FLORIDA
COMMISSION ON ETHICS
NOV 14 2022
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BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re: Michelle Kligman,

Complaint No. 20-241

Respondent.
_____/

ADVOCATE'S MOTION TO DISMISS COMPLAINT

COMES NOW, Advocate for the Commission on Ethics (Commission) and files this Motion to Dismiss Complaint. In support of this motion, Advocate states:

1. Respondent is employed as the Senior Vice President of Human Resources and Chief Experience Officer at Jackson Health System in Miami, Florida.

2. Respondent's supervisor is Julie Staub, Chief Human Resources Officer, Jackson Health System.

3. Jackson Health System is a nonprofit academic medical system governed by the Public Health Trust, a team of citizen volunteers acting on behalf of the Miami-Dade Board of County Commissioners.[1]

4. Respondent has filed a CE Form 1, "Statement of Financial Interests," since 2012. She initially was required to file as an elected official in Surfside, Florida. In 2014, she began filing financial disclosure as a public employee. In 2013, Respondent was assessed a $325 fine for late filing, and paid the fine. In 2015, Respondent was assessed a $300 fine and on March 20, 2017 she appealed the fine with the Commission on Ethics (Commission). By Final Order issued on June 15, 2017, the fine was waived.

[1] https://jacksonhealth.org/about-us/

5. Respondent was investigated by the Commission in or around January 2021 for failure or refusal to file a 2017 CE Form 1 within 60 days of the date the automatic fine of $25 per day began to accrue under Section 112.3147(7)(f) [now Section 112.3145(8)(g)], Florida Statutes. Respondent accrued the maximum fine of $1,500 authorized by law. §112.3145(7)(f), Fla. Stat.

6. On June 9, 2021, the Commission issued an Order Finding Probable Cause to believe Respondent, as a local officer required to file financial disclosure, violated the law by willfully failing or refusing to file an annual CE Form 1 for the year 2017. §112.3145(9)(c), Fla. Stat. The finding of probable cause was based on the Commission's preliminary investigation and recommendation of the Commission's Advocate.

7. On September 2, 2020, the Commission received Respondent's 2017 CE Form 1, along with $1,500 for payment of the fine.

8. Respondent is entitled to an administrative hearing, pursuant to Section 120.57(1), Florida Statutes, to resolve disputed issues of material fact in this matter. An element of a willful failure to file violation requires Advocate to prove by clear and convincing evidence that Respondent is mandated by law to file financial disclosure by virtue of having purchasing authority exceeding the threshold amount provided for in §287.017 for category two ($20,000)[2] <u>or</u> because she is a "local officer" as defined in §112.3145(1)(a), Florida Statutes.

9. As the case was being prepared to forward to the Division of Administrative Hearings, Advocate sought a witness who could testify that Respondent possesses the requisite requirement to be a filer. Toward that end, Advocate spoke to Christopher Kokoruda, Miami-Dade County Assistant County Attorney, who advises the Public Health Trust on legal matters;

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[2] Florida Statutes (2017).

Eugene Shy Jr., Assistant County Attorney and Financial Disclosure Coordinator, who is the section chief of the Public Health Trust; Loressa Felix, Staff Attorney, Miami-Dade County Commission on Ethics and Public Trust; and Julie Staub, Chief Human Resources Officer, Jackson Health System.[3] After conducting their own investigations, no one could provide a reason why Respondent had to file financial disclosure.

10. Respondent's supervisor, Julie Staub, submitted a sworn affidavit attesting to Respondent's lack of spending authority and position in terms of meeting the definition of "local officer." (Exhibit A)

11. In conclusion, it was discovered that Respondent does not possess the requisite purchasing authority to be statutorily mandated to file a CE Form 1 nor does her employment position meet the definition of "local officer." Accordingly, Respondent is not required to file a CE Form 1, "Statement of Financial Interests."

12. Advocate requests this matter be dismissed for lack of jurisdicition and scheduled for consideration at the Commission's earliest convenience.

