

APR 30 2025

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re LUCY BOUDET,

Respondent.

Complaint No. 25-008

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, April 25, 2025, 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 Ryan Phillips of Winter Park, Florida.
2. The Respondent, Lucy Boudet of Winter Park, Florida, is a member of the Winter Park Historic Preservation Board.
3. The complaint alleges the Complainant purchased property within the historic district of Winter Park. The Complainant desired to renovate the purchased property, and brought his request to the Historic Preservation Board ("the Board") for it to review and approve the proposed changes prior to construction. The Board approved the site plans and granted variance approvals on the property for the proposed construction. However, the construction company, after

discovering wood rot issues, completely removed the existing exterior second-story framing with the intent to re-frame the exterior in new wood. The Board viewed the removal of the exterior second-story framing as a demolition that had not been approved by the Board and as outside of the scope of the granted variance, and issued a stop work order on the property because of the unapproved demolition.

4. The Board held a meeting on May 8, 2024, to determine whether to rescind the variance given to the Complainant.

5. Ultimately, the Board proposed the following during the meeting to allow construction to continue uninterrupted in the face of the allegedly unsanctioned demolition: (1) an amendment of the prior certificate of review granted to the Complainant to permit the altered demolished condition of the house and keep in place the approved variances by the Board; (2) a façade easement on the house; (3) a review of an architectural set for the property; and (4) a payment by the contractor of \$100,000 into the Historic Preservation Fund of the City of Winter Park before the stop work order would be lifted.

6. Per the complaint, Respondent voted to approve the Board's proposal. The complaint contends the Board, with this proposal, "premeditated an extortion of the builder for a monetary payment in exchange for their vote to remove the stop work order and allow the construction to proceed."

7. The Commission on Ethics has jurisdiction to investigate only those allegations "based upon personal knowledge or information other than hearsay." See Chapter 2024-53, Laws of Florida (amending Section 112.324(1)(a), Florida Statutes, to require an allegation to be "based upon personal knowledge or information other than hearsay" to be sufficient for investigation). The allegations in paragraphs 3 through 6 appear to be based on the Complainant's personal

knowledge as they concern his personal interactions with the Board. Regardless, if even the allegations in paragraphs 3 through 6 are considered on their merits, they do not provide a legally sufficient basis for investigation for the reasons explained below.

8. Section 112.313(6), Florida Statutes, is implicated by 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 which is inconsistent with the proper performance of his or her public duties.

Section 112.313(6) prohibits public officials and employees from corruptly using or attempting to use their official positions or property or resources within their trust, and it prohibits them from corruptly performing their official duties, in order to secure a special privilege, benefit, or exemption for themselves or another.

9. The complaint substantively fails to indicate a possible violation of Section 112.313(6). 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.

10. Here, the complaint fails to allege any private capacity benefit Respondent received from voting to accept the Board's proposal. The only conceivable benefit was that the proposal included a \$100,000 donation from the construction company to the Historic Preservation Grant Fund. However, such a donation was not to Respondent herself, and did not benefit her personally; rather, the donation was to a fund with a public purpose of preserving the history of the City of Winter Park. And voting to approve a donation to the Historic Preservation Grant Fund was not "inconsistent with the proper performance of [Respondent's] duties" as a member of the Historic Preservation Board, and therefore did not amount to a corrupt use of her official position. See Blackburn v. State, Comm'n on Ethics, 589 So. 2d 431 (Fla. 1st DCA 1991). For these reasons, the allegations in the complaint do not form a sufficient basis to initiate an investigation under Section 112.313(6).

11. We also find the allegations 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. Again, the only benefit was to the Historic Preservation Grant Fund, which has a clear public purpose that is inconsistent with the prohibition of Article II, Section 8(h)(2).

12. Section 112.3143(3)(a), Florida Statutes, is also implicated by allegations in the complaint. Section 112.3143(3)(a) states:

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she

is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

To indicate a possible violation of the statute, a complaint must allege, in a factual, substantive, nonconclusory manner, that a respondent voted on a matter that would inure to his or her special private gain or loss or would inure to the special private gain or loss of a relative, business associate, or principal.

13. Here, the complaint does not contain factual, nonconclusory allegations that Respondent voted on a matter that inured to her special private gain or loss. Again, the only gain implied in the complaint is a speculative, conclusory allegation that Respondent benefited from the construction company's donation to the Historic Preservation Grant Fund. However, the donation to a public fund does not amount to a special private gain or loss for Respondent herself. The gain to be realized instead would be shared with the entire City of Winter Park, as well as any visitors to the area.

14. Any benefit to the Historic Preservation Grant Fund also does not amount to a special private gain to the principal by which Respondent is retained, the Historic Preservation Board, because: (1) the definition of a principal by which one is retained specifically excludes agencies; and (2) Respondent is not "retained" by the Historic Preservation Board where she receives no payment to serve as a Board Member. Thus, the allegations in the complaint do not form a sufficient basis to initiate an investigation under Section 112.3143(3)(a).

15. The allegations in this complaint also implicate Section 112.313(2). Section 112.313(2) states:

SOLICITATION OR ACCEPTANCE OF GIFTS.—No public officer, employee of an agency, local government agency, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government agency, or candidate would be influenced thereby.

This provision prohibits the solicitation and acceptance by a public officer or employee of anything of value based on an understanding that it would influence an official act.

16. The complaint substantively fails to indicate a possible violation of Section 112.313(2) because it fails to allege Respondent either solicited or accepted anything. The complaint does not allege Respondent herself proposed the construction company donate \$100,000 to the Historic Preservation Grant Fund. And simply voting to approve a proposal as a Board member does not amount to the solicitation of that proposal. Additionally, the acceptance by the Board of the proposal does not constitute an acceptance by the Respondent herself on her own, personal behalf, of anything.

17. Finally, the complaint alleges a violation of Section 112.313(4), which states:

UNAUTHORIZED COMPENSATION.—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

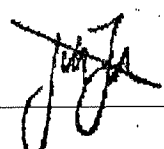
To indicate a possible violation of the statute, a complaint must allege, in a factual, substantive, nonconclusory manner, that a respondent or his or her spouse or minor child accepted

compensation or something of value when he or she knew or should have known it was offered to influence an official action.

18. The complaint does not contain factual, nonconclusory allegations that Respondent accepted anything personally. As noted above, the acceptance by the Board of the proposal, which included a donation to the Historic Preservation Grant Fund, does not constitute an acceptance by the Respondent on her own, personal behalf, of any sort of compensation. Thus, the complaint substantively fails to indicate a possible violation of Section 112.313(4).

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, April 25, 2025.

April 30, 2025
Date Rendered

Luis M. Fusté
Chair, Florida Commission on Ethics

LMF/sen

cc: Mr. Jason Gonzalez, Attorney for Respondent
Mr. Ryan Phillips, Complainant