

Thomas P. Scarritt, Jr.
Chair
Kurt D. Jones
Vice Chair
Mike Carr
Joel K. Gustafson
Charles Lydecker
Albert Massey
Norman Ostrau
Richard L. Spears
Catherine B. Whatley



State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, FL 32317-5709

3600 Maclay Blvd., South, Suite 201
Tallahassee, FL 32312
October 19, 2005

Bonnie J. Williams
Executive Director

Philip C. Claypool
General Counsel

(850) 488-7864 Phone
278-7864 Suncom
(850) 488-3077 (FAX)

www.ethics.state.fl.us

The Honorable Jeb Bush
Governor
The Capitol
Tallahassee, FL 32399-0001

04-3831EC
JDP
closed

FILED
OCT 20 AM 11:47
DIVISION OF
ADMINISTRATIVE
HEARINGS

Re: Complaint No. 02-168, In re AL PARUAS

Dear Governor Bush:

The State of Florida Commission on Ethics has completed a full and final investigation of a complaint filed against Mr. Al Paruas, who served as a member of the Golden Beach Town Council. Pursuant to Section 112.324(8), Florida Statutes, we are reporting our findings to you in this case.

Therefore, we are enclosing a copy of our file and the Final Order and Public Report in this matter. As we have found that Mr. Paruas violated Section 112.313(6), Florida Statutes, in the manner described in the order, we recommend that you impose a public reprimand and a civil penalty in the amount of \$5,000.

If we may be of any assistance to you in your deliberations, please do not hesitate to contact us. We would appreciate your informing us of the manner in which you dispose of this matter. For information regarding the collection of this civil penalty, please contact the Office of the Attorney General, Mr. James H. Peterson, III, Assistant Attorney General.

Sincerely,

Bonnie J. Williams
Bonnie J. Williams
Executive Director

BJW/jcc

Enclosures

cc: Mr. Stuart Michelson, Attorney for Respondent
Mr. James H. Peterson, III, Commission's Advocate
Mr. Tom Calderon, Complainant

DATE FILED

OCT 19 2005

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re AL PARUAS,)
)
 Respondent.)
)
)
)
)
)

Complaint No. 02-168
DOAH Case No. 04-3831EC

Final Order No. 05-600

FINAL ORDER AND PUBLIC REPORT

This matter came before the State of Florida Commission on Ethics, meeting in public session on Friday, October 14, 2005, to consider the Recommended Order rendered by the Division of Administrative Hearings' Administrative Law Judge on July 29, 2005.

05 OCT 20 11:17
DIVISION OF
ADMINISTRATIVE
HEARINGS
FILED

BACKGROUND

This matter began with the filing of a complaint on December 2, 2002, by Tom Calderon alleging that the Respondent, Al Paruas, as a Town Council Member for the Town of Golden Beach, had used his influence to have a parking ticket issued to his wife voided in violation of Section 112.313(6), Florida Statutes. The allegations were found to be legally sufficient to allege a possible violation of the Code of Ethics and Commission staff undertook a preliminary investigation to aid in the determination of probable cause. On October 21, 2003, the Commission on Ethics issued an order finding probable cause to believe that the Respondent had violated Section 112.313(6), Florida Statutes, by using the influence of his public office to have his wife's parking ticket voided. The matter was then forwarded to the Division of Administrative Hearings for assignment of an Administrative Law Judge (ALJ) to conduct a

hearing and prepare a recommended order. The formal hearing was held on April 12, 2005. A transcript was filed with the ALJ and both parties filed proposed recommended orders. The ALJ's Recommended Order was transmitted to the Commission and to the parties on July 29, 2005, and the parties were notified of their right to file exceptions to the Recommended Order. In lieu of filing exceptions, however, on August 31, 2005, the Advocate and the Respondent entered into a Joint Stipulation Agreeing to the Adoption of the Recommended Order and Recommending a Penalty.

The matter is now before the Commission for final agency action.

STANDARDS FOR REVIEW

Under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law and interpretations of administrative rules contained in the recommended order. However, the agency may not reject or modify findings of fact made by the ALJ unless a review of the entire record demonstrates that the findings were not based on competent, substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. See, e.g., Freeze v. Dept. of Business Regulation, 556 So. 2d 1204 (Fla. 5th DCA 1990); and Florida Department of Corrections v. Bradley, 510 So. 2d 1122 (Fla. 1st DCA 1987). Competent, substantial evidence has been defined by the Florida Supreme Court as such evidence as is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusions reached." DeGroot v. Sheffield, 95 So.2d 912, 916 (Fla. 1957).

The agency may not reweigh the evidence, resolve conflicts therein, or judge the credibility of witnesses, because those are matters within the sole province of the ALJ. Heifetz

v. Dept. of Business Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). Consequently, if the record of the DOAH proceedings discloses any competent, substantial evidence to support a finding of fact made by the ALJ, the Commission is bound by that finding.

Under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified.

Having reviewed the Recommended Order and the Joint Stipulation, the Commission makes the following findings, conclusions, rulings and recommendations.

FINDINGS OF FACT

The Findings of Fact as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

CONCLUSIONS OF LAW

1. The Conclusions of Law as set forth in the Recommended Order are approved, adopted, and incorporated by reference.
2. Accordingly, the Commission on Ethics concludes that the Respondent, as a member of the Town Council for the Town of Golden Beach, violated Section 112.313(6), Florida Statutes, by improperly using his influence as a public officer to have his wife's parking ticket voided.

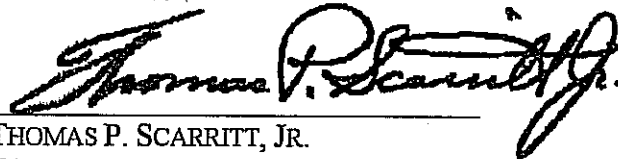
RECOMMENDED PENALTY

The ALJ recommended that the Respondent be subject to a public reprimand and the imposition of a civil penalty not to exceed \$10,000. In the Joint Stipulation, the parties recommended that the Respondent receive a public reprimand and a civil penalty of \$5,000. The Joint Stipulation is hereby accepted.

In consideration of the foregoing and pursuant to Sections 112.317 and 112.324, Florida Statutes, the Commission recommends that the Governor impose a public reprimand and a civil penalty upon the Respondent, Al Paruas, in the total amount of \$5,000.

DONE and ORDERED by the State of Florida Commission on Ethics meeting in public session on October 14, 2005.

October 19, 2005
Date Rendered


THOMAS P. SCARRITT, JR.
Chair

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110 FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, 3600 MACLAY BOULEVARD SOUTH, SUITE 201, P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709; AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

cc: Mr. Stuart Michelson, Attorney for Respondent
Mr. James H. Peterson, III, Commission Advocate
Mr. Tom Calderon, Complainant
The Honorable J. D. Parrish, Administrative Law Judge
Division of Administrative Hearings