

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

COMMISSION ON ETHICS
DATE RECEIVED
APR 26 02

IN RE: MORRIS MICHAEL "MIKE")
SCIONTI,)
)
Respondent.)

Case No. 01-1439EC
COE - 99-040

ORDER DECLINING REMAND

By Order of Remand to the Division of Administrative Hearings dated March 22, 2002, the State of Florida, Commission on Ethics ("Commission") remanded the portion of the Recommended Order in this matter containing Conclusion of Law 49, which determined that particular acts of Respondent were not done corruptly, as defined in Subsection 112.312(9), Florida Statutes.

The Order of Remand advises that the Advocate argues that the term "corruptly" was misinterpreted and misapplied and that the definition is a matter of law over which the Commission has substantive jurisdiction. The Order of Remand further advises that Respondent asserts that there was no evidence to establish that Respondent intentionally submitted inaccurate information, and that was the basis for the conclusion that Respondent did not act "corruptly."

The Order of Remand directed the undersigned to enter "an order explaining the Conclusion of Law"

It is unnecessary to further explain the questioned Conclusion of Law. Under Subsection 120.57(1)(j), Florida Statutes, the Commission "may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction." The Commission clearly has the authority to reject or modify the Conclusion of Law which determined that Respondent's actions were not corrupt as defined in Subsection 112.312(9), Florida Statutes. Donato v. American Telephone & Telegraph Company, 767 So. 2d 1146, 1153 (Fla. 2000); Velez v. Commission on Ethics, 739 So. 2d 686, 687 (Fla. 5th DCA 1999); Goin v. Commission on Ethics, 658 So. 2d 1131, 1138 (Fla. 1st DCA 1995); Mansota 88, Inc. v. Tremor, 545 So. 2d 439, 441 (Fla. 2nd DCA 1989).

Based on the foregoing, it is respectfully

ORDERED that:

1. The Order of Remand to the Division of Administrative Hearings is declined.

2. Jurisdiction of this matter is hereby returned to the Commission for further proceedings.

DONE AND ORDERED this 24th day of April, 2002, in Tallahassee, Leon County, Florida.



JEFF B. CLARK
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of April, 2002.

COPIES FURNISHED:

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State of Florida
Division of Administrative Hearings

COMMISSION ON ETHICS

APR 25 02

RECEIVED
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Sharyn L. Smith
Director and Chief Judge
Ann Cole
Clerk of the Division



April 24, 2002

Kaye Starling
Commission on Ethics
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Re: IN RE: MORRIS MICHAEL "MIKE" SCIONTI, DOAH Case
No. 01-1439EC

Dear Ms. Starling:

Enclosed please find the Order Declining Remand and the following materials relating to this proceeding: the Order of Remand to the Division of Administrative Hearings, the Complaint, the Complaint Amendment, the Order to Investigate, the Report of Investigation, the Special Advocate's Recommendation, the Order Finding Probable Cause, the Advocate's Proposed Recommended Order, the DOAH Recommended Order, Respondent's Exceptions, Respondent's Recommended Proposed Findings of Fact and Conclusions of Law, the Advocate's Exceptions to Recommended Order, Respondent's Response to Advocate's Exceptions to Recommended Order, and the Staff Recommended Final Order and Public Report. Also included are Petitioner's Exhibits 1-4, 7, 20, 21, 25-27, 29-34, 36, 41, 50, 57, 62, 67, 84, 87, 88, 90, 91, 105, and 107-108, Respondent's Exhibit numbered 1, and the four-volume Transcript of the DOAH proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff B. Clark".

JEFF B. CLARK
Administrative Law Judge

JBC/gl

Enclosures

cc: Joseph Donnelly, Esquire
Julie A. Reynolds, Esquire