REPORT OF INVESTIGATION

Complaint Number 20-241

NOTICE CONCERNING CONFIDENTIALITY

This report of investigation concerns an alleged violation of Chapter 112, Part III, Florida Statutes, or other breach of public trust under provisions of Article II, Section 8, Florida Constitution. The Report and any exhibits may be confidential (exempt from the public records law) pursuant to Section 112.324, Florida Statutes, and Chapter 34-5, F.A.C., the rules of the Commission on Ethics. Unless the Respondent has waived the confidentiality in writing, this report will remain confidential until one of the following occurs: (1) the complaint is dismissed by the Commission; (2) the Commission finds sufficient evidence to order a public hearing; or (3) the Commission orders a public report as a final disposition of the matter. *See Section 112.3215, Florida Statutes, regarding executive branch lobbying matters and confidentiality.

STATE OF FLORIDA
COMMISSION ON ETHICS
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

REPORT OF INVESTIGATION

TITLE: MICHELLE KLIGMAN
Senior Vice president - Human Resources and Chief Experience Officer
Jackson Health System
Miami-Dade County Public Health Trust
Miami, Florida

COMPLAINT NO.: 20-241
Exhibits A through C

INVESTIGATED BY: Kathleen Mann

Distribution: Commission on Ethics
Respondent
Advocate
File

Releasing Authority: C. Christopher Anderson, III
Executive Director

January 29, 2021
Date

* * * *

REPORT OF INVESTIGATION
COMPLAINT NO. 20-241

(1) The Respondent, Michelle M. Kligman, is employed as the Senior Vice President of Human Resources and Chief Experience Officer at Jackson Health System (Jackson Health), in Miami, Florida, a position requiring the annual filing of a "Statement of Financial Interests," (CE Form 1).

(2) The Respondent failed or refused to file a 2017 CE Form 1 within 60 days of September 4, 2018, the date automatic fines of $25 per day began to accrue under Section 112.3145(7)(f) [now Section 112.3145(8)(g)], Florida Statutes. As of November 3, 2018, the Respondent accrued the maximum fine ($1,500) authorized under Section 112.3145(7)(f) [now Section 112.3145(8)(g)], Florida Statutes.

(3) Pursuant to Section 112.3145(9)(c) [formerly Section 112.3145(8)(c)], Florida Statutes, the Commission on Ethics (Commission) is required to initiate an investigation of any public officer or employee who has accrued the maximum fine as a result of failing to file an annual statement of financial interests for any year in which he or she received notice from the Commission regarding the failure to file.

(4) According to the Miami-Dade County Supervisor of Elections (SOE), all correspondence pertaining the Respondent's 2017 CE Form 1 was mailed to the Respondent's residence located at 8950 Dickens Avenue, Surfside, Florida 33154 (Dickens Avenue).

(5) On May 21, 2018, from her Dickens Avenue address, the Respondent mailed, via USPS, a "Source of Income Statement" to the SOE, which was received by the SOE on May 21, 2018. On May 22, 2018, the SOE processed and marked it as "wrong form" under the "office use only" section at the bottom of the document.[1]

(6) On May 31, 2018, the SOE mailed the Respondent an initial filing packet containing a blank 2017 CE Form 1, to the Respondent's Dickens Avenue address. The filing packet also contained a Memorandum informing the Respondent of her requirement to file financial disclosure and advised her to submit her completed and signed 2017 CE Form 1 to the SOE by Monday, July 2, 2018.

(7) On July 30, 2018, the SOE mailed the Respondent a Notice of Delinquency Memorandum, via certified mail, to the Respondent's Dickens Avenue address. The mail was signed for, however, the signature was illegible. The Memorandum advised the Respondent of her filing requirement for the 2017 tax year, and included detailed information regarding her obligation to file, the deadline to file, and the subsequent grace period for filing financial disclosure. Additionally, the SOE packet included another blank 2017 CE Form 1 with instructions on how to file.

---

[1] "Source of Income Statement" is attached as composite Exhibit A, page one.

