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BEFORE THE  
STATE OF FLORIDA  
COMMISSION ON ETHICS

COMMISSION ON ETHICS

CONFIDENTIAL

In re TRACIE DAVIS,

Complaint No. 21-159

Respondent.

DETERMINATION OF INVESTIGATIVE JURISDICTION  
AND ORDER TO INVESTIGATE

UPON REVIEW of this complaint, I find as follows:

1. This complaint was filed by David Hodges of Jacksonville, Florida.
2. The Respondent, Tracie Davis, currently serves as a member of the Florida House of Representatives.
3. The complaint concerns the filing of Respondent's 2020 CE Form 6, Full and Public Disclosure of Financial Interests. The complaint alleges that the Respondent, failed to disclose her net worth as of December 31, 2020, or a more recent date. According to the complaint, Respondent disclosed her net worth on her 2020 CE Form 6 as of July 1, 2020. This indicates violation of Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes.<sup>1</sup>

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<sup>1</sup> The complaint makes other allegations that are insufficient for investigation. First, the complaint alleges that the Respondent did not list the car she uses as an asset on her 2020 CE Form 6, but acknowledges she does not own the car. Because she does not own the car—according to the complaint, a corporation does—Respondent's failure to disclose it as an asset is not a basis for investigation. In the same allegation, the complaint postulated that if the vehicle was not her asset, then her use of it must be a disclosable gift under Section 112.3148, Florida Statutes. Documents submitted with the complaint indicate that the ownership of the car is shared by Respondent's husband and Respondent's husband's business. Gifts from relatives, among which spouses are included, can be accepted in any amount and their disclosure is not required. See Section 112.3148(8)(a)1., Florida Statutes. Given that Respondent's use of the car was given to her by her spouse, she may accept that gift and need not include it in a gift disclosure. We also note that Respondent's use of the State Legislator's Vehicle Tag on a vehicle that she, a State legislator, actually drives does not implicate the Code of Ethics for Public Officers and Employees. Second, the complaint alleges that she did not disclose "State of Florida retirement income" on her 2020 CE Form 6 as she had listed on previous years' forms. While it should be noted that Respondent has never disclosed her State retirement as income, only as an asset (likely because she is not retired), the fact that Respondent's 2020 CE Form 6 and 2019 CE Form 6 treat the retirement account differently, without a statement of fact from Complainant that the retirement account exists, that it meets or exceeds disclosure thresholds, and that it was improperly omitted from the 2020 filing, is not a legally sufficient basis for the initiation of an investigation. At present, the complaint merely implies that there was no change in circumstances between the 2019 filing and the 2020 filing to warrant the retirement account's disclosure one year and

WHEREFORE staff of the Commission on Ethics shall conduct a preliminary investigation of this complaint for a probable cause determination of whether the Respondent has violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, as set forth in paragraph 3, above.<sup>2</sup>

November 30, 2021  
Date

Kerrie J. Stillman  
Kerrie J. Stillman  
Executive Director

KJS/sjz

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its omission the next, without stating a basis in fact for that implication, and, for that matter, the complaint impliedly assumes that the asset was properly disclosed in the first place on the 2019 CE Form 6 (i.e., that it was not an over-disclosure). See CEO 11-11 and CEO 12-10. The complaint process is not designed to serve as a general review or audit function for disclosure filings. Complainant's doubt or skepticism about the accuracy or veracity of a filing, a value figure, or an income description, is not enough to invoke the Commission's investigative jurisdiction absent any factual allegations that the disclosure was required. Third, the complaint alleges that Respondent did not disclose credit card debt on her 2020 CE Form 6 as she had in the past financial disclosure filings. Credit card debt is exempt from disclosure as a liability and, therefore, is not required to be disclosed. See "Instructions for Completing Form 6," 2020 CE Form 6. Lastly, Complainant questions how Complainant experienced a positive change in net worth without a change in income. It is a basic principle of accounting or budgeting that a change in income is not necessary to experience a change in net worth. As noted above, Complainant's doubt or skepticism about the accuracy or veracity of a filing, a value figure, or an income description, is not enough to invoke the Commission's investigative jurisdiction absent any factual allegations that the disclosure was required.

<sup>2</sup> The allegation is not immaterial, inconsequential, or *de minimis* because, if true, it could constitute failure to disclose information required to be disclosed by the Constitution and statutes.