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BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re DAPHNE CAMPBELL,)	Complaint No. 18-090
)	DOAH Case No. 21-1192EC
Respondent.)	Final Order No. 22-010
)	
_____)	

FINAL ORDER AND PUBLIC REPORT

This matter came before the State of Florida Commission on Ethics ("Commission"), meeting in public session on March 4, 2022, on the Recommended Order ("RO") of an Administrative Law Judge ("ALJ") of the Division of Administrative Hearings ("DOAH") rendered on November 19, 2021.

Background

This matter began with the filing in 2018 of an ethics complaint against the Respondent. By order dated July 19, 2018, the Executive Director of the Commission on Ethics determined that the complaint was legally sufficient to indicate possible violation of Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, by the Respondent, by failing to make accurate disclosures on her 2017 CE Form 6, Full and Public Disclosure of Financial Interests, as to her assets, liabilities, and net worth; and by failing to disclose liabilities on her 2011, 2013, and 2015 CE Form 6 filings, and ordered that the complaint be investigated. The complaint was investigated and a written Report of Investigation ("ROI"), dated January 29, 2019, was entered. In her amended recommendation, dated March 11, 2019, the Commission's Advocate recommended that the Commission find probable cause under Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, that the Respondent submitted an inaccurate

CE Form 6 for the years 2013, 2015, and 2017. By its order dated July 31, 2019, the Commission found probable cause under Article II, Section 8, Florida Constitution, and Section 112.3144, to believe that the Respondent filed an inaccurate 2013, 2015, and 2017, CE Form 6, Full and Public Disclosure of Financial Interests. On April 1, 2021, the matter was forwarded to DOAH for a hearing before an ALJ. A Final Hearing was held on August 11, 2021, before the ALJ. On November 19, 2021, the ALJ issued an RO recommending that the Commission enter a final order finding that Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, on three separate occasions (i.e., 2013, 2015, and 2017). Following issuance of the RO, the Advocate and the Respondent timely filed exceptions to it. Thereafter, the Advocate responded timely, in writing, to the Respondent's exceptions. Both Respondent and Advocate were notified of the date, time, and place of the Commission's final consideration of this matter, and both were given the opportunity to make argument during the Commission's consideration.

Standards of Review

Pursuant to Section 120.57(1)(l), Florida Statutes, an agency may not reject or modify findings of fact made by an ALJ unless a review of the entire record demonstrates that the findings were not based on competent, substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. See, e.g., Freeze v. Department of Business Regulation, 556 So. 2d 1204 (Fla. 5th DCA 1990), and Florida Department of Corrections v. Bradley, 510 So. 2d 1122 (Fla. 1st DCA 1987). "Competent, substantial evidence" has been defined by the Florida Supreme Court as such evidence as is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusions reached." DeGroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957).

The agency may not reweigh the evidence, may not resolve conflicts in the evidence, and may not judge the credibility of witnesses, because such evidential matters are within the sole province of the ALJ. Heifetz v. Department of Business Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). Consequently, if the record of the DOAH proceedings discloses any competent, substantial evidence to support a finding of fact made by the ALJ, the Commission on Ethics is bound by that finding.

However, under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law over which it has substantive jurisdiction and the interpretations of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion or interpretation and must make a finding that its substituted conclusion or interpretation is as or more reasonable than that which was rejected or modified.

An agency may accept a hearing officer's findings of fact and conclusions of law yet still reject the recommended penalty and substitute an increased or decreased recommended penalty. Criminal Justice Standards and Training Comm'n v. Bradley, 596 So. 2d 661, 664 (Fla. 1992). Under Section 120.57(1)(l), Florida Statutes, an agency may reduce or increase the recommended penalty only upon a review of the complete record, stating with particularity the agency's reasons for reducing or increasing the recommended penalty, and citing to the record in support of its action.

Having reviewed the RO, the complete record of the proceeding, the Advocate's exceptions, the Respondent's exceptions, and having heard the arguments of the Advocate and the

Respondent, the Commission on Ethics makes the following rulings, findings, conclusions, and disposition:

Ruling on Advocate's Exceptions

The Advocate timely filed four exceptions. Each will be treated below via numbering corresponding to that in the exceptions.

1. In Advocate's Exception One, the Advocate takes issue with Findings of Fact paragraph 4, on page 3 of the RO, which provides:

4. Respondent served in the Florida Senate on behalf of District 28, from 2016 through 2018.

The Advocate argues that paragraph 4 contains a scrivener's error in that it indicates that the Respondent served on behalf of District 28 when, in fact, she served on behalf of District 38. The Advocate argues that the Respondent's service in District 38 is evidenced by Respondent's stipulation of her service in District 38 in the Joint Prehearing Stipulation and in Findings of Fact paragraph 3 which provides "Respondent was a candidate for the Florida Senate, District 38, in 2016."

This exception is granted. In granting this exception we strike the reference to District 28 and correct the citation contained in paragraph 4, page 3 of the RO, to reflect that the Respondent served on behalf of District 38. This makes clear the facts underpinning the Respondent's service in the Florida Senate on behalf of District 38 for which there is competent, substantial evidence contained within the record.

2. In Advocate's Exception Two, the Advocate takes issue with paragraph 5, page 3 of the RO, which provides:

5. Respondent was a candidate for the Florida Senate, District 28, in 2018.

The Advocate argues that Finding of Fact paragraph 5 contains a scrivener's error in that it indicates that the Respondent was a candidate for District 28 when, in fact, she was a candidate for District 38. The Advocate argues that the Respondent's candidacy in District 38 is evidenced by Respondent's stipulation of her candidacy in District 38 in the Joint Prehearing Stipulation and in Findings of Fact paragraph 3 which provides "Respondent was a candidate for the Florida Senate, District 38, in 2016."