(8) On August 9, 2018, the SOE emailed the Respondent at michelle.kligman@jhsmiami.org, notifying her that she submitted the wrong financial disclosure form, informing her of her obligation to file financial disclosure and the deadline for the state filing requirement. The email warned the Respondent of potential fines if her CE Form 1 was not received by September 4, 2018.[2]

(9) The Respondent's attorney, Juan Carlos Planas, wrote in an email that the Respondent did not recall receiving the above-referenced August 9, 2018 email from the SOE. Mr. Planas wrote that the Respondent recalled the SOE informing Jackson Health of specific leaders that had filed the "incorrect form." However, Mr. Planas claims the Respondent was not one of the names specified in the notice.[3]

(10) The Respondent stated via telephone that she did not recall signing for or receiving any USPS correspondence from the SOE at her Dickens Avenue address. She said that she was not living at her Dickens Avenue residence when the SOE sent her its correspondence. She related that her Father passed away on October 10, 2017, and she subsequently separated from her husband, temporarily moving out of her Dickens Avenue home, to her parents' residence at 825 Brickell Bay Drive #646, Miami, Florida 33131. At the time of her father's death, and prior to her separation, she spent a lot of time going back and forth between the two residences. The Respondent remembered receiving a notice from the SOE at work. She said, "...at work we receive a notice, and there was a lot going on at the time, and I did not file it in on time, and so, I prepared it, I was going to file it...." She related that she did not want to make excuses, however, recalling events that occurred during this timeframe is difficult. She said she takes full responsibility for not filing her Form in a timely manner.

(11) On August 16, 2018, the Commission mailed the Respondent a "Courtesy Postcard," to her Dickens Avenue address, intended to remind her of her obligation to file a 2017 CE Form 1.

(12) On August 24, 2018, Commission staff member Staci France telephoned the Respondent and left a voicemail stating that the Commission had not received the Respondent's 2017 CE Form 1. Ms. France also emailed the Respondent at michelle.kligman@jhsmiami.org, alerting her that the Commission had not received her 2017 CE Form 1.

(13) On September 6, 2018, the Commission mailed the Respondent a "Courtesy Notice of Fines Accruing," informing her that an automatic fine of $25 per day was accruing. This correspondence was also sent to the Dickens Avenue address.

---

[2] The email is attached as composite Exhibit B. Please note that according to the SOE Records Custodian, Ramon Castellanos, the SOE archives emails after two years. The email attached is a "copy and paste" of the original email. A screen capture of the SOE database verified the email was logged into the system before it was archived.

[3] The Email from the Respondent's attorney is attached as Exhibit C.

(14) On April 18, 2019, the Commission levied a $1,500 fine against the Respondent.

(15) On April 18, 2019, the Commission mailed the Respondent a "Notice of Assessment of Automatic Fine," which contained instructions on how to appeal the fine. This was sent via certified mail to the Respondent's Dickens Avenue address.

(16) On May 23, 2019, the "Notice of Assessment of Automatic Fine," was returned to the Commission by the USPS, marked "unclaimed."

(17) On May 23, 2019, the Commission mailed the Respondent a "Final Notice of Assessment," to the Dickens Avenue address.

(18) The Respondent stated she never signed for nor received any of the Commission's correspondence, because, as previously noted in paragraph ten, she was not living at her Dickens Avenue home and she was going through a contentious divorce.

(19) On June 17, 2019, Commission records reflect that the Respondent telephoned Commission Program Administrator, Kimberly Holmes, and told Ms. Holmes the following: that her "ex-husband" contacted her about a letter from the Commission; that she was going through a divorce and was no longer living at her Dickens address; that she was traveling at the time of the telephone call; and that she would email the Commission her updated contact information so Ms. Holmes could send the Respondent a new Notice of Assessed Fine. Commission records further reflect that Ms. Holmes discussed appealing the fine with the Respondent.

(20) The Respondent remembered some of the above-mentioned conversation with Ms. Holmes and said she was at the airport travelling for work when they spoke. She asserted that Ms. Holmes said "email me the Form and you're fine." The Respondent did not remember discussing a $1,500 fine, or an appeal with Ms. Holmes, and added her overall impression was that Ms. Holmes was going to take care of everything once the Form was submitted. The Respondent said she emailed Ms. Holmes her completed Form that day. The Respondent was unable to provide any email communication evidencing that she emailed her Form to Ms. Holmes. Ms. Holmes reported that she did not receive an email from the Respondent that included an attached Form 1 nor did she receive an email wherein the language of the email indicated an attachment was being provided. Moreover, Ms. Holmes denied telling the Respondent that she would take care of everything. Ms. Holmes said she explained to the Respondent how to appeal the fine, and told the Respondent to either email or mail her Form 1 and the appeal form to the Commission, and provide an updated home address.

