FLORIDA
COMMISSION ON ETHICS
APR 13 2022
RECEIVED

CONFIDENTIAL

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re: Angela Hough,

Respondent. **Complaint No. 22-012**

_____/

ADVOCATE'S RECOMMENDATION

The undersigned Advocate, after reviewing the Determination of Investigative Jurisdiction and Order to Investigate and Report of Investigation filed in this matter, submits this Recommendation in accordance with Rule 34-5.006(3), F.A.C.

RESPONDENT

Respondent, Angela Hough, serves as a board member of the Moore Haven Mosquito Control District for the City of Moore Haven.

JURISDICTION

The Executive Director of the Commission on Ethics ordered a preliminary investigation for a probable cause determination as to whether Respondent violated Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes. The Commission on Ethics has jurisdiction over this matter pursuant to Section 112.322, Florida Statutes.

The Report of Investigation was released on March 31, 2022.

ALLEGATION

Respondent is alleged to have violated Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes, by willfully failing or refusing to file a 2018 CE Form 1, "Statement of Financial Interests."

APPLICABLE LAW

Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes, provides as follows:

> If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the Commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

In order to establish a violation of Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes, the following elements must be proved:

1. Respondent is currently a public officer or employee.

2. Respondent must have failed or refused to file an annual statement of financial interests.

3. Respondent must have received notice from the commission regarding the failure to file for the corresponding year.

4. The maximum automatic fine authorized for failing to file must have accrued.

5. Respondent's failure to file is willful.

ANALYSIS

Respondent is required to file an annual financial disclosure report as an elected board member of the Moore Haven Mosquito Control District. (ROI 1) Respondent's 2018 CE Form 1, "Statement of Financial Interests" was due on July 1, 2019, but a 60-day "grace period" followed whereby the form could be filed without penalty. (ROI 2) September 3, 2019 is the date the automatic fine of $25 per day began to accrue. §112.3145(8)(g), Fla. Stat. (ROI 2) As of November 2, 2019, Respondent accrued the maximum statutory fine ($1,500) authorized for failing to file her form. §112.3145(8)(g), Fla. Stat. (ROI 2)

The following attempts were made to notify Respondent of her obligation to file a 2018 CE Form 1:

May 2019 - the Glades County Supervisor of Elections (SOE) Office mailed a notice of the July 1, 2019, financial disclosure deadline and a blank 2018 CE Form 1 to Respondent at 1174 North Avenue, Moore Haven, Florida, 33471-0542 (North Avenue).[1] (ROI 6)

July 1, 2019 - the SOE Office called Respondent to notify her that her 2018 CE Form 1 was delinquent but there was no answer. (ROI 7; Composite Exhibit Al)

July 15, 2019 - the SOE Office mailed Respondent a delinquency notice by certified mail advising her that the grace period is in effect until September 3, 2019, and the penalties that could be imposed for failing to file. (ROI 8) The certified letter of notification was returned "unclaimed" to the SOE's Office on August 20, 2019, after multiple attempts of delivery by the United States Postal System (USPS). (ROI 8; Composite Exhibit A2 and A3)

---

[1] According to the Glades County Property Appraiser's website, Respondent purchased the property at 1174 North Avenue, in April 2015. (ROI FNs 2, 3) Respondent verified that this is the correct address. (ROI 20)

November 4, 2019 - the SOE, Aletris Farnum, notified the Commission staff that Respondent had not filed her 2018 CE Form. (ROI 9)

August 19, 2019 - the Commission on Ethics (Commission) mailed a courtesy postcard reminder to Respondent at P.O. Box 542, Moore Haven, Florida. (ROI 10; Composite Exhibit Bl)

August 26, 2019 - the postcard was returned to the Commission with the notification "box closed/unable to forward." (ROI 11)

August 23, 2019 - the Commission staff sent an email to Respondent at Angieh876@gmail.com, and Respondent did not answer this email notification. (ROI 12; Composite Exhibit B2 and B3)

September 6, 2019 - the Commission mailed a "Courtesy Notice of Fines Accruing" to Respondent at the address, P.O. Box 542, Moore Haven, Florida. (ROI 13; Composite Exhibit B4)

September 16, 2019 - the "Courtesy Notice of Fines Accruing" notification letter was returned to the Commission by USPS with the notification "returned/box closed unable to forward." (ROI 14)

May 12, 2020 - the Commission levied a $1,500 fine against Respondent. (ROI 15)

July 19, 2021 - the Commission sent a "Notice of Assessment of Automatic Fine" to Respondent at the North Avenue address, via certified mail. (ROI 16; Composite Exhibit B5 and B6)

July 22, 2021 - the USPS attempted to deliver the certified mailing but was unsuccessful for the following reason: "No Authorized Recipient Available" but "Notice Left." (ROI 17)

August 10, 2021 - the certified mailing was returned to the Commission because it was "unclaimed." (ROI 17; Composite Exhibit B7)

September 20, 2021 - the Commission sent a second fine notice titled "Final Notice of Assessment of Automatic Fine for Failure to Timely File Form 1, Statement of Financial Interests," to Respondent at the North Avenue address, via first class mail. (ROI 18; Composite Exhibit B8) Respondent did not respond to this notification. (ROI 18)