This exception is granted. In granting this exception we strike the reference to District 28 and correct the citation contained in paragraph 5, page 3 of the RO, to reflect that the Respondent was a candidate for District 38. This makes clear the facts underpinning the Respondent's candidacy for the Florida Senate on behalf of District 38 for which there is competent, substantial evidence contained within the record.

3. In Advocate's Exception Three, the Advocate takes issue with Conclusions of Law paragraph 71, page 14 of the RO, which provides:

71. Respondent's 2015 Form 6 was inaccurate because she failed to disclose a mortgage note and a federal tax lien, both of which should have been included in the calculation of her net worth. Accordingly, Respondent did not file a full and public disclosure of her financial interests with respect to her 2015 Form 6, in violation of Article II, Section 8 and section 112.3144. The Commission proved the violation by clear and convincing evidence.

The Advocate argues that the Conclusion of Law contained in paragraph 71 is missing the liability, "a code enforcement lien," that Respondent failed to include on her 2015 Form 6 filing. The Advocate asserts that the evidence in the record reflects that the code enforcement lien should have been included in the Conclusion of Law contained in paragraph 71. In support of this argument, the Advocate cites to the Findings of Fact contained in paragraphs 37 and 38 of the RO which provide:

37. The code enforcement lien against Respondent's Miami Property remained unsatisfied at the time of the final hearing in this case. Accordingly, the lien should have been reported as a liability on Respondent's 2015 Form 6.

38. Respondent did not disclose the code enforcement lien as a liability on her 2015 Form 6.

The Advocate argues that Findings of Fact paragraphs 37 and 38 present a factual basis to include "code enforcement lien" as a reportable liability that Respondent failed to disclose on her 2015 Form 6.

This exception is granted. To the extent that the ALJ concluded in Findings of Fact paragraphs 37 and 38 of the RO that the code enforcement lien against the Respondent's Miami Property remained unsatisfied at all times relevant to the 2015 Form 6 disclosure and that Respondent did not disclose the code enforcement lien as a liability on her 2015 Form 6 filing, these Findings of Fact provide an evidentiary basis to support the inclusion of the "code enforcement lien" in Conclusions of Law paragraph 71 as a reportable liability that Respondent failed to disclose on her 2015 Form 6 filing. In granting this exception we find that our view of the law is as or more reasonable than that of the ALJ.

4. In Advocate's Exception Four, the Advocate takes issue with Conclusions of Law paragraph 72, page 14 of the RO, which provides:

72. Respondent's 2017 Form 6 was inaccurate because she failed to disclose a construction lien, which was a reportable liability; and a federal tax lien, which should have been included in the calculation of her net worth. Further, Respondent disclosed property as an asset that was not in her name on the reporting date. Accordingly, Respondent did not file a full and public disclosure of her financial interests with respect to her 2017 Form 6, in violation of Article II, Section 8 and section 112.3144. The Commission proved the violation by clear and convincing evidence.

The Advocate argues that the Conclusions of Law paragraph 72 failed to include the liability, "a code enforcement lien," that Respondent failed to include on her 2017 CE Form 6. The Advocate asserts that the evidence in the record, and in particular, the Findings of Fact, paragraphs 44 and 45, reflect that the code enforcement lien should have been included in the Conclusions of Law paragraph 72. Findings of Fact, paragraphs 44 and 45, provide:

44. The code enforcement lien against Respondent's Miami Property remained unsatisfied at the time of the final hearing in this case. Accordingly, the lien should have been reported as a liability on Respondent's 2017 Form 6.

45. Respondent did not disclose the code enforcement lien as a liability on her 2017 Form 6.

Advocate argues that Findings of Fact paragraphs 44 and 45 present an evidentiary basis to include "code enforcement lien" as a reportable liability that Respondent failed to disclose on her 2017 Form 6.

This exception is granted. To the extent that the ALJ concluded in Findings of Fact paragraphs 44 and 45 of the RO that the code enforcement lien against the Respondent's Miami Property remained unsatisfied at all times relevant to the Respondent's 2017 Form 6 disclosure and that Respondent did not disclose the code enforcement lien as a liability on her 2017 Form 6, these Findings of Fact provide an evidentiary basis to support the inclusion of the "code enforcement lien" in Conclusions of Law paragraph 72 as a reportable liability that Respondent failed to disclose on her 2017 Form 6 filing. In granting this exception we find that our view of the law is as or more reasonable than that of the ALJ.

Ruling on Respondent's Exceptions

Respondent timely filed eleven exceptions. Each will be treated below via numbering corresponding to that in the exceptions.

1. In Respondent's Exception One, the Respondent takes exception to, and asks the Commission to decline to adopt, the entire RO. In support of this exception the Respondent offers no argument or evidentiary support.

The Commission rejects this exception which fails to adhere to the basic pleading requirements set forth in Section 120.57(1)(k), Florida Statutes, which require each exception to clearly identify the disputed portion of the recommended order by page number or paragraph, identify the legal basis for the exception, and include appropriate and specific citations to the record. The RO is based on competent substantial evidence as to its factual findings, is a correct statement of applicable law, and is based on proceedings which complied with essential requirements of law.

2. In Respondent's Exception Two, the Respondent takes exception to Findings of Fact paragraphs 4 and 5, page 3 of the RO, which Respondent alleges contain scrivener's errors insomuch as the Respondent was a candidate and served in the Florida Senate on behalf of District 38, not 28. This exception is granted for the reasons set forth above with respect to Advocate's Exceptions One and Two, and our reasoning and language above is adopted herein and incorporated by reference.

