

DATE FILED

JAN 30 2008

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re CHARLES OSBORNE,)
)
 Respondent.)
)
)
)
 _____)

Complaint No. 03-091
DOAH Case No. 07-3045FE
Final Order No. 08-001

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DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER ON ATTORNEY'S FEES AND COSTS

This matter came before the State of Florida Commission on Ethics (Commission), meeting in public session on January 25, 2008, on the Recommended Order On Attorney's Fees And Costs (RO) of an Administrative Law Judge (ALJ) of the Division of Administrative Hearings (DOAH) rendered on November 14, 2007.

Background

This matter began with the filing of an ethics complaint by Alexander J. Milanick [complainant in the original ethics complaint proceeding and respondent in the attorney fees/costs proceedings before the Commission and before DOAH (Milanick)] against Charles Osborne [respondent in the original ethics complaint proceeding and petitioner in the attorney fees/costs proceedings before the Commission and before DOAH (Osborne)], alleging that Osborne (as Mayor of the Town of Beverly Beach, Florida) violated the Code of Ethics. Thereafter, the

Commission investigated the matter and dismissed the ethics complaint based upon a finding of no probable cause.

Subsequently, Osborne petitioned the Commission for attorney fees and costs against Milanick, the Commission referred the petition to DOAH, and DOAH's ALJ held a hearing on the petition and issued a RO recommending that the Commission enter a final order awarding attorney fees and costs to Osborne and against Milanick in the amount of \$4,976.00. Thereafter, Milanick filed exceptions to the RO, Osborne responded to the exceptions, Milanick and Osborne made argument before the Commission, and the Commission entered a Final Order Denying Attorney Fees And Costs [order rendered October 19, 2005 (FO)]. Osborne then appealed the FO to the Fifth District Court of Appeal and the Court reversed the Commission's denial of fees and costs and remanded the matter to the Commission. Osborne v. Commission on Ethics, 951 So. 2d 25 (Fla. 5th DCA 2007).¹ Also, by separate order (dated February 16, 2007), the Court awarded appellate attorney fees in favor of Osborne and against

¹ The Commission's final order denying fees and costs (which rejected the contrary view of the ALJ in his RO) was based on the Commission's view (repudiated by the District Court) that the sworn, ethics complaint (filed by Milanick against Osborne) itself did not contain the offending allegation as required by the statute. The final order did not reject or modify any other material determination of the ALJ's RO, including the determination of the amount of fees and costs.

Milanick, but did not determine the amount of the appellate fees, instead remanding this determination to the Commission.

Thereafter, Osborne filed with the Commission a Motion For Award Of Attorney's Fees And Costs, a Motion For Petitioner's Attorney's Fees And Costs Incurred In Proving Entitlement To Attorney's Fees And Costs, and a Motion For Petitioner's Appellate Attorney's Fees And Costs; and Milanick filed with the Commission three Objections, one to each of the three Motions filed by Osborne. Then, in view of the posture of the matter following the decision and mandate of the District Court, the Commission sent the matter back to DOAH (via referral letter dated July 6, 2007) for further hearing and issuance of the RO that is now before us.² Thereafter, both Milanick and Osborne filed with the Commission exceptions to the instant RO, and Osborne filed a response to Milanick's exceptions. Both Milanick and Osborne were notified of the date, time, and place of our final consideration of this matter, and both were given

² Like most State administrative agencies, the Commission utilizes the services of DOAH and its ALJs to conduct hearings, take evidence, and make recommendations on disputed issues. Because Osborne and Milanick did not agree on the payment of costs and attorney fees or the amounts thereof after the Court's decision and mandate, it was necessary for the matter to be sent once again to DOAH.

the opportunity to make argument during our consideration.