December 9, 2021 - the Commission sent a letter titled "Notification of Issuance of Default Final Order" to Respondent at the North Avenue address, via first class mail. (ROI 19; Composite Exhibit B9 through B12) This notification informed Respondent that the Commission, during its December 3, 2021 meeting, issued a "Notification of Issuance of Default Final Order," stating that if she does not pay the assessed fine of $1,500 by January 10, 2022, or contact the Commission staff to make arrangements to pay the fine in installments, the Commission will refer the fine to the Florida Department of Financial Services and their contract agency (Transworld Systems, Inc.) to undertake collecting the fine, and the referral will increase the amount owed by adding a 13 percent service fee to the balance owed. (ROI 19) Respondent did not respond to this notification. (ROI 19)

January 13, 2022 – the Commission staff spoke with Respondent via telephone. (ROI 20) She confirmed that she resides at the North Avenue address, and that she had been living at that address for a couple of years. (ROI 20) "Although she did not deny receiving the notifications, [Respondent] stated that she could not recall receiving the notifications, including the email notification on August 27, 2019." (ROI 20) She said was not aware that she had not filed her 2018 CE Form 1, and she was not told by the Supervisor of Elections of her failure to file the form when she visited the office for election related matters. (ROI 20)

Respondent advised that she is "really bad about not filing or doing what she is supposed to do," and "she knows that she has been late filing these forms and has expected a fine." (ROI 20)

Respondent said that she would go to the SOE Office on January 18, 2022 to complete the form, and that she would contact the Commission's Investigator following her visit. (ROI 20)

Then, the Investigator sent Respondent an email communication at angieh876@gmail.com, documenting the telephone call and confirming with her that she should call subsequent to her visit to the SOE Office. (ROI 20) That evening, Respondent wrote, "I just wanted to reply so you would know I received your email. Have a good evening." (ROI 20) After January 18, 2022, the Investigator had not heard back from Respondent. (ROI 20) On January 24, 2022, the Investigator sent an email to Respondent asking for an update on her visit to the SOE. (ROI 20) There was no response from Respondent. (ROI 20)

February 28, 2022 - the Investigator sent another email to Respondent inquiring if she went to the SOE Office to file her form. (ROI 21) Again, there was no response from Respondent. (ROI 21) On the same date, the Investigator called SOE Farnam who reported that Respondent never came to her office and she had still not filed her 2018 CE Form 1. (ROI 21)

On March 25 and March 28, 2022, two attempts were made to contact Respondent via her cell phone. (ROI 22) Both calls went unanswered and a voice mail could not be left due to the voice mailbox being full. (ROI 22)

John Ahern, Moore Haven Mosquito Control District Director and Financial Disclosure Coordinator, and SOE Farnam, reported that Respondent regularly attends the Mosquito Control District meetings and that her term expires in 2024. (ROI 4)

Respondent timely filed her CE Form 1 for years 2017 and 2019. (ROI FN 4) Respondent filed her 2016 and 2020 forms late but still within the grace period. (ROI FN 4)

As of March 31, 2022, Respondent has not filed her 2018 CE Form 1 with the SOE Office nor has the Commission received an appeal of the automatic fine for the calendar year 2018. (ROI 23) The fine remains unpaid. (ROI 23)

Filing a financial disclosure statement is part of the responsibility of choosing to hold or run for public office or employment. The purpose of filing a financial disclosure statement is to increase confidence in government by requiring transparency and openness by those who serve the public. Art. II, §8, Fla. Const., and §112.311, Fla. Stat.

Even though the obligation rests with the filer, failure or refusal to file is excused if such failure is found not to be willful. One way to determine "willful" is whether the filer received notice. The SOE Office sent a notification to Respondent's correct address. We can assume it was properly delivered. Respondent neglected to pick-up or accept the certified letter sent by the SOE Office.

The Commission made three attempts to contact Respondent prior to assessing the statutory fine. From August 19, 2019 to September 16, 2019, two mailings from the Commission went to a closed mailbox and the post office was unable to forward the mail. One email from the Commission went unanswered. There is no indication that this email "bounced back" to the Investigator. We can assume it reached Respondent's email inbox.[2] Respondent answered the second email from the Investigator.

Respondent clearly ought to have known that she was required to file her 2018 form and that penalties would follow for not filing. After all, she filed the two previous years. When Respondent was advised by the Investigator to file her form, Respondent replied she would do so at the SOE on January 18, 2022 and update the Investigator of her actions. She never filed and

[2] Respondent did not deny receiving the email. (ROI 20)

never reached back out to the Investigator. Although Respondent made the effort to regularly attend the Mosquito Control District meetings, her actions regarding another aspect of her public responsibility (i.e., filing her financial disclosure form) show a careless disregard for the duties attached to her public office. (ROI 4) These facts are sufficient to find that Respondent willfully disregarded her public duty to file her 2018 CE Form 1.

Therefore, based upon the evidence before the Commission, I recommend that the Commission find probable cause to believe that Respondent violated Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes.

RECOMMENDATION

It is my recommendation that,

There is probable cause to believe that Respondent violated Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes, by willfully failing or refusing to file a 2018 CE Form 1, "Statement of Financial Interests."

Respectfully submitted this 13th day of April, 2022.

ELIZABETH A. MILLER
Advocate for the Florida Commission
on Ethics
Florida Bar No. 578411
Office of the Attorney General
The Capitol, PL-01
Tallahassee, Florida 32399-1050
(850) 414-3300, Ext.3702