3. In Respondent's Exception Three, the Respondent takes exception to Findings of Fact paragraphs 18 and 36, contained on RO pages 5 and 8, respectively. Respondent argues that there is a lack of credible evidence to prove that Respondent should have known that the bail bond mortgage note had to be included as a liability, although it had not defaulted nor had a judgment been issued.

Paragraphs 18 and 36 of the RO provide:

18. When applying the clear instructions on the face of the Form 6 to the equally clear terms of the mortgage note, it is decidedly obvious that the

mortgage note was not a contingent liability exempt from disclosure. Respondent's testimony that she believed that the mortgage note was a contingent liability within the meaning of the Form 6 instructions is not credible when balanced with the overwhelming weight of evidence to the contrary. The mortgage note was a reportable liability that should have been disclosed on Respondent's 2013 Form 6.

36. Although the mortgage note may have remained a reportable liability with respect to Respondent's 2015 Form 6, the evidence did not conclusively establish whether the balance exceeded the \$1,000 threshold specified in the instructions. Even if the balance left on the mortgage was below \$1,000, however, the mortgage had not yet been satisfied as of Respondent's reporting date. Thus, the mortgage was still required to be included in the calculation of Respondent's net worth regardless of the amount. Respondent testified that she did not include the mortgage note when calculating her net worth.

This exception is rejected. To the extent that the Respondent is challenging the evidentiary basis for the ALJ's finding in paragraphs 18 and 36, findings of fact can be altered only if it is not supported by competent, substantial evidence. See Goin v. Commission on Ethics, 658 So. 2d 1131 (Fla. 1st DCA 1995); Holmes v. Turlington, 480 So. 2d 150 (Fla. 1st DCA 1985). With respect to Finding of Fact paragraph 18, the ALJ concluded that the mortgage note was a reportable liability that the Respondent was required to disclose on her 2013 CE Form 6 filing, this finding of the RO is supported by competent substantial evidence, including but not limited to, testimony of witness Joseph Brennan (TR 97-115) and Findings of Fact paragraphs 14, 15, and 16, wherein the ALJ found that the Respondent had a liability in excess of the \$1,000 threshold to report on her 2013 CE Form 6. Findings of Fact paragraphs 14, 15, and 16 provide that the Respondent and her husband executed a mortgage note wherein they promised "jointly and severally" to pay a \$15,000 debt owed to Coral Gables Bails Bonds for bail for their son; that Coral Gables Bail Bonds expected repayment of the whole balance even if the husband was incapacitated; and that the whole amount was due or owing as it was a joint and several liability. (TR 106) Further, in Findings of

Fact paragraph 7 the Respondent testified that she read and understood the instructions for the 2013 CE Form 6. Findings of Fact paragraph 10 indicates that the instructions to the 2013 CE Form 6 required that the Respondent disclose the name and address of each creditor to whom the Respondent owed an amount that exceeded \$1,000. With respect to the Findings of Fact contained in paragraph 18 of the RO the ALJ found that the Respondent's "testimony that she [Respondent] believed that the mortgage note was a contingent liability within the meaning of the Form 6 instructions is not credible when balanced with the overwhelming weight of evidence to the contrary." With respect to these findings the ALJ was in the best position to assess the witness's demeanor and credibility and find whether the witness was worthy of belief. See e.g., Heifetz v. Department of Business Reg., 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985) and Florida Department of Transportation v. J.W.C. Company, 396 So. 2d 778 (Fla. 1st DCA 1981).

Further, with respect to Finding of Fact paragraph 36, this finding of the RO is supported by competent substantial evidence. Although Respondent's Exception Three takes exception to the "lack of credible evidence to prove that Respondent should have known that the bail bond mortgage note had to be included as a liability, although it had not defaulted nor had a judgment been issued"—this exception misinterprets the finding contained in paragraph 36. The ALJ in paragraph 36 notes that the mortgage note may have remained a reportable liability with respect to Respondent's 2015 Form 6, the evidence did not conclusively establish whether the balance exceeded the \$1,000 threshold. However, the ALJ then further finds that Respondent should have included the value of the mortgage note in her calculation of her net worth, regardless of the outstanding balance. This interpretation is supported by the ALJ's finding in paragraph 36 that "if the balance left on the mortgage was below \$1,000, however, the mortgage had not yet been satisfied as of Respondent's reporting date. Thus, the mortgage was still required to be included in

the calculation of Respondent's net worth regardless of the amount. Respondent testified that she did not include the mortgage note when calculating her net worth." (RO Finding of Fact 36) This finding is further supported by the instructions for the 2015 CE Form 6 regarding Part A—Net Worth, contained in Advocate's Exhibit 5, which provide, in part, that in order to determine net worth the filer will need to total the value of all their assets and subtract the amount of all their liabilities and which further clarifies that simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases. See also RO Findings of Fact 34. In Findings of Fact paragraphs 7 and 35, not challenged by the Respondent, the Respondent testified and stipulated that she had read and understood the instructions prior to completing her 2015 CE Form 6. Thus, Findings of Fact paragraphs 18 and 36 are supported by competent, substantial evidence, and as such cannot be disturbed. Goin v. Commission on Ethics, 658 So. 2d 1131, 1138 (Fla. 1st DCA 1995).

