

JAN 19 2022

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**BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS**

CONFIDENTIAL

In re: Cynthia Stuart,

Respondent.

Complaint No. 21-162

ADVOCATE'S RECOMMENDATION

The undersigned Advocate, after reviewing the Complaint and Report of Investigation filed in this matter, submits this Recommendation in accordance with Rule 34-5.006(3), F.A.C.

RESPONDENT/COMPLAINANT

Respondent, Cynthia Stuart, was a candidate for and is the Clerk of the Court for Hillsborough County. Complainant is Jason Ferger of Valrico, Florida.

JURISDICTION

The Executive Director of the Commission on Ethics determined that the Complaint was legally sufficient and ordered a preliminary investigation for a probable cause determination as to whether Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes. The Commission on Ethics has jurisdiction over this matter pursuant to Section 112.322, Florida Statutes.

The Report of Investigation was released on January 7, 2022.

ALLEGATION ONE

Respondent is alleged to have violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, by filing an inaccurate 2019 CE Form 6, “Full and Public Disclosure of Financial Interests.”

APPLICABLE LAW

Article II, Section 8 Florida Constitution provides:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

* * *

(i) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the secretary of state by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

* * *

Section 112.3144(1), Florida Statutes, provides as follows

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics.

* * *

ANALYSIS

On June 9, 2020, Respondent filed her 2019 CE Form 6, “Full and Public Disclosure of Financial Interests.” (ROI 45, Complaint 8-9) On June 28, 2021, Respondent filed her 2020 CE Form 6. (ROI 5, Complaint 4-5)

The relevant CE Form 6 instructions, under the category of “ASSETS INDIVIDUALLY VALUED AT MORE THAN \$1,000,” specify “Note that the product *contained* in a brokerage

account, IRA, or the Florida College Investment Plan, is your asset-not the account or plan itself.”

[Emphasis in original.] (ROI 4) On both forms, Respondent listed the total value of her “Northwest Mutual Investment Services” account but failed to itemize any investment products contained within the account. (ROI 4, Complaint 4, 8)

Respondent confirmed that the aforementioned account is an IRA account that held investment products during 2019 and 2020 that exceeded \$1,000 and should have been disclosed. (ROI 6) Respondent advised that she planned to amend her disclosures but had not as of the date of the Report of Investigation. (ROI 6)

Therefore, based on the evidence before the Commission, I recommend that the Commission find probable cause to believe that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes.

ALLEGATION TWO

Respondent is alleged to have violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, by filing an inaccurate 2020 CE Form 6, “Full and Public Disclosure of Financial Interests.”

APPLICABLE LAW

Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, as set forth under Allegation One, above.

ANALYSIS

The underlying facts and circumstances relating to this allegation are contained above in Allegation One. See the Analysis in Allegation One.

Therefore, based on the evidence before the Commission, I recommend that the Commission find probable cause to believe that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes.

RECOMMENDATION

It is my recommendation that:

1. There is probable cause to believe that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, by filing an inaccurate 2019 CE Form 6, "Full and Public Disclosure of Financial Interests."
2. There is probable cause to believe that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, by filing an inaccurate 2020 CE Form 6, "Full and Public Disclosure of Financial Interests."

Respectfully submitted this 19th day of January, 2022.


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