FLORIDA
COMMISSION ON ETHICS
APR 20 2022
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BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re: Eddie Martinez,

Respondent. **Complaint No. 21-229**

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ADVOCATE'S RECOMMENDATION

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

RESPONDENT/COMPLAINANT

Respondent, Eddie Martinez, served as a member of the Monroe County Commission. Complainant is Jeffrey L. Johnson of Key West, Florida.

JURISDICTION

The Executive Director of the Commission on Ethics determined that the Complaint was legally sufficient and ordered a preliminary investigation for a probable cause determination as to whether the Respondent violated Article II, Section 8, Florida Constitution, and Sections 112.3144 and 112.3142, 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 April 18, 2022.

ALLEGATION ONE

Respondent is alleged to have violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes by filing an inaccurate 2020 CE Form 6, "Full and Public Disclosure of Financial Interests."

APPLICABLE LAW

Article II, Section 8, Florida Constitution provides:

> (a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.
>
> * * *
>
> (i) Schedule-On the effective date of this amendment and until changed by law:
> (1) Full and public disclosure of financial interests shall mean filing with the secretary of state by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of $1,000 and its value together with one of the following:
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> a. A copy of the person's most recent federal income tax return;
>
> or
>
> b. A sworn statement which identifies each separate source and amount of income which exceeds $1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.
>
> * * *

Section 112.3144(1), Florida Statutes, provides as follows

> (1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics.

ANALYSIS

Respondent served as a Monroe County Commissioner from November 20, 2020 through December 7, 2021. (ROI 4) On August 30, 2021, Respondent filed a CE Form 6, "Full and Public Disclosure of Financial Interests," for the year 2020. (ROI 4, Complaint 3-4) Complainant alleges Respondent failed to disclose assets, liabilities, and a primary source of income on his 2020 form. (ROI 2)

Under Part B – Assets, Respondent was required to disclose his assets that exceeded $1,000 in value. (ROI 6) Respondent acknowledged that he had assets that met that threshold which he failed to disclose. (ROI 6)

Under Part C – Liabilities, Respondent was required to disclose liabilities that exceeded $1,000 in value. (ROI 6) Respondent acknowledged that he had liabilities that met that threshold which he failed to disclose. (ROI 6)

Under Part D – Income, Respondent disclosed $100,000 as income from one source, "Eddie A. Martinez PSM." (ROI 7, Complaint 4) While Respondent advised this was his total income in 2020, he acknowledged that he failed to disclose an additional source which was his county commissioner salary.[1] (ROI 7)

The public was deprived of access to information to which it was entitled. As the date of the Report of Investigation, Respondent has not submitted a CE Form 6x, "Amendment to Full and Public Disclosure of Financial Interests." (ROI 9)

Therefore, based upon the evidence before the Commission, I recommend that the Commission find probable cause to believe that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes.

[1] Respondent was paid a county commissioner salary of $5,995.21 in 2020. (ROI 8)

ALLEGATION TWO

Respondent is alleged to have violated Section 112.3142(2), Florida Statutes, by failing to complete ethics training for his public position.

APPLICABLE LAW

Section 112.3142, Florida Statutes provides as follows:

> Ethics training for specified constitutional officers, elected municipal officers, and commissioners.
>
> * * *
>
> (2)(b) All elected municipal officers must complete 4 hours of ethics training annually that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.
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> * * *
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> (e) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.
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> * * *

In order to establish a violation of Section 112.3142(2), Florida Statutes, the following elements must be proved:

1. Respondent is an elected municipal officer.

2. Respondent was in public office during the relevant calendar year.

3. Respondent failed to complete 4 hours of ethics training during the relevant calendar year except as provided by 112.3142(e).

ANALYSIS

Complainant alleges Respondent failed to complete the mandatory ethics training in the year 2020. (ROI 2, 10) It appears this allegation is based on Respondent not checking the box on his 2020 CE Form 6 certifying that he completed the ethics training. (Complaint 2, 4)

Section 112.3142(2)(e), Florida Statutes provides in part:

> A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.
>
> (ROI 11)

Respondent was elected to office on November 3, 2020 and, thus, not required to take the ethics training in 2020 which is the year reflected on his ethics form. (ROI 10, Complaint 4)

Therefore, based upon the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.3142, Florida Statutes.

RECOMMENDATION

It is my recommendation that:

1. There is probable cause to believe that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes by filing an inaccurate 2020 CE Form 6, "Full and Public Disclosure of Financial Interests."

2. There is no probable cause to believe that Respondent violated Section 112.3142(2), Florida Statutes, by failing to complete ethics training required for his public position.

Respectfully submitted this 20th day of April, 2022.

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