

BEFORE THE  
STATE OF FLORIDA  
COMMISSION ON ETHICS

In re JEFFREY M. SISKIND,	)	Complaint No. 18-185
	)	DOAH Case No. 22-0053EC
Respondent.	)	Final Order No. 22-040
	)	
_____	)	

FINAL ORDER AND PUBLIC REPORT

This matter came before the State of Florida Commission on Ethics (“Commission”), meeting in public session on October 21, 2022, on the Recommended Order (“RO”) of an Administrative Law Judge (“ALJ”) of the Division of Administrative Hearings (“DOAH”) rendered on August 3, 2022.

Background

This matter began with the filing of an ethics complaint by Robert Gibson (“Complainant”) against Jeffrey M. Siskind (“Respondent” or “Siskind”) on October 26, 2018. By order dated December 20, 2018, the Executive Director of the Commission on Ethics determined that Complaint No. 18-185 was legally sufficient to indicate a possible violation of Article II, Section 8 of the Florida Constitution, and Section 112.3144, Florida Statutes, by the Respondent, a candidate for Attorney General, by the filing of an inaccurate CE Form 6, “Full and Public Disclosure of Financial Interests,” for the year of 2017.

Accordingly, Commission staff was ordered to investigate the complaint, resulting in a Report of Investigation (“ROI”) dated July 15, 2019. In her recommendation, dated August 6, 2019, the Commission’s Advocate recommended that the Commission find probable cause to believe that Respondent violated Article II, Section 8 of the Florida Constitution, and Section

112.3144, Florida Statutes, by filing an inaccurate 2017 CE Form 6, “Full and Public Disclosure of Financial Interests.”

By its order dated October 30, 2019, the Commission found probable cause to believe that the Respondent violated Article II, Section 8 of the Florida Constitution, and Section 112.3144, Florida Statutes, by filing an inaccurate 2017 CE Form 6. The Commission forwarded the matter to DOAH for assignment of an ALJ to conduct a public hearing. A Final Hearing was held on March 16, 2022, before the ALJ. On August 3, 2022, the ALJ issued a RO recommending that the Commission enter a final order and public report determining that Respondent did not commit a violation of Article II, Section 8 of the Florida Constitution, or Section 112.3144, Florida Statutes.

Following issuance of the RO, neither the Advocate nor the Respondent filed exceptions to it. 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). An ALJ is entitled to rely on the testimony of only a single witness in making a fact finding, even if that testimony is contradicted by the testimony of a number of other witnesses. Lantz v. Smith, 106 So. 3d 518, 521 (Fla. 1st DCA 2013). In addition, an agency may not reject findings of fact that are supported by competent substantial evidence in order to substitute new fact findings, even if the alternate findings are also supported by competent substantial evidence. Lantz, 106 So. 3d at 521. 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 and having heard the arguments of the Advocate and the Respondent, the Commission on Ethics makes the following rulings, findings, conclusions, and disposition:

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. The findings are based upon competent substantial evidence and the proceedings upon which the findings are based complied with essential requirements of law.

Conclusions of Law

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.

Disposition

Accordingly, the Commission on Ethics determines that the Respondent did not commit a violation of either Article II, Section 8 of the Florida Constitution, or Section 112.3144, Florida Statutes, and this matter is hereby dismissed.

ORDERED by the State of Florida Commission on Ethics meeting in public session on October 21, 2022.

October 26, 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, P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709, OR AT THE COMMISSION'S PHYSICAL ADDRESS OF 325 JOHN KNOX ROAD, BUILDING E, SUITE 200, TALLAHASSEE, FLORIDA 32303; 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. Jeffrey M. Siskind, Respondent  
Ms. Melody A. Hadley, Commission Advocate  
Mr. Robert Gibson, Complainant  
The Honorable J.C. McKinney, Division of Administrative Hearings