4. In Respondent's Exception Four, the Respondent takes issue with Findings of Fact paragraphs 28 and 30, contained on pages 6 and 7 of the RO. Respondent argues that there is a lack of credible evidence to prove that Respondent should have known that the code enforcement lien had to be included as a liability, although no judgment had been issued. Findings of Fact paragraphs 28 and 30 of the RO provide:

28. When a lien is recorded against real property, the purpose is to notify the public that there is a cloud on the property's title based on an outstanding debt. The lien on Respondent's Miami Property is evidence that she owes a debt to Miami-Dade County.

30. Based on the credible testimony of Ms. Hoskins, Miami-Dade County generally does not consider it necessary to reduce liens to judgments because the lien itself is evidence of the debt. The lien against Respondent's Miami Property is not a contingent liability as that term is defined by the Form 6 instructions, because it is an existing debt that does not require any future event to occur or fail to occur before it attaches. Rather, it clearly fits within the definition of liabilities on the face of the Form 6, which includes as an example: "debts or obligations to

governmental entities other than taxes." The code enforcement lien was a reportable liability that should have been disclosed on Respondent's 2013 Form 6.

This exception is rejected. The findings contained in Findings of Fact paragraphs 28 and 30, are supported by competent, substantial evidence including but not limited to, witness testimony of Cindy Hoskins (TR 65-82), uncontested Findings of Fact paragraphs 20, 21, 26, and 27, and the Respondent's testimony that she read and understood the instruction for disclosing reportable liabilities as set forth in uncontested Findings of Fact paragraphs 7 and 8, we decline to disturb the findings of the ALJ.

Record evidence supporting the ALJ's Findings of Fact paragraphs 28 and 30 is provided in Findings of Fact paragraphs 20, 21, 26, and 27, which have not been challenged by the Respondent, and which provide:

20. Cindy Hoskin, legal liaison for the Miami-Dade County Code Compliance Division, handles the interactions between governmental agencies and the County Attorney's Office on escalated code enforcement matters.

21. As stipulated by the parties, Respondent's home was cited for code enforcement violations in July of 2011.

26. As stipulated by the parties, Respondent did not fulfill payment on the code enforcement fines; and subsequently, a lien was placed on the Miami Property by Miami-Dade Code Enforcement in October of 2012.

27. On October 17, 2012, a lien in the amount of \$10,590.16 was recorded against Respondent's Miami Property in the public records of Miami-Dade County at book 28317, page 1429.

Further, the record testimony of Cindy Hoskins, a legal liaison for the Miami-Dade County Code Compliance Division, indicates that a lien attaches to put the public on notice that a debt needs to be satisfied on the property in case a property owner attempts to refinance or sell the property. (TR 67) The witness further testified that if a lien remains unsatisfied, it is an indication that the

fine has not been paid, is still due, and that a debt is owed to the creditor, here Miami-Dade County (TR 67, 77). Witness Hoskins' testimony further indicates that such a lien is not a contingent liability because the County is able to foreclose on the lien and does not need to reduce the lien to a judgment in order to proceed with a foreclosure. (TR 77-78, 82). Further, the Respondent's contention that she did not know that she was required to report the lien as a liability is contrary to facts in the record including those contained in uncontested Finding of Fact paragraph 25, which reflects that the Respondent submitted an untimely appeal with Miami-Dade County following her receipt of the notice pertaining to the code enforcement assessment. In addition, the Respondent stipulated to her understanding of the instructions that accompanied the 2013 CE Form 6 as supported by Findings of Fact paragraphs 7 and 8. Thus, Findings of Fact paragraphs 28 and 30 are supported by competent, substantial evidence, and as such cannot be disturbed.

5. In Respondent's Exception Five, the Respondent takes exception to Findings of Fact paragraphs 32, 39, and 46, of the RO and argues that there is a lack of credible evidence to prove that Respondent should have known that the tax lien had to be included as a liability, although no judgment had been issued.

Findings of Fact paragraphs 32, 39, and 46 of the RO provide:

32. Respondent testified that she owes a federal tax lien, which was in existence as of the reporting date for her 2013 Form 6, and that was still outstanding in an amount of at least \$10,000 at the time of the final hearing. The lien had not been reduced to a judgment, meaning that it was not required to be specifically disclosed as a liability on Respondent's 2013 Form 6 based on the instructions. Respondent was required, however, to include the tax lien in the calculation of her net worth. Respondent testified that she did not include the federal tax lien in the calculation of her net worth on her 2013 Form 6.

39. Respondent testified that she owes a federal tax lien that was still outstanding in an amount of at least \$10,000 at the time of the final hearing. The lien had not been reduced to a judgment, meaning that it was not required to be specifically disclosed as a liability on Respondent's

2015 Form 6 based on the instructions. Respondent was required, however, to include the tax lien in the calculation of her net worth. Respondent testified that she did not include the federal tax lien in the calculation of her net worth on her 2015 Form 6.

46. Respondent testified that she owes a federal tax lien that was still outstanding in an amount of at least \$10,000 at the time of the final hearing. The lien had not been reduced to a judgment, meaning that it was not required to be specifically disclosed as a liability on Respondent's 2017 Form 6 based on the instructions. Respondent was required, however, to include the tax lien in the calculation of her net worth. Respondent testified that she did not include the federal tax lien in the calculation of her net worth on her 2017 Form 6.

This exception is rejected. Although the Respondent takes exception to the Findings of Fact paragraphs 32, 39, and 46 arguing that there lack of credible evidence to prove that Respondent should have known that the tax lien had to be included as a liability, the ALJ's Findings of Fact in paragraphs 32, 39, and 46 do not find that the tax lien should have been reported as a liability on the Respondent's 2013, 2015, and 2017 CE Form 6 filings, but rather finds that Respondent should have included the value of the federal tax lien in the calculation of her net worth as evidenced by the finding in paragraphs 32, 39, and 46 that "Respondent was required, however, to include the tax lien in the calculation of her net worth." The Findings of Fact contained in paragraphs 32, 39, and 46 are supported by competent, substantial evidence including unchallenged Findings of Fact paragraphs 9, 34, and 41 which provide:

9. Instructions for the 2013 Form 6, Part A, for calculating net worth, include the following relevant directives:

In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases. (emphasis in original).

