



was also alleged by Complainant Bronson that the Respondent initiated a traffic stop without cause to talk about the complaint he had filed against him. By separate orders, the Commission on Ethics' Executive Director determined that the allegations in the complaints were legally sufficient to indicate possible violations of the statute and ordered Commission staff to investigate the complaints. The complaints were consolidated for investigation. A Report Of Investigation was released on May 24, 2010. Thereafter, by order dated July 21, 2010, the Commission found probable cause to believe the Respondent may have violated Section 112.313(6), Florida Statutes. Subsequently, the matter was forwarded to DOAH for assignment of an ALJ to conduct a formal hearing and prepare a recommended order (RO). These consolidated cases were further consolidated for hearing with another complaint against Respondent as well as complaints against the Mayor, Lonnie Evans. A formal evidentiary hearing was held before the ALJ on December 14-15, 2010 (including the presentation of witnesses and the admission of exhibits); a transcript of the hearing was provided; and both the Respondent and the Advocate for the Commission on Ethics filed proposed recommended orders with the ALJ. On February 16, 2011, the ALJ entered her RO recommending that the Commission issue a final order and public report finding that the Respondent did not violate Section 112.313(6), Florida Statutes, and recommending that the ethics complaints filed against the Respondent by the Complainants be dismissed. Neither the Advocate nor the Respondent filed

exceptions to the RO, but were notified of the date, time, and place of our final consideration of this matter.

### Standards of Review

Under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law and interpretations of administrative rules contained in a recommended order. However, the agency may not reject or modify findings of fact made by an ALJ unless a review of the entire record demonstrates that the findings were not based on competent, substantial evidence (CSE) or that the proceedings on which the findings were based did not comply with the essential requirements of law. See, e.g., Freeze v. Department of Business Regulation, 556 So.2d 1204 (Fla. 5<sup>th</sup> DCA 1990), and Florida Department of Corrections v. Bradley, 510 So.2d 1122 (Fla. 1<sup>st</sup> DCA 1987). CSE has been defined by the Florida Supreme Court as such evidence as is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusions reached." DeGroot v. Sheffield, 95 So.2d 912, 916 (Fla. 1957).

The agency may not reweigh the evidence, may not resolve conflicts in the evidence, and may not judge the credibility of witnesses, because such evidential matters are within the sole province of the ALJ. Heifetz v. Department of Business Regulation, 475 So.2d 1277, 1281 (Fla. 1<sup>st</sup> DCA 1985). Consequently, if the record

of the DOAH proceedings discloses any CSE to support a finding of fact made by the ALJ, the Commission on Ethics is bound by that finding.

Under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law over which it has substantive jurisdiction and the interpretations of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion or interpretation and must make a finding that its substituted conclusion or interpretation is as or more reasonable than that which was rejected or modified.

Having reviewed the RO and the entire record of the proceeding, the Commission on Ethics makes the following findings, conclusions, and rulings:

### **Findings of Fact**

The Findings of Fact as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

### **Conclusions of Law**


1. The Conclusions of Law as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.
2. Accordingly, these complaints are hereby DISMISSED.

## Disposition

Accordingly, the Commission on Ethics accepts the recommendation of the Administrative Law Judge that it enter a final order and public report finding that the Respondent, Frank Moore, did not violate Section 112.313(6), Florida Statutes, as alleged in the ethics complaints, and hereby dismisses the complaints.

ORDERED by the State of Florida Commission on Ethics meeting in public session on April 1, 2011.

April 6, 2011  
Date Rendered

  
ROY ROGERS  
Chair

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709 (PHYSICAL ADDRESS AT 3600 MACLAY BLVD., SOUTH, SUITE 201, TALLAHASSEE, FLORIDA); AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

cc: Ms. Candace A. Hawthorne, Attorney for Respondent

Ms. Diane Guillemette, Commission Advocate  
Mr. Timothy S. Bronson, Complainant  
Ms. Cynthia D. Martin, Complainant  
Mr. Ronnie Owens, Complainant  
The Honorable Lisa Shearer Nelson  
Division of Administrative Hearings