

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re THERESA PONTIERI,)
)
 Respondent.)
_____)

Complaint No. 26-129

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, June 5, 2026, the Commission on Ethics met in its 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 Sherry W. Hedden of Palm Coast, Florida.
2. The Respondent, Theresa Pontieri, allegedly serves as a City Councilmember and the Vice Mayor for the City of Palm Coast.¹
3. The complaint claims the Respondent in her capacity as a City Councilmember voted, at both a first and second reading, on a measure to change a development plan. The complaint alleges the measure allowed an area developer to change lot sizes and add thirteen more

¹ The complaint claims the Respondent also is a current candidate for the Flagler County Commission.

houses within a particular development. The complaint seems to claim the measure also financially affected five other companies, each of which contributed \$1,000 toward the Respondent's campaign for Flagler County Commissioner, which was ongoing at the time.² The complaint concludes, given these contributions, that the Respondent had a voting conflict under Section 112.3143(3), Florida Statutes, yet failed to disclose the conflict and, instead, voted to approve the measure.

4. The Commission on Ethics has jurisdiction to investigate only those allegations "based upon personal knowledge or information other than hearsay." See § 112.324(1)(a), Fla. Stat. (requiring an allegation to be "based upon personal knowledge or information other than hearsay" to be sufficient for investigation). Here, the allegations in paragraph 3 appear to be based on the Complainant's personal knowledge, inasmuch as she indicates she personally watched the meetings in which the Respondent voted on the measure in question, as well as a public record that qualifies for the hearsay exception in Section 90.803(8), Florida Statutes,³ namely a campaign treasurer's report which is publicly available and identifies the five companies in question as each contributing \$1,000 toward the Respondent's campaign.⁴ However, even considering the

² The complaint does not allege that the developer actually seeking the change to the development plan contributed to the Respondent's campaign, but, instead, identifies these five other companies, and seems to assert they as well would financially benefit from the measure in question.

³ Rule 34-5.002(2)(a)2. of the Florida Administrative Code states an allegation in an ethics complaint will be considered based on information other than hearsay so long as the evidence supporting the allegation is hearsay that is, or likely would be, admissible under Sections 90.801 through 90.805, Florida Statutes. See also Florida Elections Commission v. Valliere, 45 So. 3d 506 (Fla. 4th DCA 2010).

⁴ While the Respondent's campaign treasurer's reports are not included in the complaint, Rule 34-5.002(1) of the Florida Administrative Code allows the Commission's Executive Director to "obtain information from public records" when evaluating the legal sufficiency of a complaint. The Respondent's campaign treasurer's reports are publicly available through the Flagler County Supervisor of Elections' Office (see https://www.voterfocus.com/CampaignFinance/cand_srch.php?c=flagler), and they indicate that

allegations in paragraph 3 on their merits, they still do not provide a legally sufficient basis for investigation, as explained below.

5. Initially, the allegations in paragraph 3 fail to indicate a violation of Section 112.3143(3)(a), the portion of the voting conflict law pertaining to local elected officers, as the provision does not prohibit elected officials from voting on issues simply because they will affect campaign contributors. See CEO 94-13 and CEO 78-20, Question 2.⁵ Moreover, the complaint does not indicate that the campaign contributors in question were principals, relatives, or business associates of the Respondent, as would be needed otherwise to implicate Section 112.3143(3)(a).⁶

6. Neither do the allegations in paragraph 3 indicate a violation of Section 112.313(2), Florida Statutes, which provides:

SOLICITATION OR ACCEPTANCE OF GIFTS.—No public officer, employee of an agency, local government attorney, 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 attorney, or candidate would be influenced thereby.

each of the companies in question made a \$1,000 contribution toward the Respondent's campaign on October 20, 2025.

⁵ The Commission opinions cited herein are available at: www.ethics.state.fl.us.

⁶ Section 112.3143(3)(a) provides, in part:

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 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 . . .

The alleged receipt by the Respondent of the campaign contributions in question does not equate to the quid-pro-quo, criminal-bribery-like understanding required to indicate a possible violation of Section 112.313(2). Moreover, regarding political campaign contributions, we have found that such are a special class of gifts permitted by law and, thus, that they are not prohibited by Section 112.313(2), absent a specific agreement or understanding, which is not sufficiently alleged here. See CEO 75-181. Therefore, the allegations in paragraph 3 fail to indicate a possible violation of Section 112.313(2) as to the alleged campaign contributions.

7. Additionally, the allegations in paragraph 3 fail to indicate a violation of Section 112.313(4), Florida Statutes, which provides:

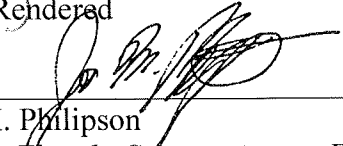
UNAUTHORIZED COMPENSATION.--No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise 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.

A sufficient allegation under this statute requires more than a claim that something of value was given to a public officer who might, one day, be in a position to help the donor. See Commission on Ethics v. Barker, 677 So. 2d 254, 256 (Fla. 1996). The allegations in paragraph 3 indicate, at most, that contributions were made to the Respondent's campaign, and that, sometime later, the Respondent voted on measures that could have a direct or indirect effect on the contributors. Without more, this allegation is not sufficient 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, June 5, 2026.

June 10, 2026
Date Rendered


Jon M. Philipson
Chair, Florida Commission on Ethics

JMP/gps

cc: Ms. Theresa Pontieri, Respondent
Ms. Sherry W. Hedden, Complainant