13. Respondent concurs with this motion.

WHEREFORE, the Advocate respectfully requests that this case be dismissed.

Respectfully submitted,

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
Telephone: (850) 414-3300, Ext. 3702
elizabeth.miller@myfloridalegal.com

[3] Advocate did not speak with Ms. Staub personally. Communication was in written form through Respondent's attorney, Mark Herron.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Motion was sent via e-mail only to Respondent's attorney, Mark Herron at Messer Caparello, P.A., 2618 Centennial Place, Tallahassee, Florida 32308, mherron@lawfla.com, on November 10th, 2022.

Elizabeth A. Miller

Elizabeth A. Miller

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

Complaint No. 20-241

IN RE: MICHELLE KLIGMAN,

Respondent.

Declaration of Julie Staub

State of Florida
County of Miami-Dade

BEFORE ME, the undersigned authority, personally appeared Julie Staub, who, upon first being duly sworn, deposes and say:

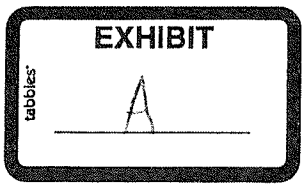
1. This declaration is made upon my personal knowledge.

2. I am of legal age and competent to testify to the matters stated herein.

3. I am currently employed by Jackson Health System as the Chief Human Resources Officer. The Jackson Health System is a nonprofit academic medical system in Miami-Dade County, governed by the Public Health Trust of Miami-Dade County

4. I have been advised of the current proceeding before the State Commission on Ethics against Michelle Kligman, in which the Commission found probable cause to believe that Ms. Kligman, as a local officer willfully failed or refused to timely file her 2017 Form 1 financial disclosure.

5. I am Ms. Kligman's supervisor.



6. I am aware that the "Source of Income Statement" form was sent out in 2018 to employees who were thought to be required to file a 2017 financial disclosure with Miami-Dade Commission on Ethics. Ms. Kligman did fill out the Source of Income Statement form that was e-mailed to her, and she filed timely with Miami-Dade Elections Department (see attached).

7. I was advised by Eugene Shy, County Attorney's Office, that the incorrect form was sent out to Jackson employees and the correct Form 1 Statement of Financial Interests needed to be filled out by a list of Jackson employees, who filled out the wrong form. This list was provided to me by the County Attorney's Office (see attached) and I was advised of those individuals who needed to re-file. Ms. Kligman was never on that list that was provided to me by the County Attorney's Office (see attached).

8. I was asked by Ms. Kligman to review why she was included on the list of names provided by the Miami-Dade County Public Health Trust to the Commission on Ethics of those individuals who are required to file Form 1 disclosures.

9. My review revealed that Ms. Kligman did not spend or approve any purchase over $20,000 pursuant to Section 112.3145(1)(a), and therefore would not have triggered the requirement to complete a state form 1, nor is she in a position listed in the Statute. Nor did Ms. Kligman have the specific authority to make any purchase over $20,000 during that same period.

UNDER PENALTIES OF PERJURY, I declare that I have read the foregoing document, and that the facts stated in it are true to the best of my knowledge and belief.

Signature Julie A Stans
Declarant

Name: Julie A Stans
Typed or Printed

Date: 11/8/22

MIAMI-DADE COUNTY

SOURCE OF INCOME STATEMENT

FD 4708

Section 2-11.1(i) of the County Ethics Code requires that certain employees, public officials, and consultants file a financial disclosure Statement on a yearly basis by July 1st of every year. For the last year of service, file SOI-F.