(21) Commission records further reflect that prior to, but on the same day of the Respondent's telephone conversation with Ms. Holmes on June 17, 2019, the Respondent sent Ms. Holmes an email asking for help in resolving the issue. The email read, "I believe that between my divorce and my assistant being terminated, somehow all of this got lost in the shuffle." "I have no problem coming into compliance and am eager to do so."

(22) On June 19, 2019, the Respondent sent an email to Ms. Holmes notifying her of an updated address and advising the Commission to send all Commission correspondence to her parents' address at 825 Brickell Bay Drive #646, Miami, FL 33131. The email contained no attachments.

On June 24, 2019, the Commission mailed the Respondent a (new or initial) certified "Notice of Assessment of Automatic Fine," to the updated Brickell Bay Drive address. Included in the correspondence was a blank 2017 CE Form 1 along with instructions on how to appeal the fine. The certified mail was received and signed for by Xiomara Rosell, on July 2, 2019. The Respondent confirmed that Xiomara Rosell is her step-mother. The Respondent did not recall receiving this notice.

(23) On September 25, 2019, the Commission mailed the Respondent a "Final Notice of Assessment of Automatic Fine," to the Brickell Bay Drive address. This letter informed the Respondent that the Commission had notified her on June 24, 2019, that her 2017 CE Form 1 had not been received, that she was assessed the maximum $1,500 fine, and that she had been given 30 days to either pay or appeal the fine.

(24) On December 11, 2019, the Commission mailed the Respondent a "Notification of Issuance of Default Final Order," to the Brickell Bay Drive address, a copy of which was furnished to Financial Disclosure Coordinator and Jackson Health Attorney, Eugene Shy.

(25) The Respondent did not recall receiving any of the Commission's correspondence sent to her Brickell Bay Drive address. She said, at some point, she moved back to her Dickens Avenue address, but does not recall exactly when. The Respondent remembers Ms. Rosell notifying her that she had set aside some mail, however, it took the Respondent a few weeks to pick up. The Respondent also claimed that Ms. Rosell suffers from health-related issues, and may have accidentally thrown away some of the mail.

(26) On February 10, 2020, Commission Staff member Diana Westberry emailed the Respondent at michelle.kligman@jhsmiami.org, informing her of the $1,500 fine that had accrued for her failure to timely file a 2017 CE Form 1. Ms. Westberry advised the Respondent in the email of how to pay the fine. The Respondent said she never received this email. She stated that she does not check her email every day, and that the email may have gone to her spam folder.

(27) On April 20, 2020, the Commission sent the Respondent a "Withholding of Salary" letter to her Brickell Bay Drive address.

(28) On September 1, 2020, at 4:38 p.m., Ms. Westberry emailed Attorney Shy requesting the name of someone she could contact in Payroll at the "Miami-Dade County Public Health Trust-Employees" in order to expedite the withholding of the Respondent's salary.

(29) On September 1, 2020, at 4:57 p.m., Attorney Shy emailed the Respondent asking her if she had time to talk. Mr. Shy stated via telephone that he called the Respondent to notify

her that he had received an email from Ms. Westberry, and said he explained to the Respondent that she needed to submit her 2017 CE Form 1 to the Commission.

(30) On September 1, 2020, at 6:39 p.m., the Respondent emailed and telephoned Ms. Westberry, asking Ms. Westberry to return her call.

(31) On September 2, 2020, the Commission received the Respondent's 2017 CE Form 1, and the Respondent's payment of the assessed $1,500 fine.

(32) Commission records reflect that the Respondent has filed a CE Form 1 since 2012. She was initially required to file as an elected official in Surfside, Florida, and, in 2014, she began filing financial disclosure as a public employee. In 2013, the Respondent was assessed a $325 fine for late filing, and paid the fine. In 2015, the Respondent was assessed a $300 fine, and, on March 20, 2017, she appealed it, citing lack of notification. The Commission issued a Final Order on June 15, 2017, waiving the fine. Commission records indicate that all communication regarding the Respondent's 2015 appeal was handled by the Respondent's then-office assistant, Lizette Herrera.