Extent of Entitlement under the Statute

When an ethics complaint respondent has shown that a complainant has made an ethics complaint against him within the contemplation of Section 112.317(7), Florida Statutes [formerly Section 112.317(8), Florida Statutes] (a "malicious complaint"), the person complained against (respondent) is entitled to recover from the complainant "costs plus reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees." And the fees and costs which such a respondent is entitled to recover against the complainant include "fees and costs incurred after the date of the administrative hearing's conclusion." Kaminsky v. Lieberman, 675 So. 2d 261 (Fla. 4th DCA 1996). Also, Kaminsky requires that the Commission must provide a hearing (a hearing after the hearing determining reasonable costs and fees incurred in defense of the ethics complaint itself) for a respondent to establish costs and fees incurred after the first hearing, including but not limited to costs and fees regarding preparation of proposed recommended orders and the filing of

exceptions to the recommended order.³ Further, in the instant matter, the Court entered an order (separate from its opinion decision) awarding appellate attorney fees for Osborne against Milanick.

Therefore, in view of the language of Section 112.317(8), the construction given the statute in Kaminsky, the 5th DCA's order awarding appellate attorney fees to Osborne (but remanding as to reasonableness and amount), Osborne's entitlement to appellate costs pursuant to Florida Rule of Appellate Procedure 9.400(a), and the Court's opinion and mandate issued in Osborne, we were required to provide a hearing in which Osborne could establish the reasonableness and amount of his costs and fees incurred regarding the first costs/fees hearing at DOAH (including costs and fees incurred after the evidentiary portion of the first hearing, such as the preparation of a proposed recommended order and preparation for and appearance before the Commission for its consideration of the ALJ's RO and exceptions to the RO), and appellate Court work. This required hearing was

³ We read Kaminsky as requiring a hearing ("second hearing") for the purpose of establishing costs/fees incurred in proving entitlement to and the amount of costs/fees incurred in defense of the ethics complaint, but which were incurred at or after the first hearing. We do not read Kaminsky as requiring that an ALJ recommend, or that we award, costs/fees incurred in proving entitlement to and the amount of costs/fees incurred in proving entitlement to and the amount of costs/fees incurred in defense of the ethics complaint; and we do not read Kaminsky as requiring a "third hearing."

provided via our requesting⁴ that DOAH have an ALJ conduct the hearing and provide us with a recommended order, which is the instant RO before us.

Briefly stated, costs/fees awards to which Osborne is entitled under the statute, in the context of this matter which includes defense of the ethics complaint and proceedings to determine entitlement to and the amount of costs and fees incurred in defending the ethics complaint (including appellate proceedings), and regarding which the ALJ has found in his RO to be proven and substantiated, are:

\$4,976.00 This is the amount of costs and attorney fees incurred by Osborne in defending against the ethics complaint filed on July 23, 2003 by Milanick, up through the Commission's dismissal of the complaint based on a finding of no probable cause (via Public Report rendered September 17, 2004). This amount was determined by the ALJ in the first DOAH costs/fees proceeding (DOAH hearing held May 11, 2005, RO filed July 1, 2005) and was determined by the 5th DCA in Osborne to be correct. Thus, this amount of the total award did not require proof at the second DOAH costs/fees proceeding held on September 28, 2007. See paragraphs 4 through 6 and paragraph 29 of the instant RO. The Commission sent this portion of the matter to DOAH merely for facilitation of comprehensive handling of the entire matter and the Commission's entry of but one final order.

⁴ Our request to DOAH was made by letter dated July 6, 2007, which referred to and included copies of the first recommended order of the ALJ, the Commission's final order which was reversed and remanded by the Fifth DCA, the mandate of the Fifth DCA, the order of the Fifth DCA awarding appellate attorney fees, Osborne's three motions regarding costs and fees filed with the Commission, and Milanick's responses to Osborne's motions.

\$56,772.73 This is the amount of costs and attorney fees incurred by Osborne in proving his entitlement to and the amount of the costs/fees incurred by him in defense of the ethics complaint. The costs/fees statute within the Code of Ethics [Section 112.317(8), Florida Statutes (2004)] expressly provides for this type of award (" . . . including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees.") and the ALJ found that this amount was so incurred and was reasonable. See paragraphs 16 through 25 and paragraph 36 of the instant RO. Further, the findings of the ALJ are based upon competent substantial evidence, including Osborne's (petitioner's) Exhibit 2 admitted at the September 28, 2007 DOAH hearing and the testimony of an expert witness. The Commission sent this portion of the matter to DOAH because it utilizes DOAH and its ALJ's to conduct its hearings, which are primarily evidential in nature, and because of its desire to comprehensively handle the entire matter and enter but one final order.

