

**DATE FILED**

**OCT 28 2015**

**COMMISSION ON ETHICS**

BEFORE THE  
STATE OF FLORIDA  
COMMISSION ON ETHICS

In re ALBERT (AL) HADEED, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Complaint No. 15-134

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, October 23, 2015, 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 legal insufficiency, based on the following analysis:

1. This complaint was filed by John Ruffalo of Palm Coast, Florida.
2. The Respondent, Albert (Al) Hadeed, serves as County Attorney for Flagler County.
3. The complaint, which consists of a lengthy narrative and multiple attachments, much of which concerns officials or persons other than the Respondent, describes various alleged happenings of County government and officials, focusing on the Respondent's alleged failure to provide proper or adequate legal advice to the Board of County Commissioners or members of

the Board on several matters, and on the Respondent's alleged conduct in defending a lawsuit for the County.

4. The complaint substantively fails to indicate a possible violation of Section 112.313(6), Florida Statutes, the only provision of the Code of Ethics even arguably applicable to it.<sup>1</sup> In this regard, particulars of the complaint are addressed below.

5. Regarding the assertion that the Respondent should not have sought, or did not properly seek, "approval" from the Board to seek a publicly-provided or publicly-funded legal defense for Board members or the Respondent, as to Commission on Ethics complaints, Elections Commission complaints, and Florida Bar complaints, the complaint is conclusory, not factually indicative of a possible violation of Section 112.313(6). It is not inconsistent with the proper performance of public duty or wrongful (it is not "corrupt") for a county attorney to bring the issue of publicly-provided defense, and related matters, to the attention of the county's governing board and to seek the board's input. Indeed, such conduct would seem to be prudent and to serve a public purpose, regardless of whether a benefit also might accrue to the attorney or

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<sup>1</sup> Statutes provide:

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. This section shall not be construed to conflict with s. 104.31. [Section 112.313(6), Florida Statutes.]

'Corruptly' means 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 112.312(9), Florida Statutes.]

board members. Blackburn v. State Commission on Ethics, 589 So. 2d 431 (Fla. 1st DCA 1991).

In addition, Section 112.313(5), Florida Statutes, provides:

SALARY AND EXPENSES.—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

While substantive law (statutes, case law, common law) outside the Code of Ethics controls or guides what constitutes "salary, expenses, or other compensation . . . as provided by law," Section 112.313(5) makes it plain that the consideration of such by a public officer or local government attorney is not prohibited by the Code.<sup>2</sup>

6. As to the assertion that the Respondent should have informed or better informed a Board member about the voting conflicts law within the Code of Ethics, such that she could have avoided a violation of the law, this indicates only a possible matter for The Florida Bar or additional forums other than the Commission on Ethics. To the extent, if any, the assertion suggests negligent conduct on the part of the Respondent, such conduct is not indicative of the intentional ("corrupt") conduct required under Section 112.313(6).

7. Regarding the Respondent's alleged defense of a lawsuit involving the County, such would appear to be consistent with the proper performance of his duties, notwithstanding that others might differ as to litigation/pleading tactics or strategies.

8. It is evident that matters of the complaint are of great importance to the Complainant and others, and that the Complainant has devoted substantial time and energy into its filing. However, in sum, while the complaint raises matters which may be addressable in

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<sup>2</sup> The naming of someone individually in an ethics complaint or similar complaint is not, per se, preclusive of their ability to have a publicly-funded defense. See CEO 88-46.

other forums (e.g., the courts, the Board of County Commissioners, the ballot box), it is not indicative of a possible violation of the Code of Ethics by the Respondent.

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 October 23, 2015.

October 28, 2015  
Date Rendered

  
Stanley M. Weston  
*Chair, Florida Commission on Ethics*

cc: Mr. Mark Herron, Attorney for Respondent  
Mr. John Ruffalo, Complainant

SMW/cca/les

**DATE FILED**

**OCT 28 2015**

BEFORE THE  
STATE OF FLORIDA  
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re NATHAN MCLAUGHLIN, )  
 )  
Respondent. )  
\_\_\_\_\_ )

Complaint No. 15-145

**PUBLIC REPORT AND ORDER DISMISSING COMPLAINT**

On Friday, October 23, 2015, 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 legal insufficiency, based on the following analysis:

1. This complaint was filed by Dennis McDonald of Flagler Beach, Florida.
2. The Respondent, Nathan McLaughlin, serves as a member of the Board of County Commissioners of Flagler County.
3. The complaint, which consists of a lengthy narrative and multiple attachments, much of which concerns officials or persons other than the Respondent, describes various alleged happenings of County government and officials. As to the Respondent, the complaint asserts that the Respondent failed to comply with the voting conflicts law, Section 112.3143(3)(a), Florida Statutes, regarding a December 2014 Board matter, brought to the Board's attention by

the County Attorney, concerning provision of a publicly-provided or publicly-funded legal defense for the Respondent and other public officials as to Commission on Ethics complaints and Elections Commission complaints.

4. The complaint substantively fails to indicate a possible violation of Section 112.3143(3)(a) or of Section 112.313(6), Florida Statutes.<sup>1</sup>

5. Regarding Section 112.313(6), it is not inconsistent with the proper performance of public duty or wrongful (it is not "corrupt") for a board of county commissioners to further a

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<sup>1</sup> Statutes provide:

VOTING CONFLICTS.—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. [Section 112.3143(3)(a), Florida Statutes.]

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. This section shall not be construed to conflict with s. 104.31. [Section 112.313(6), Florida Statutes.]

'Corruptly' means 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 112.312(9), Florida Statutes.]

publicly-provided defense for themselves in matters at least arguably connected to their public positions. Indeed, such conduct would seem to be prudent and to serve a public purpose, regardless of whether a benefit also might accrue to the board members. Blackburn v. State Commission on Ethics, 589 So. 2d 431 (Fla. 1st DCA 1991). In addition, Section 112.313(5), Florida Statutes, provides:

SALARY AND EXPENSES.—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

While substantive law (statutes, case law, common law) outside the Code of Ethics controls or guides what constitutes "salary, expenses, or other compensation . . . as provided by law," Section 112.313(5) makes it plain that voting on such by a public officer is not prohibited by the Code.<sup>2</sup> Similarly, the complaint is not indicative of a possible violation of Section 112.3143(3)(a).<sup>3</sup>

6. It is evident that matters of the complaint are of great importance to the Complainant and others, and that the Complainant has devoted substantial time and energy into its filing. However, in sum, while the complaint raises matters which may be addressable in other forums (e.g., the courts, the Board of County Commissioners, the ballot box), it is not indicative of a possible violation of the Code of Ethics by the Respondent.

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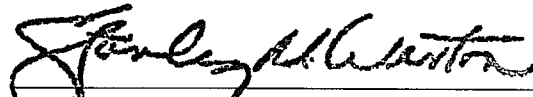
<sup>2</sup> The naming of someone individually in an ethics complaint or similar complaint is not, per se, preclusive of their ability to have a publicly-funded defense. See CEO 88-46.

<sup>3</sup> Contents of the complaint asserting a law firm's trust account payment for an Elections Commission fine of the Respondent are not factually indicative of a possible misuse of public position or public resources by the Respondent. And, the Respondent's alleged "breaching of confidentiality" as to an ethics complaint against himself also is not, per se, indicative of a possible violation of Section 112.313(6).

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 October 23, 2015.

October 28, 2015  
Date Rendered



Stanley M. Weston

*Chair, Florida Commission on Ethics*

cc: Mr. Mark Herron, Attorney for Respondent  
Mr. Dennis McDonald, Complainant

SMW/cca/les