Disclosure for Tax Year Ending	Last Name (or, Consultant or Consulting Firm name)	First Name	Middle Name/Initial
2017	Kligman	Michelle	M

Mailing Address – Street Number, Street Name, or P.O. Box

[redacted]

City, State, Zip

[redacted]

If your home address is your mailing address, and your home address is exempt from public records pursuant to Fla. Stat. §119.07, read instructions on the following page and check here. ☐

Filing as an Employee (check one)

☐ County ☑ Public Health Trust ☐ Municipal: _____ (Municipality)

Department		
Human Resources		
Position or Title: Chief Experience Officer & VP of HR		Employee ID Number: 106819
Work address: 1611 NW 12 Avenue	Work telephone: (305) 585-7268	Employment began on/ended on: 12/2011Jackosn

Filing as (check one)

☐ County Board ☐ Municipal Board: _____ (Municipality) ☐ Consultant for County or Municipal Agency

Board where serving or name of County or Municipal Agency Consultant is providing professional services to

Alternate address (if home address is exempt)	Work telephone	Term began on/ended on

List below every source of income you received, along with the address and the principal activity of each source. Include your public salary. Place the sources of income in descending order, with the largest source first. Examples of sources of income include: compensation for services, income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, and social security payments. Also, include any source of income received by another person for your benefit. However, the income of your spouse or any business partner need not be disclosed. If continued on a separate sheet, check here. ☐

Name of Source of Income	Address	Description of the Principal Business Activity
Jackson Health System	1611 NW 12 Avenue	Health Care System

I hereby swear (or affirm) that the information above is a true and correct statement.

Michelle Kligman

Signature of Person Disclosing

5/16/2018

Date signed

RECEIVED BY ELECTIONS DEPARTMENT:
☑ Hardcopy
☐ Electronic Copy

RECEIVED
2018 MAY 21 PM 1:17
MIAMI-DADE ELECTIONS

OFFICE USE ONLY Accepted: Y / N Deficiency: Wrong form Processed Date/Initials: 5/22/18 Scanned Date/Initials: 5/23/18 BSC

138_SP-14 COE 2018

FD 4708

FORM 1 STATEMENT OF FINANCIAL INTERESTS 2017

Please print or type your name, mailing address, agency name, and position below:

LAST NAME – FIRST NAME – MIDDLE NAME:
Kligman, Michelle M

MAILING ADDRESS:
[redacted]

CITY: ZIP: COUNTY:
[redacted]

NAME OF AGENCY:
Jackson Health System

NAME OF OFFICE OR POSITION HELD OR SOUGHT:
Senior Vice President Human Resources, Chief Experience Officer

You are not limited to the space on the lines on this form. Attach additional sheets, if necessary.

CHECK ONLY IF ☐ CANDIDATE OR ☑ NEW EMPLOYEE OR APPOINTEE

FOR OFFICE USE ONLY:

247420
Processed by
COE

9-2-20

Processed Date: 9/3/20
Scanned Date:
Filing Status Code:

****** BOTH PARTS OF THIS SECTION MUST BE COMPLETED ******

DISCLOSURE PERIOD:
THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR THE PRECEDING TAX YEAR, WHETHER BASED ON A CALENDAR YEAR OR ON A FISCAL YEAR. PLEASE STATE BELOW WHETHER THIS STATEMENT IS FOR THE PRECEDING TAX YEAR ENDING EITHER (must check one):

☑ DECEMBER 31, 2017 OR ☐ SPECIFY TAX YEAR IF OTHER THAN THE CALENDAR YEAR:

MANNER OF CALCULATING REPORTABLE INTERESTS:
FILERS HAVE THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING (must check one):

☐ COMPARATIVE (PERCENTAGE) THRESHOLDS OR ☑ DOLLAR VALUE THRESHOLDS

PART A – PRIMARY SOURCES OF INCOME (Major sources of income to the reporting person - See Instructions)
(If you have nothing to report, write "none" or "n/a")

NAME OF SOURCE OF INCOME	SOURCE'S ADDRESS	DESCRIPTION OF THE SOURCE'S PRINCIPAL BUSINESS ACTIVITY
Jackson Health System	1611 NW 12 Avenue	Healthcare
	Miami, Florida 33136 Suite 108	

PART B – SECONDARY SOURCES OF INCOME
(Major customers, clients, and other sources of income to businesses owned by the reporting person - See Instructions)
(If you have nothing to report, write "none" or "n/a")

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
None			

PART C – REAL PROPERTY (Land, buildings owned by the reporting person - See Instructions)
(If you have nothing to report, write "none" or "n/a")

[redacted]

FILING INSTRUCTIONS for when and where to file this form are located at the bottom of page 2.