\$15,485.70 This is the amount of costs and attorney fees incurred by Osborne in his successful appeal to the 5th DCA. Appellate costs shall be taxed in favor of the prevailing party (in this matter, Osborne) unless the Court orders otherwise, and the costs shall be taxed by the lower tribunal (in this matter, the Commission) on motion served within 30 days after issuance of the mandate by the appellate Court. Rule 9.400(a), Florida Rules of Appellate Procedure. Osborne served such a motion (see Osborne's Exhibit 3 admitted at the DOAH hearing). Osborne's appellate attorney fees were granted by the 5th DCA via its order dated February 16, 2007 (Exhibit 4 of the DOAH hearing), in which it remanded the matter to the Commission to determine and assess reasonable appellate attorney fees, pursuant to Rule 9.400(b), Florida Rules of Appellate Procedure. As with the "entitlement/amount" costs and fees, this portion of the matter was sent by the Commission to DOAH for an ALJ hearing and comprehensive handling via one final order. The ALJ determined that the attorney fees and costs incurred by Osborne on appeal were

reasonable and he determined a reasonable amount, based upon competent substantial evidence, including expert testimony. See, inter alia, paragraphs 7 through 15 and 35 of the instant RO and Osborne's Exhibit 3 admitted at the DOAH hearing.

\$77,234.43 Total costs and fees award determined by the ALJ and recommended to the Commission for an award in favor of Osborne.

Standards of Review of a DOAH Recommended Order

Under Section 120.57(1)(1), Florida Statutes, an agency may reject or modify the conclusions of law over which it has substantive jurisdiction and the interpretations 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 or interpretation and must make a finding that its substituted conclusion or interpretation is as or more reasonable than that which was rejected or modified.

However, the agency may not reject or modify findings of fact made by an ALJ unless the agency first determines from a review of the entire record, and states with particularity in its order, that the findings of fact were not based upon competent, substantial evidence or that the proceedings upon which the findings were based did not comply with essential requirements of law. See, e.g., Freeze v. Department 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, may not resolve conflicts in the evidence, and may not judge the credibility of witnesses, because such evidential matters are within the sole province of the ALJ. Heifetz v. Department of Business Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). Consequently, if the record of the DOAH proceedings discloses any CSE to support a finding of fact made by the ALJ, the Commission on Ethics is bound by that finding.

Having reviewed the RO, the entire record of the proceeding, the documents filed with us regarding this matter (including the opinion, mandate, and orders of the Fifth District Court of Appeal), Milanick's exceptions, Osborne's exceptions, and Osborne's response to Milanick's exceptions, and having heard the arguments of Milanick and of Osborne, the Commission on Ethics makes the following rulings, findings, conclusions, determinations, and dispositions:

Ruling on Osborne's Exception

Osborne timely filed an exception to paragraph 26 of the instant RO. Paragraph 26, denominated in the RO as a finding of fact but which may be both a finding of fact and a conclusion of law or a mixed finding of law and fact, states: "Mr. Riggio presented Mayor Osborne with an invoice in the amount of \$2,370 for the cost of the current proceeding. However, the Administrative Law Judge is without jurisdiction to address this claim in this proceeding." The exception argues that the ALJ did have jurisdiction, under Kaminsky, supra, to address the claim, which Osborne argues totals \$4,000, rather than the \$2,370 stated in paragraph 26, and which Osborne argues is detailed in Exhibits 6 and 7 admitted at the DOAH hearing which resulted in the instant RO.

