

APR 24 2026

BEFORE THE  
STATE OF FLORIDA  
COMMISSION ON ETHICS

COMMISSION ON ETHICS

CONFIDENTIAL

In re JANETTE MARTINEZ,

Respondent.

Complaint No. 26-127

## PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, June 5, 2026, the Commission on Ethics met in executive session and considered this complaint for legal sufficiency pursuant to Commission Rule 34-5.002, F.A.C. The Commission's review was limited to questions of jurisdiction of the Commission and of the adequacy of the details of the complaint to allege a violation of the Code of Ethics for Public Officers and Employees. No factual investigation preceded the review, and therefore the Commission's conclusions do not reflect on the accuracy of the allegations of the complaint.

The Commission voted to dismiss the complaint for lack of legal sufficiency, based on the following analysis:

1. This complaint was filed by Eva Jacquelyn ("Jackie") Espinosa of Kissimmee, Florida.
2. The Respondent, Janette Martinez, allegedly serves as a City Commissioner of Kissimmee, Florida.
3. The complaint alleges Respondent used her official City of Kissimmee email account to request the City's active procurement and vendor list. The complaint alleges that after receiving the City's vendor list on her City email account, Respondent forwarded the list to her personal business email address. The complaint contends this raises concerns regarding the risk

that Respondent may use such information outside official City purposes, although it states the Complainant does not "allege or presume" what that specific risk might be.

4. The Commission on Ethics has jurisdiction to investigate only those allegations "based upon personal knowledge or information other than hearsay." See Section 112.324(1)(a), Florida Statutes (requiring an allegation to be based on personal knowledge or information other than hearsay to be legally sufficient for investigation). The allegations in paragraph 3 appear to be based on personal knowledge or information other than hearsay, as Complainant included the forwarded email and the attached vendor list at issue. Although hearsay, this email and the vendor list attached to it would both likely be admissible under the "Public Records and Reports" hearsay exception found in Section 90.803(8), Florida Statutes.<sup>1</sup> However, even accepting the allegations as true, they do not provide a legally sufficient basis for investigation as explained below.

5. Section 112.313(6), Florida Statutes, is the only statutory prohibition over which the Commission has jurisdiction that is relevant to the allegations in the complaint. Section 112.313(6) states:

MISUSE OF PUBLIC POSITION.--No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others.

Pursuant to Section 112.312(9), Florida Statutes, "corruptly" is defined as:

. . . done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant

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<sup>1</sup> Rule 34-5.002(2)(a)2. of the Florida Administrative Code states an allegation in an ethics complaint will be considered based on information other than hearsay so long as the evidence supporting the allegation is hearsay that is, or likely would be, admissible under Section 90.801 through 90.805, Florida Statutes. See also Florida Elections Commission v. Valliere, 45 So.3d 506 (Fla. 4<sup>th</sup> DCA 2010).

which is inconsistent with the proper performance of his or her public duties.

To indicate a possible violation of the statute, a complaint must allege, in a factual, substantive, nonconclusory manner that a respondent corruptly used or attempted to use her public position or resources within her public trust, or that she corruptly performed her official duties, in order to specially benefit herself or another; it is not enough that a detriment to a complainant or another is alleged.

6. The complaint substantively fails to indicate a possible violation of Section 112.313(6). Here, it appears from the attached email that Respondent made a records request for the list to the City Manager. There is no indication in the complaint that the vendor list was confidential. And Respondent did not obtain any "special benefit" contemplated by the statute by the mere act of forwarding a public record obtained through proper means to her personal email address. As such, it does not appear Respondent misused her public position to obtain a special benefit for herself. Further, the concern raised regarding the risk that Respondent may use such information outside of official City purposes is speculative in nature. For these reasons, the allegations in the complaint do not form a sufficient basis to initiate an investigation under Section 112.313(6).

7. The complaint also raises concerns about Section 112.313(8), Florida Statutes (Disclosure or Use of Certain Information). However, to indicate a violation of the statute, a Complainant must not only allege that a Respondent used information not available to the general public, but also that the information was used for a particular benefit. Here, there is no allegation that the vendor list is unavailable to the public. Page 3 of the complaint even acknowledges the list is "potentially subject to [the] public records/laws." Complainant also fails to allege any non-speculative benefit that Respondent derived from obtaining information that would be available to

any other member of the general public who requested it. As such, the allegations in the complaint cannot form the basis of an investigation into Respondent under Section 112.313(8).

8. We also find the allegations in paragraph 3, above, cannot constitute a violation of the prohibition currently found in Article II, Section 8(h)(2) of the State Constitution because, even if accepted as true, 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 she is an officer, partner, director, or proprietor, or in which she owns an interest, as would be needed to constitute a violation of the constitutional prohibition.

Accordingly, this complaint is hereby dismissed for failure to constitute a legally sufficient complaint with the issuance of this public report.

ORDERED by the State of Florida Commission on Ethics meeting in executive session on Friday, June 5, 2026.

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Date Rendered

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Jon M. Philipson  
*Chair, Florida Commission on Ethics*

JMP/aln

cc: Ms. Janette Martinez, Respondent  
Ms. Eva Jacquelyn ("Jackie") Espinosa, Complainant