker claimed her client had not received any contributions “on behalf of” the political committee, Floridians for Humane Farms. Ms. Walker explained Floridians for Humane Farms did not request or mandate her client solicit contributions on its behalf. Ms. Walker further argued her client acted on its own and decided to send mailings to those individuals who had supported Farm Sanctuary, Inc., in the past by informing those same people about the Florida ballot initiative.

14. Commission staff secured a response to a questionnaire-affidavit from Respondent Bauston on June 14, 2002. Mr. Bauston had been asked how many members belong to his organization and how an individual becomes a member. He replied Farm Sanctuary, Inc., has over 100,000 individuals and entities that have made donations toward Farm Sanctuary. Once an individual or entity makes a donation in any amount, the individual or entity is considered a member. Respondent Bauston was also asked to explain why the Respondents did not ask its members to contribute directly to the political committee. Mr. Bauston replied Respondent’s staff was under the impression that contributions from its members to a ballot initiative which Farm Sanctuary supported needed to be made to Farm Sanctuary so that Farm Sanctuary could account for such contributions for federal income tax purposes.

15. Commission staff asked Mr. Bauston whether any contributions were received as a direct result of the June 27, 2001 letter and the fall 2000 newsletter. Respondent Bauston related that the contributions to the political committee were not made as a direct result of the June 27, 2001 letter or the Farm Sanctuary newsletter although Respondent did receive contributions in response to the June 27, 2001 letter.¹

16. Mr. Bauston also told Commission staff Respondent’s board of directors decides whether or not to make any political contribution and if the decision is made to give money, the board of directors decides the amount. Mr. Bauston speculated that regardless of any contributions received by Respondent in response to the June 27, 2001 letter or the fall 2000 newsletter, Respondent would likely still have made the contributions it did to Floridians for Humane Farms.

¹ This information is directly contradicted by the affidavit and supporting documents provided to the Commission by Respondent’s administrative director on July 24, 2002.

II. Conclusion.

17. In an affidavit, Mr. Bauston stated he has never been a candidate for public office, nor has he acted as the campaign treasurer for a candidate. Mr. Bauston has never held the office of chairperson or treasurer for a political committee or a committee of continuous existence. Mr. Bauston testified he does possess certain portions of Chapter 106, Florida Statutes, which he obtained from the web-site of the Florida Department of State, Division of Elections. He does not recall the specific date when he obtained portions of the law. Additionally, Mr. Bauston stated after the complaint was filed in this case, his organization retained Florida legal counsel for the first time for advice and counsel in connection with the state's election laws.

18. Mr. Bauston resides in Watkins Glen, Schuyler County, New York. Mary King, deputy commissioner with the Schuyler County Board of Elections, wrote the Commission that her office has no record of Mr. Bauston ever having been a candidate for a city or county office. Additionally, Joseph Daddario, chief investigator with the New York State Board of Elections, sent a letter to the Commission advising his office had no record of Mr. Bauston being a candidate for political office. Mr. Daddario also advised he had no record indicating Mr. Bauston has been the subject of any election law complaints in the state of New York.

19. Respondent Bauston reported Farm Sanctuary has not been involved in any other ballot initiatives, however, the organization, as part of its general business, promotes awareness of, and encourage support for, various legislative efforts at the federal and state levels to outlaw cruel animal agricultural practices. Respondent Bauston claimed Farm Sanctuary consulted with other non-profit organizations concerning their involvement in ballot initiative campaigns throughout the country.

20. Farm Sanctuary's registration information with the Florida Department of Agriculture and Consumer Affairs² indicates it received approximately \$3,000,000 in contributions during the period of October 1, 2000 and September 30, 2001. Farm Sanctuary employs Harris O'Malley Marketing of Woodland, California to solicit in the State of Florida on its behalf. Ms. McNulty's affidavit reports a membership of 7,208 people in Florida.

21. The Respondents' actions in this case are willful.³ Farm Sanctuary is a well-financed, sophisticated, well-organized and experienced political organization. It is one

² Section 496.405, Florida Statutes, requires any charitable organization or sponsor, unless exempted pursuant to section 496.406, Florida Statutes, who intends to solicit contributions in Florida to register with the Department of Agriculture and Consumer Affairs.

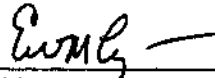
³ Section 106.37, Florida Statutes, provides that a person willfully violates Chapter 106, Florida Statutes, if the person:

...commits an act while knowing that, or showing reckless disregard for whether, the act is prohibited...or does not commit an act while knowing that, or showing reckless disregard for whether the act is required....A person knows that an act is prohibited or required if the person is aware of the provision...which prohibits or required the act, understands the meaning of that provision, and performs the act that is prohibited or fails to perform the act that is required. A person shows reckless disregard for whether an act is prohibited or required under this chapter if

of three coordinators for a ballot initiative sponsored by Floridians for Humane Farms. Farm Sanctuary employs a professional marketing firm to solicit contributions from people in the State of Florida. Farm Sanctuary specifically requested in its June 27, 2001 solicitation for individuals to send it money, and let it know the donation was intended for the Florida ballot initiative. The implication of the solicitation was clear that Farm Sanctuary, Inc., would take any donation ear-marked for the Florida ballot initiative and send it to Floridians for Humane Farms.

22. In light of the foregoing, I recommend the Commission find there is probable cause the Respondent violated Section 106.021(3) on 210 occasions.

Respectfully submitted on July 24, 2002,



Eric M. Lipman
Assistant General Counsel

Copy furnished to:
Barbara M. Linthicum, Executive Director
Keith Smith, Investigator Specialist

the person wholly disregards the law without making any reasonable effort to determine whether the act would constitute a violation....