END OF REPORT OF PRELIMINARY INVESTIGATION

EXHIBIT A

EXHIBIT A

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
8950 Dickens Avenue

City, State, Zip
Surfside, Florida 33154

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	Employee ID Number
Chief Experience Officer & VP of HR	106819

Work address	Work telephone	Employment began on/ended on
1611 NW 12 Avenue	(305) 585-7268	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

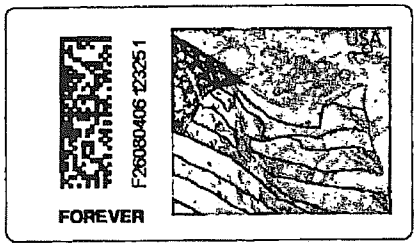
RECEIVED BY ELECTIONS DEPARTMENT:
☑ Hardcopy
☐ Electronic Copy
MIAMI-DADE ELECTIONS
2018 MAY 21 PM 1:17
RECEIVED

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

138_SP-14 COE 2018

A1

Michelle Kligman
8950 Dickens Avenue
Surfside, Florida 33154
FD 4768



A2

Miami-Dade Elections Department
Attention: Financial Disclosure Section
2700 NW 87 Avenue
Miami, Florida 33172

RECEIVED
2010 MAY 21 PM 1:17
MIAMI-DADE
ELECTIONS

EXHIBIT B

EXHIBIT B

From: Financial Disclosures (Elections) [mailto:FINDISCELEC@miamidade.gov]

Sent: Thursday, August 09, 2018 2:07 PM

To: michelle.kligman@jhsmiami.org

Subject: Wrong Form

Good afternoon,

Our record show that you have filed the wrong financial disclosure forms with our office. The State Commission on Ethics has notified us that you have a state filing requirement.

Please note, that we have already mailed you 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

Mann, Kathleen

From: Castellanos, Ramon (Elections) <Ramon.Castellanos2@miamidade.gov>
Sent: Thursday, January 21, 2021 9:57 AM
To: Mann, Kathleen
Cc: Records Request (Elections); Castellanos, Ramon (Elections)
Subject: RE: Michelle Kligman 2017 CE Form 1

Hi Kathleen,

Per our phone conversation, please see below screenshot from our financial disclosure database.

FINANCIAL DISCLOSURE APPLICATION Welcor

Home | Administration | Transactions | Reports | Utilities | Outside Employment | DPR Re

Communication Maintenance

Communication Type Email
Date 8/9/2018 12:00:00 AM

Comments

```
From: Financial Disclosures (Elections) [mailto:FINDISCELEC@miamidade.
Sent: Thursday, August 09, 2018 2:07 PM
To: michelle.kligman@jhsmiami.org
Subject: Wrong Form

Good afternoon,

Our record show that you have filed the wrong financial disclosure for
office. The State Commission on Ethics has notified us that you have a
requirement.
```

Added by CBOFILL
Added on 9/18/2018 8:29:29 AM
Updated by
Updated on

Save | Exit

Regards,

Ramon Castellanos, Records Custodian
Government Affairs and Media Relations Division
Miami-Dade County Elections Department
2700 NW 87th Avenue
Miami, Florida 33172
Office 305-499-8541

EXHIBIT C

EXHIBIT C

Mann, Kathleen

From: Juan-Carlos Planas <jcplanas@planaslawfirm.com>
Sent: Thursday, January 21, 2021 12:45 PM
To: Mann, Kathleen
Subject: Re: Follow-up interview questions for Michelle Kligman

Ms. Mann:

I have spoken to my client. She does not recall getting that particular email.
She does recall an email from Miami Dade elections informing Jackson of specific leaders that had incorrectly filed the incorrect form, however she was not one of the names specified in the notice.

On Thu, Jan 14, 2021 at 1:19 PM Mann, Kathleen <Mann.Kathleen@leg.state.fl.us> wrote:

Hi Mr. Planas,

I have one more question for Ms. Kligman - please refer to the attached email from the Miami-Dade County Supervisor of Elections, Financial Disclosure Section dated Thursday, August 9, 2018.

Does Ms. Kligman recall receiving this email? How did she respond to it?

Kind Regards,

Kathleen Mann

Ethics Investigator

Florida Commission on Ethics

P.O. Drawer 15709

Tallahassee, FL 32317-5709

(850) 717-0265

Mann.Kathleen@leg.state.fl.us