34. The relevant instructions for the 2015 Form 6, Part A, for calculating net worth; and Part C, for calculating liabilities, are identical to the 2013 Form 6.

41. The relevant instructions for the 2017 Form 6, Part A, for calculating net worth; and Part C, for calculating liabilities, are identical to the 2013 Form 6 and the 2015 Form 6.

Respondent acknowledged that she did not include the federal tax lien in the calculation of her net worth on her 2013 or 2015 CE Form 6 filings. (TR 35-37). Although the Respondent owes a federal tax lien that has not been reduced to a judgment and, thus, is not required to be disclosed as a liability on her 2013 or 2015 CE Form 6 filings, the instructions to the CE Form 6 do not exclude the federal tax lien from being included in the calculation of her net worth. (Advocate's Exhibit 3 and Advocate's Exhibit 5) In Findings of Fact paragraphs 7, 8, 35 and 42, not challenged by the Respondent, she stipulated that she read and understood the instructions that accompanied the respective form and that the information disclosed therein, including that provided in her net worth disclosure, were true, accurate, and complete. Thus, Findings of Fact paragraphs 32, 39, and 46 are supported by competent, substantial evidence, and as such we decline to disturb the findings of the ALJ.

6. In Respondent's Exception Six, the Respondent takes exception to Findings of Fact paragraph 32, on page 7 of the RO, and argues that there is a lack of credible evidence to provide that Respondent owed over \$1,000 in a tax lien, because no amount was proven.

Findings of Fact paragraph 32, provides:

32. Respondent testified that she owes a federal tax lien, which was in existence as of the reporting date for her 2013 Form 6, and that was still outstanding in an amount of at least \$10,000 at the time of the final hearing. The lien had not been reduced to a judgment, meaning that it was not required to be specifically disclosed as a liability on Respondent's 2013 Form 6 based on the instructions. Respondent was required, however, to include the tax lien in the calculation of her net worth. Respondent testified that she did not include the federal tax lien in the calculation of her net worth on her 2013 Form 6.

This exception is rejected. Although the Respondent takes exception to the Findings of Fact paragraph 32, arguing that there is a lack of credible evidence to prove that Respondent owed

over \$1,000 in a tax lien, the ALJ did not find that the federal tax lien was a reportable liability, but instead found that Respondent failed to include the value of the tax lien in her net worth calculation which is contrary to the 2013 CE Form 6 instructions. This finding is evidenced by the portion of paragraph 32 wherein the ALJ found "Respondent was required, however, to include the tax lien in the calculation of her net worth. Respondent testified that she did not include the federal tax lien in the calculation of her net worth on her 2013 Form 6." Further, Findings of Fact paragraph 32 of the RO is supported by competent, substantial evidence as set forth above in our determination to reject Respondent's Fifth Exception. Thus, Findings of Fact paragraph 32 are supported by competent, substantial evidence, and, as such, we decline to disturb the findings of the ALJ.

7. In Respondent's Exception Seven, Respondent takes exception to Findings of Fact paragraphs 36 and 43, on pages 8 and 9 of the RO, and argues that there is a lack of credible evidence to prove that Respondent owed over \$1,000 on the mortgage note, as noted in the paragraph.

Findings of Fact paragraphs 36 and 43 of the RO provide:

36. Although the mortgage note may have remained a reportable liability with respect to Respondent's 2015 Form 6, the evidence did not conclusively establish whether the balance exceeded the \$1,000 threshold specified in the instructions. Even if the balance left on the mortgage was below \$1,000, however, the mortgage had not yet been satisfied as of Respondent's reporting date. Thus, the mortgage was still required to be included in the calculation of Respondent's net worth regardless of the amount. Respondent testified that she did not include the mortgage note when calculating her net worth.

43. Although the mortgage note may have been a reportable liability with respect to Respondent's 2017 Form 6, the evidence did not conclusively establish that there was any balance left on the mortgage, which was recorded in the public records as being satisfied three days after Respondent's reporting date. Respondent testified that she did not include

the mortgage when calculating her net worth for her 2017 Form 6, but it is uncertain whether she was required to do so.

This exception is rejected. Findings of Fact paragraph 36 of the RO is supported by competent, substantial evidence as set forth above in our determination to reject Respondent's Third Exception. Further, although the Respondent takes exception to the Findings of Fact paragraphs 36 and 43, arguing that there is a lack of credible evidence to prove that Respondent owed over \$1,000 on the mortgage note, the ALJ did not find that the mortgage note was a liability that the Respondent was required to disclose for the purposes of her 2015 and 2017 CE Form 6 filings. In Findings of Fact paragraphs 36 and 43 the ALJ found that the evidence did not conclusively establish that the mortgage note's balance exceeded the \$1,000 reporting threshold. However, the ALJ further found that Respondent failed to include the mortgage in her net worth calculation for the purposes of the 2015 and 2017 CE Form 6 filings. The instructions to the 2015 CE Form 6 and 2017 CE Form 6 contained in Advocate's Exhibit 5 and Advocate's Exhibit 7, respectively, do not exclude the federal tax lien from being a factor used in calculating her net worth. In Findings of Fact paragraph 7, not challenged by the Respondent, she stipulated that she read and understood the instructions prior to competing and filing the forms. As Findings of Fact paragraphs 36 and 43 are supported by competent, substantial evidence, we decline to disturb the findings of the ALJ.

