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"A Public Office is a Public Trust"

MEMORANDUM

TO: Members, Commission on Ethics
FROM: Gray Schafer (GS)
SUBJECT: Referral No. 24-166, In re Bryan Lober
DATE: November 19, 2026

Accompanying this memorandum, please find a draft Final Order And Public Report prepared by your staff. The draft is for your use as you consider the Recommended Order from the DOAH ALJ, and argument by the Respondent and the Advocate, at your Commission meeting on December 4, 2026. Neither the Respondent, the Advocate, nor any Commission member participated in writing the draft; and, of course, you are not required to accept the draft. The ALJ has recommended that the Respondent, while serving as a County Commissioner for Brevard County, did not violate either Section 112.313(6), Florida Statutes, or Article II, Section 8(h)(2), Florida Constitution. No exceptions to the Recommended Order have been filed.

cc: Mr. William N. Spicola, Attorney for Respondent
Mr. Luke Newman, Attorney for Respondent
Ms. Melody A. Hadley, Commission Advocate

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COMMISSION ON ETHICS

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re BRYAN LOBER,	)	
	)	Referral No. 24-166
Respondent.	)	DOAH Case No. 26-2084EC
	)	
	)	Final Order No.
	)	

FINAL ORDER AND PUBLIC REPORT

This matter came before the State of Florida Commission on Ethics ("Commission"), meeting in public session December 4, 2026, on the Recommended Order ("RO") of an Administrative Law Judge ("ALJ") of the Division of Administrative Hearings ("DOAH") rendered on September 15, 2026. In the RO, the ALJ recommends that the Commission enter a final order finding that Respondent, while serving as a member of the County Commission for Brevard County, did not violate Section 112.313(6), Florida Statutes, or Article II, Section 8(h)(2), Florida Constitution.[1]

Standards of Review

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

[1] Neither the Commission's Advocate nor the Respondent have filed exceptions to the RO.

that its substituted conclusion or interpretation is as or more reasonable than that which was rejected or modified.

However, the agency may not reject or modify findings of fact made by an ALJ unless the agency first determines from a review of the entire record, and states with particularity in its order, that the findings of fact were not based upon competent, substantial evidence or that the proceedings upon which the findings were based did not comply with essential requirements of law. See, e.g., Freeze v. Department of Business Regulation, 556 So. 2d 1204 (Fla. 5th DCA 1990), and Florida Department of Corrections v. Bradley, 510 So. 2d 1122 (Fla. 1st DCA 1987). "Competent, substantial evidence" 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. 1st DCA 1985). Consequently, if the record of the DOAH proceedings discloses any competent substantial evidence to support a finding of fact made by the ALJ, the Commission on Ethics is bound by that finding.

An agency may accept the entirety of a hearing officer's findings of fact and conclusions of law, yet still reject the recommended penalty and substitute an increased or decreased recommended penalty. Criminal Justice Standards and Training Comm'n v. Bradley, 596 So. 2d 661, 664 (Fla. 1992). Under Section 120.57(1)(l), Florida Statutes, an agency may reduce or

increase the recommended penalty only upon a review of the complete record, stating with particularity the agency's reasons for reducing or increasing the recommended penalty, and citing to the record in support of its action.

Findings of Fact

The Commission on Ethics accepts and incorporates into this Final Order And Public Report the findings of fact in the Recommended Order from the Administrative Law Judge of the Division of Administrative Hearings rendered on September 15, 2026. The findings are based upon competent substantial evidence and the proceedings upon which the findings are based complied with essential requirements of law.

Conclusions of Law

The Commission on Ethics accepts and incorporates into this Final Order And Public Report the conclusions of law in the Recommended Order from the Administrative Law Judge of the Division of Administrative Hearings rendered on September 15, 2026.[2]

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[2] As seen in the RO, the Advocate proceeded to DOAH only upon the allegation that the Respondent violated Section 112.313(6), Florida Statutes, and Article II, Section 8(h)(2), Florida Constitution, by intentionally using the County's tax exemption certificate for purchases that were not for County business, but rather for his personal benefit or the benefit of another. While there was an alternate factual basis on which the Commission found probable cause of a violation of Section 112.313(6) and Article II, Section 8(h)(2), the Advocate apparently determined, following the probable cause hearing, that the evidentiary burden of proof during DOAH proceedings—clear and convincing evidence—could not be met concerning this alternate basis, and therefore, did not argue the alternate basis during the hearing. We note the clear and convincing evidence standard is greater than the burden of proof needed to demonstrate probable cause. Compare In re Henson, 913 So. 2d 579, 589 (Fla. 2005) (finding "clear and convincing evidence" is a standard requiring more than a "preponderance of the evidence") with J.J. v. State, 312 So. 3d 116, 120 (Fla. 3d DCA 2020 (finding "probable cause" is a standard requiring less than a "preponderance of the evidence"). Considering this, we find under Section 112.324(12), Florida Statutes, that the public interest would not be best served by proceeding further on the alternate basis for a violation.

Disposition

Accordingly, the Commission on Ethics determines that the Respondent did not violate Section 112.313(6), Florida Statutes, or Article II, Section 8(h)(2), Florida Constitution, and, in accordance with the proposed disposition in the RO, dismisses the ethics referral against the Respondent.

ORDERED by the State of Florida Commission on Ethics meeting in public session on December 4, 2026.

_____
Date Rendered

_____
Jeremy M. Rodgers
Chair, Florida Commission on Ethics

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 AND SECTION 112.3241, 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, OR AT THE COMMISSION'S PHYSICAL ADDRESS OF 325 JOHN KNOX ROAD, BUILDING E, SUITE 200, TALLAHASSEE, FLORIDA 32303; 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: Mr. William N. Spicola, Attorney for Respondent
Mr. Luke Newman, Attorney for Respondent
Ms. Melody A. Hadley, Commission Advocate

Mr. Scott McInerney, Florida Department of Law Enforcement (Referring Aency)
The Honorable James H. Peterson, III, Division of Administrative Hearings