

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

CONFIDENTIAL

In re MICHAEL CUSACK,)
)
 Respondent.)
_____)

Complaint No. 23-200

DETERMINATION OF INVESTIGATIVE JURISDICTION
AND ORDER TO INVESTIGATE

UPON REVIEW of this complaint, I find as follows:

1. This complaint was filed by Romi White of Navarre, Florida.
2. The Respondent, Michael Cusack, allegedly serves as a City Councilmember for the City of Milton.
3. The complaint alleges the Respondent, who was assisting in negotiating a contract with a candidate for City Manager, reviewed a draft contract prepared by the City's legal counsel that contained a possible salary figure. The complaint claims the Respondent then personally corresponded with the candidate, indicating he should "ignore" the figure quoted in the draft as a "salary lowball[.]" told the candidate the exact amount cited in the draft, and guaranteed the candidate a higher figure.¹ The complaint indicates legal counsel had not shared the possible salary figure or draft contract with anyone but the Respondent, and that the Respondent shared the information to inflate the candidate's salary. This indicates possible violations of Sections 112.313(6) and 112.313(8), Florida Statutes, by the Respondent.

¹ The complaint indicates the candidate withdrew his application shortly thereafter, and that the candidate stated the "main reason" for his decision was the "confusion" caused by the Respondent.

4. We note the allegations in paragraph 3 do not trigger the application of the prohibition currently found in Article II, Section 8(h)(2) of the State Constitution as they do not identify in a factual, nonconclusory manner any disproportionate benefit to the Respondent, the Respondent's spouse, children, or employer, or any business with which the Respondent contracts, in which he is an officer, partner, director, or proprietor, or in which he owns an interest. Moreover, while the complaint claims the allegations in paragraph 3 indicate a possible violation of Article II, Section 8(c), Florida Constitution, that constitutional subsection is not a standard of conduct that can be investigated, but is instead a general statement indicating that public officers and public employees will be held liable for breaches of the public trust. And while the complaint also indicates the allegations in paragraph 3 constitute a violation of Section 839.26, Florida Statutes, the Commission on Ethics does not have jurisdiction over that criminal statute.

5. The complaint also claims that when a public records request was brought for all text messages between the Respondent and the candidate for City Manager, he failed to provide a full response. In particular, the complaint claims that while Respondent released a text message log indicating there were fourteen texts between himself and the candidate during the time in question, he provided only nine of the fourteen texts themselves, refusing to share the remaining ones. And the complaint indicates that for the nine texts that the Respondent did release, he did not provide the original messages, but retyped them, leaving no way to verify if they reflected the original content. The complaint further alleges the Respondent has denied negotiating or discussing contract terms with the candidate for City Manager, and has denied initiating contact with the candidate through a phone call or text, which are claims that also cannot be verified due to the lack of a full response to the records request. This indicates possible violations of Article II, Section 8(h)(2), Florida Constitution, and Section 112.313(6), Florida Statutes.

WHEREFORE staff of the Commission on Ethics shall conduct a preliminary investigation of this complaint for a probable cause determination of whether Respondent has violated Article II, Section 8(h)(2), Florida Constitution, and Sections 112.313(6) and 112.313(8), Florida Statutes, as set forth in paragraphs 3 and 5, above.

October 9, 2023
Date

Kerrie J. Stillman
Kerrie J. Stillman
Executive Director

KJS/gps