8. In Respondent's Exception Eight, the Respondent takes exception to Findings of Fact paragraphs 49, 50, and 52, on pages 9 and 10 of the RO, and argues that there is a lack of credible evidence to prove that Respondent should have known that the construction lien had to be included as a liability, although no judgment had been issued.

Findings of Fact paragraphs 49, 50 and 52 of the RO provide:

49. While Mr. Raymond expected Respondent's insurance company to pay MPR Construction for its work on the project, Respondent was still liable for payment under the contract if the insurance company did not pay.

50. After the construction project was complete, Mr. Raymond filed a claim of lien for \$41,000 against Respondent's Miami Property on March 2, 2018, which was recorded in the public records of Miami-Dade County, at book 30881, page 1013.

52. The construction lien was a reportable liability that should have been reported on Respondent's 2017 Form 6 because it was a note payable to MPR Construction in an amount exceeding \$1,000 as of the reporting date, June 15, 2018.

This exception is rejected. Findings of Fact paragraphs 49, 50, and 52 of the RO are supported by competent, substantial evidence including, but not limited to, witness testimony of Pierre Richard Raymond, who indicated that a construction lien having a value in excess of \$1,000 was filed against Respondent's Miami Property on March 2, 2018 (TR 87) and that the construction lien was still outstanding as of June 15, 2018, (TR 89) which was the Respondent's reporting date for her 2017 CE Form 6 filing. (Joint Exhibit 6) The existence of the construction lien during this period is further supported by Findings of Fact paragraph 51, not challenged by Respondent. The instructions to the 2017 CE Form 6, Part C—Liabilities, contained in Advocate's Exhibit 7 require that a filer disclose the name and address of each creditor to whom the filer owed more than \$1,000 on the date chosen for disclosure and list the amount owed. In Findings of Fact paragraph 7, not challenged by the Respondent, she stipulated that she read and understood the instructions prior to completing and filing the form. As Findings of Fact paragraphs 49, 50, and 52 are supported by competent, substantial evidence, we decline to disturb the findings of the ALJ.

9. In Respondent's Exception Nine, Respondent takes exception to Findings of Fact paragraphs 55, 56, 57, 58, 59, 60, and 61, on pages 10 and 11 of the RO, and argues that there is a lack of credible evidence to prove that Respondent knew of the conversion of her property deed

and had in fact testified that she had not signed the document. The notary also failed to appear for depositions or testify at the hearing. Respondent argues there was no testimony proving that Respondent signed the deed transfer.

Findings of Fact paragraphs 55-61 of the RO provide:

55. A quit claim deed prepared by "MITTAL 2018 BUSINESS HOLDING TRUST," dated May 19, 2018, was recorded in the public records of Miami-Dade County at book 30987, pages 294 through 296. The deed conveyed Respondent's Miami Property from Respondent and Hubert Campbell to an entity identified as "14625 NE 4th AVE MIAMI LLC." The deed included the notarized signatures of Respondent and Hubert Campbell, as well as the signatures of four witnesses. Respondent confirmed that the driver license number attributed to her in the notary block was accurate.

56. Respondent is not a member of the business entity, 14625 NE 4th AVE MIAMI LLC.

57. A second quit claim deed, dated June 20, 2018, was recorded in the public records of Miami-Dade County at book 31026, pages 2331 through 2332. The second deed conveyed the Miami Property from 14625 NE 4th AVE MIAMI LLC to Respondent's son, Mikel Mittal.

58. Instruments filed in a county's public records, such as the quit claim deeds at issue in this case, plainly fall within the category of "evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs," which is the applicable evidentiary standard under section 120.569(2)(g), Florida Statutes.

59. It is undisputed that the quit claim deeds conveying Respondent's Miami Property were recorded in the public records of Miami-Dade County. It is further undisputed that the driver license number on the first quit claim deed belongs to Respondent. Respondent, however, disputed that she executed the first quit claim deed or had any contemporaneous knowledge of its existence, despite the fact that a notarized signature purporting to be hers appears on the document. Upon testifying to her ignorance of the two quit claim deeds conveying her property up until she saw it on the news, Respondent was questioned as to whether she ever reported the fraudulent conveyance of her property or asked her son about it. Respondent evaded the questions and ultimately did not articulate any direct answers. The inherent reliability of a recorded instrument cannot be overcome by Respondent's vague and illogical denial of its authenticity.

60. Respondent's Miami Property was returned to her through a third quit claim deed on August 27, 2018.

61. As of Respondent's reporting date for her 2018 Form 6, the Miami Property was not in Respondent's name. Therefore, it was not an asset belonging to her and should not have been included in the calculation of Respondent's net worth. However, Respondent listed the property as an asset valued at \$471,642, and included it in the calculation of her net worth.

