

Recommended Order  
4.1.2004  
STATE OF FLORIDA  
DIVISION OF RETIREMENT

FILED  
04 MAY -5 PM 2:16  
DIVISION OF RETIREMENT  
ADMINISTRATIVE  
HEARINGS

ERIC EGGEN,

Petitioner,

AT

Final Order No. DMS-04-018

vs.

DOAH Case No. 03-4412

DMS DOR No.: 03-46

DEPARTMENT OF MANAGEMENT SERVICES,  
DIVISION OF RETIREMENT

Respondent.

JDP  
Closed

FINAL ORDER

PRELIMINARY STATEMENT

After being formally notified of the Division of Retirement's intent to deny his request for membership in the Florida Retirement System (FRS) from March 1991, to present, Mr. Eggen timely filed a petition for hearing and the case was referred to the Division of Administrative Hearings.

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, J.D. Parrish, held a formal hearing in the above-styled case on January 29, 2004, in Pensacola, Florida.

At the formal proceeding, Petitioner offered his own testimony and that of Antoinette Munro and Deedra Abernathy Benham. Petitioner offered 5 exhibits, which were admitted. Respondent offered the testimony of Cathy Smith, Benefits Administrator, Division of Retirement, and Ellen Vickery, Personnel Office, Office of Court Administrator, First Judicial Circuit. Respondent offered 11 exhibits, which were admitted. Official Recognition was taken of Chapter 121, Florida Statutes, Chapter 60S, Florida Administrative Code, and Chapter 216, Florida Statutes.

A transcript was ordered, which has been reviewed in the preparation of this order. The Parties filed their proposed Recommended Orders, which have been considered in the preparation of this order. A Recommended Order was issued April 1, 2004, which is incorporated by reference into this Final Order. Exceptions to the Recommended Order have been filed by the Petitioner.

#### STATEMENT OF THE ISSUES

The issue in this case is to determine whether Eric Eggen should be a member of the FRS, from 1991, to present.

#### FINDINGS OF FACT

The Division of Retirement accepts the Findings of Fact set forth in the Recommended Order.

#### CONCLUSIONS OF LAW

The Division of Retirement accepts the Conclusions of Law as set forth in the Recommended Order.

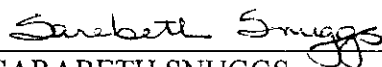
#### EXCEPTIONS

Petitioner's Exceptions 1,2,3, and 4(a), (f), and (g), are rejected as contrary to law and to the facts of the case. Exceptions 4 (b)-(e) are rejected because the findings of fact are supported by competent, substantial record evidence.

ORDER

Based on the foregoing, it is hereby ORDERED AND DIRECTED that the Florida Division of Retirement DENIES the request of the Petitioner, Eric Eggen for membership in the FRS from March 1991, to present.

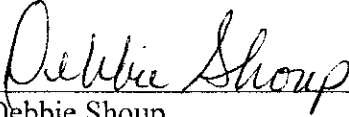
DONE AND ORDERED this 3 day of May 2004, in Tallahassee, Leon County, Florida.

  
SARABETH SNUGGS  
INTERIM RETIREMENT DIRECTOR  
DIVISION OF RETIREMENT  
CEDARS EXECUTIVE CENTER  
BUILDING C  
2639 NORTH MONROE STREET  
TALLAHASSEE, FL 32399-1560  
(850) 488-5541

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF MANAGEMENT SERVICES, 4050 ESPLANADE WAY, SUITE 260, TALLAHASSEE, FLORIDA 32399-0950, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

I HEREBY CERTIFY that this Final Order was filed in the official records of the Division of Retirement, and copies distributed by U.S. Mail to the parties below, on the 29<sup>th</sup> day of April, 2004.

  
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Debbie Shoup  
Clerk  
Department of Management Services

Copies furnished to:

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