**Florida Department of State
Division of Elections**

Campaign Contributions

Floridians for Humane Farms(PAC)

This information is being provided as a convenience to the public, has been processed by the Division of Elections and should be cross referenced with the original report on file with the Division of Elections in case of questions.
About the Campaign Finance Data Base

Rpt Yr	Rpt Type	Date	Amount	Contributor Name	Address	City St
2001	Q2	04/23/2001	5.00	LEIPZIGER EDWARD	7027 BITTERBUSH PLACE	BOYNTON
2002	G3	10/04/2002	100.00	42ND STREET AUTO SALES	1301 42ND ST. NW	WINTER
2002	Q1	02/28/2002	15.00	ABBOTT ELIZABETH	9740 DEER RUN DR	PONTE VEDICE
2001	Q2	05/25/2001	2.00	ABERGROM	1601 S. ABBOTT	BOYNTON
2001	Q2	05/25/2001	2.00	FARINETTI FLORA	1601 S. ABBOTT	BOYNTON
2002	Q1	02/18/2002	10.00	FARLAND SANDRA	8643 NW 167TH ST. A-19	BOYNTON
2002	Q2	04/25/2002	25.00	FARLAND SANDRA	8680 DEERMoss WAY WEST	BOYNTON
2002	Q2	06/18/2002	25.00	FARLAND SANDRA	8680 DEERMoss WAY WEST	BOYNTON
2001	Q2	04/25/2001	25.00	FARLEY SANDRA	735 AVACADO DR.	BOYNTON
2001	Q2	04/26/2001	159.50	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	04/27/2001	37.64	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	04/27/2001	112.16	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	04/28/2001	102.56	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	04/30/2001	56.30	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	05/02/2001	32.13	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	05/03/2001	355.60	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	05/04/2001	62.45	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	05/15/2001	50,000.00	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q2	06/20/2001	449.60	FARM SANCTUARY	3100 AIKENS RD.	BOYNTON
2001	Q4	10/01/2001	150,000.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	01/20/2002	153.16	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	01/21/2002	294.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	01/23/2002	8.30	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	01/23/2002	520.75	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	01/23/2002	177.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/01/2002	488.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/03/2002	220.50	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/04/2002	66.50	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/15/2002	860.50	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/25/2002	3.25	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/25/2002	400.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	02/26/2002	0.75	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/01/2002	194.43	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/08/2002	426.50	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/11/2002	10.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/11/2002	382.80	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/11/2002	24.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/11/2002	138.79	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	Q1	03/12/2002	152.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	F1	07/03/2002	50,000.00	FARM SANCTUARY	3100 AIKENS ROAD	BOYNTON
2002	G2	09/24/2002	100,000.00	FARM SANCTUARY	PO BOX 150	BOYNTON
2000	S3	09/21/2000	10,000.00	FARM SANCTUARY, INC.	PO BOX 150	BOYNTON
2000	S3	09/28/2000	100,000.00	FARM SANCTUARY, INC.	PO BOX 150	BOYNTON
2002	Q2	06/21/2002	50.00	FARR ANNE	318 N. ROYAL ST.	BOYNTON
2002	Q2	06/21/2002	50.00	FARR ANNE	318 N. ROYAL ST.	BOYNTON
2001	Q2	05/18/2001	10.00	FARRO PAUL	11134 ALAMEDA BAY CT.	BOYNTON
2001	Q4	10/11/2001	10.00	FARRO PAUL	11134 ALAMEDA BAY CT.	BOYNTON
2002	G2	09/25/2002	28.42	FARRO PAUL & DONNA	11134 ALAMEDA BAY CT	BOYNTON
2002	F3	09/02/2002	10.00	FASSEL ELAINE	10387 GLENBAY AVE	BOYNTON
2002	G3	10/01/2002	10.00	FATOVIC PEGGY G.	3617 IDLE HOUR DRIVE	BOYNTON
2001	Q2	04/30/2001	10.00	FAULSTICH JOAN	6213 GOLF VISTA WAY	BOYNTON
2001	Q4	10/19/2001	10.00	FAUSER BARBARA	183 ST. THOMAS CIRCLE N	BOYNTON
2002	Q1	01/25/2002	15.00	FAUSER BARBARA	183 ST. THOMAS CIRCLE N	BOYNTON
2002	Q2	04/22/2002	25.00	FAUSER BARBARA	183 ST. THOMAS CIRCLE N	BOYNTON
2002	Q2	05/13/2002	25.00	FAUST AMY	1706 CHURCH ST.	BOYNTON
2001	Q2	05/04/2001	10.00	FAUST SHELLEY	11650 NW 37TH PL.	BOYNTON
2002	F1	07/18/2002	50.00	FAUST SHELLEY	1844 N. NOB HILL RD.	BOYNTON
2002	G2	09/19/2002	18.00	FAUST SHELLEY	1844 N. NOB HILL ROAD PNB 282	BOYNTON
2001	Q4	10/23/2001	10.00	FEARON RONA	1315 BRIARWOOD DR.	BOYNTON
2002	F3	09/02/2002	5.00	FEARON RONA	1315 BRIARWOOD DR.	BOYNTON
2002	Q2	05/13/2002	25.00	FEHSE MICHAEL	5707 45TH ST. E. #102	BOYNTON
2002	G3	09/30/2002	10.00	FEIGENBAUM DOLLY, KIM	808 SW 50TH WAY	BOYNTON
2001	Q2	04/19/2001	10.00	FEINBERG BARBARA	105 WINDSOR LANE CIRCLE	BOYNTON