This exception is rejected. Findings of Fact paragraphs 55-61 of the RO are supported by competent, substantial evidence in the record. These findings are supported by Findings of Fact paragraph 54 wherein the ALJ found that Respondent's son changed his name to Mikel Mittal. Testimony and record evidence reflects that on May 19, 2018, a Quit Claim Deed was filed with the Miami-Dade Clerk of Courts conveying property from "Daphne Durand Campbell [Respondent] and Hubert Augustus Campbell" to "14625 NE 4th AVE MIAMI LLC." (Advocate's Exhibit 11) The document was prepared by "MITTAL 2018 BUSINESS HOLDING TRUST." (Advocate's Exhibit 11) Respondent testified that she is not a member of the business entity 14625 NE 4th AVE MIAMI LLC. (TR 40) The May 19, 2018, Quit Claim Deed reflects the notarized signature "Daphne Campbell," with the Respondent's driver's license number "FL DL C514164576790" reflected as identification. (Advocate's Exhibit 11) On June 20, 2018, a Quit Claim Deed was filed with the Miami-Dade Clerk of Courts conveying said property from "14625 NE 4th AVE MIAMI LLC" to "MIKEL MITTAL," the Respondent's son. (Respondent's Exhibit 17, TR 42-43) On August 27, 2018, a Quit Claim Deed was filed with the Miami-Dade Clerk of Court conveying said property from "MIKEL MITTAL" to "DAPHNE CAMPBELL." (TR 43, Respondent's Exhibit 18) Respondent testified that the August 27, 2018, Quit Claim Deed allowed her to regain possession of the property. (TR 43, 54) Although Respondent contends that she did not have any knowledge with respect to the Quit Claim Deeds at issue she has not reported the matter to law enforcement to take any other action. (TR 59-61)

The property and its value were thereafter disclosed as an asset by the Respondent on June 15, 2018, the reporting date on her 2017 CE Form 6; however, as of that date the property was not the Respondent's asset. (Joint Exhibit 6) As the property was not a real property asset owned by Respondent on June 15, 2018, it should not have been included in the calculation of the Respondent's net worth as reflected on her 2017 CE Form 6 filing. However, Respondent testified that she included the value of the real property asset in the net worth calculation reflected on her 2017 CE Form 6 filing. (TR 44)

In Findings of Fact paragraphs 58 and 59, the ALJ articulated her rationale in finding the documentary evidence to be credible and stated that "Upon testifying to her ignorance of the two quit claim deeds conveying her property up until she saw it on the news, Respondent was questioned as to whether she ever reported the fraudulent conveyance of her property or asked her son about it. Respondent evaded the questions and ultimately did not articulate any direct answers. The inherent reliability of a recorded instrument cannot be overcome by Respondent's vague and illogical denial of its authenticity." With respect to these findings the ALJ was in the best position to assess the witness's demeanor and credibility and find whether the witness was worthy of belief. See e.g., Heifetz v. Department of Business Reg., 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985) and Florida Department of Transportation v. J.W.C. Company, 396 So. 2d 778 (Fla. 1st DCA 1981).

As to the Respondent's contention that the "notary failed to appear for depositions or testify at hearing" this argument lacks any evidentiary support in the record as there is no indication that either the Advocate or the Respondent scheduled the deposition of the notary or called the notary as a witness in this proceeding.

As Findings of Fact paragraphs 55, 56, 57, 58, 59, 60 and 61 of the RO are supported by competent, substantial evidence, we decline to disturb the findings of the ALJ.

10. In Respondent's Exception Ten, Respondent takes exception to Conclusions of Law paragraph 70, on page 14 of the RO, and argues that the Florida Commission on Ethics in its order of July 31, 2019, made the determination that the issues associated with Respondent's 2013 CE Form 6 were time-barred and were thereby moot.

Conclusions of Law paragraph 70 of the RO provides:

70. Respondent's 2013 Form 6 was inaccurate because she failed to disclose a mortgage note and a code enforcement lien, which were reportable liabilities; and a federal tax lien, which should have been included in the calculation of her net worth. Accordingly, Respondent did not file a full and public disclosure of her financial interests with respect to her 2013 Form 6, in violation of Article II, Section 8 and section 112.3144. The Commission proved the violation by clear and convincing evidence.

This exception is rejected. Section 120.57(1)(I), Florida Statutes, contains the pertinent provisions relating to rulings on exceptions to conclusions of law and provides that an agency may reject or modify the conclusions of law over which it has substantive jurisdiction but in doing so the agency must state with particularity its reasons for rejecting or modifying such conclusion or interpretation and must make a finding that its substituted conclusion or interpretation is as or more reasonable than that which was rejected or modified. The Respondent cites to no record evidence in support of this exception. Rather the Respondent predicates this exception entirely upon a misrepresentation of the findings contained in the Commission's "Order Finding Probable Cause" rendered on July 31, 2019. The Respondent did not posit any legal arguments or evidence in the underlying proceedings regarding time restrictions pertaining to the complaint allegations. Further, the Commission's Order Finding Probable Cause does not contain any articulation or finding of the Commission substantiating Respondent's argument that the issues associated with Respondent's 2013 CE Form 6 were time barred. While Section 112.3231, Florida Statutes, sets forth a five-year statute of limitations for violations of the Code of Ethics, the statute provides that

the "time starts to run the day after the breach of the public trust was committed." The record reflects that the Respondent's 2013 CE Form 6 was filed on June 17, 2014. (Joint Exhibit 2) Thereafter, the instant matter (Complaint No 18-090) alleging, in part, that the Respondent's 2013 CE Form 6 was inaccurate was filed with the Commission on July 3, 2018. Thus, the allegations of the complaint pertaining to the Respondent's 2013 CE Form 6 fell within the five-year statute of limitations and, thus, were not time barred. To the extent that Respondent's Exception Ten seeks to have the Commission reweigh the evidence and resolve conflicts contained therein in favor of the Respondent, the Commission is precluded from so doing as such matters are the exclusive province of the ALJ. Heifetz v. Department of Business Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985).

However, the record does contain competent, substantial evidence supporting the conclusion of law contained in paragraph 70. In particular, Ultimate Finding of Fact paragraph 33, not challenged by the Respondent, which provides that "Respondent did not file a full and public disclosure of her financial interests with respect to her 2013 CE Form 6." As such, this exception is rejected as an erroneous view of the law.

