

DATE FILED

SEP 15 2021

COMMISSION ON ETHICS

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re DOUGLAS UNDERHILL,)
)
 Respondent.)
)
)
)
 _____)

Complaint Nos. 20-060, 20-073, & 20-103
(consolidated)

ORDER FINDING PROBABLE CAUSE

Based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, the Commission on Ethics finds that there is probable cause to believe the Respondent, who serves as a County Commissioner for Escambia County, violated Section 112.313(6), Florida Statutes, by publicly sharing and/or publishing confidential transcripts, including the minutes, of meetings of the Escambia County Board of County Commissioners.

The Commission also finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is probable cause to believe the Respondent violated Section 112.313(8), Florida Statutes, by disclosing or using information not available to members of the general public (i.e., shade meeting transcripts, including the minutes) and gained by reason of his official position for his personal gain or benefit or the personal gain or benefit of another person or business entity.

The Commission also finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is probable cause to believe the Respondent violated Section 112.3148(3), Florida Statutes, by soliciting a donation(s)

from Fred Hemmer, a vendor doing business with the Respondent's agency, or a lobbyist who lobbies the Respondent's agency, or the principal of such lobbyist.

The Commission also finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is probable cause to believe the Respondent violated Section 112.3148(4), Florida Statutes, by knowingly accepting a contribution(s) exceeding \$100 to a legal defense fund from vendor(s) doing business with the Respondent's agency, or lobbyist(s) who lobby the Respondent's agency, or principal(s) of such lobbyist(s).

The Commission also finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is probable cause to believe the Respondent violated Section 112.3148(8), Florida Statutes, by failing to timely file a CE Form 9, "Quarterly Gift Disclosure" disclosing contribution(s) exceeding \$100 to a personal legal defense fund, and/or by failing to fully disclose information required to be reported on a CE Form 9, "Quarterly Gift Disclosure" regarding contribution(s) exceeding \$100 to a personal legal defense fund.

The Commission also finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is probable cause to believe the Respondent violated Section 112.3148(8), Florida Statutes, by failing to file a CE Form 9, "Quarterly Gift Disclosure" disclosing free personal legal services exceeding \$100 from the Clark Partington law firm.

The Commission also finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is probable cause to believe the Respondent violated Section 112.3148(8), Florida Statutes, by failing to file a CE

Form 9, "Quarterly Gift Disclosure" disclosing reimbursed travel expenses and shipping costs exceeding \$100.

Therefore, the Commission on Ethics orders a public hearing as to whether the Respondent violated Sections 112.313(6), 112.313(8), 112.3148(3), 112.3148(4), and 112.3148(8), Florida Statutes, as set forth in the paragraphs above. A formal notice of hearing of the matters on which probable cause has been found will be prepared and sent to the Respondent and to the Advocate.

In addition, the Commission finds, based on the preliminary investigation of these complaints and on the recommendation of the Commission's Advocate, that there is no probable cause to believe the Respondent violated Section 112.313(6), Florida Statutes, by publicizing his legal defense fund on a social media page affiliated with the County; that there is no probable cause to believe the Respondent violated Section 112.3148(3), Florida Statutes, by soliciting free personal legal services from the Clark Partington law firm, a vendor doing business with the Respondent's agency, or a lobbyist who lobbies the Respondent's agency, or the principal of such lobbyist; that there is no probable cause to believe the Respondent violated Section 112.3148(4), Florida Statutes, by knowingly accepting free personal legal services valued at over \$100 from the Clark Partington law firm, a vendor doing business with the Respondent's agency, or a lobbyist who lobbies the Respondent's agency, or the principal of such lobbyist; that there is no probable cause to believe the Respondent violated Section 112.313(7)(a), Florida Statutes, by having a conflicting employment or contractual relationship with an entity which is subject to the regulation of, or is doing business with, the entity in which the Respondent is a public officer; that there is no probable cause to believe the Respondent violated Section 112.3148(3), Florida Statutes, by soliciting reimbursement for travel expenses and the cost of shipping certain

equipment from Pensacola Sports Association, Inc., a private not-for-profit organization that accepted funding from the County; and that there is no probable cause to believe the Respondent violated Section 112.3148(4), Florida Statutes, by knowingly accepting reimbursement for travel expenses and the cost of shipping certain equipment from Pensacola Sports Association, Inc., a private not-for-profit organization that accepted funding from the County, as alleged in the complaints. Thus, the allegations of this paragraph will not be at issue in any hearing held in this matter.

Under Commission Rule 34-5.020, F.A.C., the Commission may resolve a complaint proceeding through a stipulation, settlement, or consent order entered into by the Respondent and the Commission's Advocate and approved by the Commission. If the Respondent wishes to pursue a settlement of this case, he should contact the Commission's Advocate at (850) 414-3300 to discuss the terms of a possible settlement.

ORDERED by the State of Florida Commission on Ethics meeting in executive session on Friday, September 10, 2021.

September 15, 2021
Date


John Grant
Chair, Florida Commission on Ethics

JG: gps

cc: Mr. Mark Herron, Attorney for Respondent
Ms. Elizabeth A. Miller, Commission Advocate
Mr. Rick Figlio, Attorney for Complainant
Ms. Alexandra Akre, Attorney for Complainant
Mr. Joe Ward, Complainant
Mr. John F. Stenicka, Complainant