INSTRUCTIONS on who must file this form and how to fill it out begin on page 3.

(Continued on reverse side)

FD 4708

PART D — INTANGIBLE PERSONAL PROPERTY [Stocks, bonds, certificates of deposit, etc. - See Instructions]
(If you have nothing to report, write "none" or "n/a")

TYPE OF INTANGIBLE	BUSINESS ENTITY TO WHICH THE PROPERTY RELATES
457 (b)	AIR Retirement Services, PO Box 15648, Amarillo, TX 79105-5648
529	BlackRock, 701 Brickell Avenue, Suite 1250

PART E — LIABILITIES [Major debts - See Instructions]
(If you have nothing to report, write "none" or "n/a")

NAME OF CREDITOR	ADDRESS OF CREDITOR
Navient (Student Loan)	PO Box 9634 Wilkes-Barre, PA 18773-9635
Mr. Cooper Mortgage	PO Box 619098, Dallas, TX 75261

PART F — INTERESTS IN SPECIFIED BUSINESSES [Ownership or positions in certain types of businesses - See Instructions]
(If you have nothing to report, write "none" or "n/a")

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2
NAME OF BUSINESS ENTITY	None	
ADDRESS OF BUSINESS ENTITY		
PRINCIPAL BUSINESS ACTIVITY		
POSITION HELD WITH ENTITY		
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS		
NATURE OF MY OWNERSHIP INTEREST		

PART G — TRAINING
For elected municipal officers required to complete annual ethics training pursuant to section 112.3142, F.S.

☑ **I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.**

IF ANY OF PARTS A THROUGH G ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE ☐

SIGNATURE OF FILER:

Signature:

Michelle Kligman

Date Signed:

7/1/2017

CPA or ATTORNEY SIGNATURE ONLY

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, _____, prepared the CE Form 1 in accordance with Section 112.3145, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

CPA/Attorney Signature: _____

Date Signed: _____

FILING INSTRUCTIONS:

If you were mailed the form by the Commission on Ethics or a County Supervisor of Elections for your annual disclosure filing, return the form to that location. To determine what category your position falls under, see page 3 of instructions.

Local officers/employees file with the Supervisor of Elections of the county in which they permanently reside. (If you do not permanently reside in Florida, file with the Supervisor of the county where your agency has its headquarters.) Form 1 filers who file with the Supervisor of Elections may file by mail or email. Contact your Supervisor of Elections for the mailing address or email address to use. Do not email your form to the Commission on Ethics, it will be returned.

State officers or ***specified state employees*** who file with the Commission on Ethics may file by mail or email. To file by mail, send the completed form to P.O. Drawer 15709, Tallahassee, FL 32317-5709; physical address: 325 John Knox Rd, Bldg E, Ste 200, Tallahassee, FL 32303. To file with the Commission by email, scan your completed form and any attachments as a pdf (do not use any other format) and send it to CEForm1@leg.state.fl.us. Do not file by both mail and email. Choose only one filing method. Form 6s will not be accepted via email.

Candidates file this form together with their filing papers.

MULTIPLE FILING UNNECESSARY: A candidate who files a Form 1 with a qualifying officer is not required to file with the Commission or Supervisor of Elections.

WHEN TO FILE: ***Initially***, each local officer/employee, state officer, and specified state employee must file ***within 30 days*** of the date of his or her appointment or of the beginning of employment. Appointees who must be confirmed by the Senate must file prior to confirmation, even if that is less than 30 days from the date of their appointment.

Candidates must file at the same time they file their qualifying papers.

Thereafter, file by July 1 following each calendar year in which they hold their positions.