11. In Respondent's Exception Eleven, the Respondent takes exception to, and urges the Commission to decline to adopt, the RO's recommended penalties against Respondent including: a) censure, as Respondent is no longer in office; and b) fines, as the omissions were not purposeful nor negligent.

This exception is rejected. While it is within the province of this agency to alter the recommended penalty, the ALJ in the instant matter heard the entirety of the evidence and was in the best position to judge the credibility of the witnesses. Because of the ALJ's unique perspective we are not persuaded that this penalty recommendation, contained on page 15 of the RO, should

be altered. The ALJ determined that based on the Findings of Fact and Conclusions of Law, the Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, on three separate occasions and recommended the imposition of a penalty permitted by Section 112.317, Florida Statutes, and applicable to current and former public officers. A violation of Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, does not require that an intent requirement be proven, as argued by the Respondent.

Findings of Fact

The Commission on Ethics accepts and incorporates into this Final Order and Public Report the findings of fact in the Recommended Order from the Division of Administrative Hearings, other than those determinations of the ALJ addressed above.

Conclusions of Law

Except to the extent dealt with above in granting Advocate's exceptions, the Commission on Ethics accepts and incorporates into this Final Order and Public Report the conclusions of law in the Recommended Order from the Division of Administrative Hearings.

Penalty and Disposition

Accordingly, the Commission on Ethics, via rendition of this Final Order And Public Report, determines that the Respondent violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, on three separate occasions by filing an inaccurate 2013, 2015, and 2017 CE Form 6, "Full and Public Disclosure of Financial Interests." However, in accordance with Section 120.57(1)(l), Florida Statutes, the Commission hereby increases the civil penalty of \$15,000 (\$5,000 per violation) as well as public censure and reprimand, as recommended by the ALJ, and recommends the imposition of a civil penalty of \$22,500 (\$7,500 per violation) as well as public censure and reprimand. The increase in the civil penalty is based upon a review by the

Commission of the complete record, the Commission's reasons for increasing the penalty are stated with particularity below.

Reasons and Citations to the Record in Support of Increase in Penalty

Underlying the ALJ's determination of a violation by the Respondent is her finding that the Respondent, violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, on three separate occasions by filing an inaccurate 2013, 2015, and 2017, Form 6, "Full and Public Disclosure of Financial Interests." The record in this matter reflects that the inaccuracies in each respective year's filing were numerous and resulted in a protracted deprivation of transparency afforded to the public and spanning multiple years that Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, exists to prevent.

The findings in Conclusion of Law paragraph 70 of the RO hold that the Respondent's 2013 Form 6 was inaccurate because she failed to disclose a mortgage note and a code enforcement lien which were reportable liabilities; and a federal tax lien, which should have been included in the calculation of her net worth. This Conclusion of Law is supported by Findings of Fact paragraphs 18, 19, 30, 31, 37, 38, 39, and 40.

The findings in Conclusion of Law paragraph 71 of the RO hold that the Respondent's 2015 Form 6 was inaccurate because she failed to disclose a mortgage note and a federal tax lien, both of which should have been included in the calculation of her net worth. Further, in granting Advocate's Exception Three, as described above, the Commission modified Conclusion of Law paragraph 71 to include the Respondent's failure to disclose a code enforcement lien as a reportable liability. Conclusion of Law paragraph 71, as modified, is supported by Findings of Fact paragraphs 35-40.

The findings in Conclusion of Law paragraph 72 of the RO hold that the Respondent's 2017 Form 6 was inaccurate because she failed to disclose a construction lien which was a reportable liability; and a federal tax lien which should have been included in the calculation of her net worth. In addition, the ALJ found that the Respondent disclosed property as an asset that was not in her name on the reporting date. Further, in granting Advocate's Exception Four, as described above, the Commission modified Conclusion of Law paragraph 72 to include the Respondent's failure to disclose a code enforcement lien as a reportable liability. Conclusion of Law paragraph 72, as modified, is supported by Findings of Fact paragraphs 42-62.

Section 112.311, Florida Statutes (Legislative intent and declaration of policy) provides that the purposes of the standards of conduct in the Code of Ethics, which the ALJ has found that the Respondent violated, are to protect the integrity of government, to promote the public interest, and to maintain the respect of the people in their government. Further, the Commission has a duty to "recommend appropriate action to the proper disciplinary official," with respect to this matter, under Section 112.324(8), Florida Statutes. In accordance with that duty, and based upon a review of the complete record and for the reasons stated with particularity above, which cite to the record and justify the increase, and noting that not only were there three financial disclosure filings containing inaccuracies, but that each filing contained multiple inaccuracies, a public censure and reprimand and a civil penalty of \$22,500 (\$7,500 per violation) are recommended as the appropriate penalties for the Respondent's violation of Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, on three separate occasions by filing an inaccurate 2013, 2015, and 2017, Form 6, "Full and Public Disclosure of Financial Interests."

ORDERED by the State of Florida Commission on Ethics meeting in public session on
March 4, 2022.

March 9, 2022
Date Rendered


John Grant
Chair, Florida Commission on Ethics

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, AND SECTION 112.3241, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110 FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, AT EITHER 325 JOHN KNOX ROAD, BUILDING E, SUITE 200, TALLAHASSEE, FLORIDA 32303 OR P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709; AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

cc: Mr. James Jean-Francois, Attorney for Respondent
Ms. Melody A. Hadley, Commission Advocate
The Honorable Brittany O. Finkbeiner, Division of Administrative Hearings