Finally, file a final disclosure form (Form 1F) within 60 days of leaving office or employment. Filing a CE Form 1F (Final Statement of Financial Interests) does not relieve the filer of filing a CE Form 1 if the filer was in his or her position on December 31, 2017.

CE FORM 1 - Effective: January 1, 2018.
Incorporated by reference in Rule 34-8.202(1), F.A.C.

Kligman, Michelle M

Sent: Wednesday, June 1, 2022 3:15 PM
To: Staub, Julie A
Subject: RE: File Wrong Forms

From: Staub, Julie A
Sent: Monday, August 6, 2018 12:39 PM
To: 'Shy, Eugene (CAO)' <Eugene.Shy@miamidade.gov>
Cc: Kligman, Michelle M <michelle.kligman@jhsmiami.org>
Subject: RE: File Wrong Forms

Yes, will do. Note that Jeremy Crowley is not an employee of Jackson. I noticed that Danny Junior is also on the original email below, so I am guessing he is an employee of MDCR. Thanks... Julie

From: Shy, Eugene (CAO) <Eugene.Shy@miamidade.gov>
Sent: Monday, August 6, 2018 12:33 PM
To: Staub, Julie A <julie.staub@jhsmiami.org>
Cc: Kligman, Michelle M <michelle.kligman@jhsmiami.org>
Subject: Fwd: File Wrong Forms

WARNING: This email originated outside of Jackson Health System. Do not click links or attachments unless you recognize the sender and know the content is safe.

Can you reach out to the Trust employees on the list below to immediately comply with the filing requirement as to Form?

Sent from my ShyPhone

Begin forwarded message:

> **From:** "Financial Disclosures (Elections)" <FINDISCELEC@miamidade.gov>
> **Date:** August 6, 2018 at 9:10:26 AM EDT
> **To:** "Shy, Eugene (CAO)" <Eugene.Shy@miamidade.gov>
> **Cc:** "Junior, Daniel (MDCR)" <Daniel.Junior@miamidade.gov>, "michelle.kligman@jhsmiami.org" <michelle.kligman@jhsmiami.org>, "Financial Disclosures (Elections)" <FINDISCELEC@miamidade.gov>
> **Subject: File Wrong Forms**
>
> Good afternoon,
>
> We need your help. The below individuals have filed the wrong financial disclosure forms with our office. The State Commission on Ethics has notified us that they have a state filing requirement.
>
> - Darryl Caulton (Source of Income)
> - Jeremy Crowley (Form 1F)
> - Carmen Fernandez (Source of Income)
> - Tony Gomez (Source of Income)
> - Ryan Hawkins (Source of Income)
> - David Zambrana (Source of Income

Please note, that we have already mailed them two separate packages, the first at the end of May and the second, certified, at the end of July. As part of the state filing requirement, you must file an originally signed and dated Form 1 Statement of Financial Interests with our office. A blank Form 1 may be found online at http://www.ethics.state.fl.us/Documents/Forms/Form%201_2017i.pdf?cp=201813.

If their Form 1 are not received by September 4, 2018, a fine of $25 for each day late will be imposed, up to a maximum penalty of $1,500. In addition, I will be required by law to notify the State of Florida Commission on Ethics of the delinquency. In addition, pursuant to enacted legislation, the Commission on Ethics must initiate investigations of delinquent filers, in certain circumstances. This can result in your removal from public office or employment. See Section 112.3145(8)(c), Florida Statues.

As such, please have them send their completed and signed financial disclosure form 1 via email to financial.disclosures@miamidade.gov so long as it is a legible scanned copy, or via postal mail to the Miami-Dade County Supervisor of Elections, Financial Disclosure Section, PO Box 521550, Miami, Florida 33152-1550.

In the meantime, if we may be of any further assistance, please feel free to contact our office.

Regards,

Financial Disclosure and Outside Employment
Miami Dade Elections Department
2700 NW 87TH Avenue
Miami, Florida 33173
305-499-8413-Office
financial.disclosures@miamidade.gov

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