We reject this exception. We read Section 112.317(8), as construed by Kaminsky, to require, in the posture of this matter involving Osborne and Milanick, the awards recommended by the ALJ in the instant RO, including an award of fees and costs incurred by Osborne in proving entitlement to, and the amount of, his costs and fees incurred in defending against the ethics charges made by Milanick, and regarding which Kaminsky requires that we provide a second hearing (which we have done via the DOAH/ALJ hearing resulting in the instant RO). We do not read

Kaminsky as requiring that we provide a third hearing regarding yet additional fees and costs. In this regard, we emphasize that none of the items shown in Exhibits 6 and 7 concern costs or fees incurred in defense of the ethics complaint, incurred in proving entitlement to or the amount of costs/fees incurred in defense of the complaint, or incurred in the appeal to the 5th DCA in Osborne. Rather, the items concern legal work and costs incurred in regard to Milanick's failed attempt (in part pro se) to obtain discretionary review in the Florida Supreme Court of the 5th DCA's Osborne decision and legal work and costs incurred regarding the second DOAH hearing (not the first DOAH hearing, in which fees and costs were incurred to prove entitlement to and the amount of costs and fees incurred in defense of the ethics complaint).

Rulings on Milanick's Exceptions

Milanick timely filed 21 pages of exceptions to the instant RO of the ALJ. The exceptions, some of which are redundant and/or merely conclusory, bear numbering of 1 through 96 and bear various other headings or designations. All are denied, for the reasons set forth below.

In exceptions numbered 1 through 4 ("Denying Respondent a Lawyer"), Milanick argues that the ALJ denied his motion for a continuance (which Milanick argued to the ALJ he needed to have

time to get an attorney) "for no good reason." These exceptions are denied. It is not the role of an agency reviewing a recommended order to attempt to second-guess or substitute such decisions of the ALJ who presided at the DOAH hearing. Rules 28-106.210 and 28-106.211, Florida Administrative Code, and Sections 120.569 and 120.57(1), Florida Statutes. Further, under Rule 28-106.210, the granting of a continuance by a presiding officer (ALJ) is not mandatory and, if granted, must be for good cause shown. It appears from the record that the ALJ, in not granting the continuance, properly exercised his discretion in view of the posture of the matter before him. See pages 103-105 of the transcript of the second DOAH hearing.

In exceptions numbered 5 through 15 ("Barring Respondent from Introducing Proper Evidence and Affirmatively Misleading Respondent as to the Evidence Respondent was limited to furnishing"), Milanick apparently argues that the ALJ improperly restricted Milanick's cross examination of Osborne's witnesses or improperly restricted Milanick's presentation of direct evidence, resulting in "fundamental error," "gross deprivation of due process," and "egregious departure from the essential requirements of law." These exceptions are denied. The actions of the ALJ complained about by Milanick are properly within his role as presiding officer over the DOAH hearing; and Milanick's

conclusory language, quoted above, does not demonstrate a possible error by the ALJ under the standards of review of the RO applicable to this Commission under Section 120.57(1)(1), Florida Statutes.

In exceptions numbered 16 through 27 ("Impermissibly Allowing Petitioner to Introduce Key Evidence without first presenting it to the Respondent or Ruling on the Respondent's Proper Objection, all in violation of the Hearing Officer's own prior rulings") Milanick argues that the deposition of Martin Pedata (one of Osborne's attorneys in the ethics/fees-costs matter) should not have been admitted as Osborne's Exhibit 5 at the DOAH hearing because Milanick (who was not at the deposition) did not have an opportunity to cross examine Mr. Pedata. These exceptions are denied. The record shows that Milanick was noticed as to the deposition but did not attend; and it is within the discretion of the ALJ, as presiding officer, to conduct the proceedings in light of the history of discovery (or lack thereof) in the matter and other judicial concerns.

In exceptions numbered 28 through 35 ("Improperly helping Petitioner's Attorney testify to get evidence into the record, without formally being called as a witness to testify, to help Petitioner make out his case, without subjecting Petitioner's

attorney to cross examination"), Milanick argues that the ALJ essentially allowed Mr. Riggio (counsel for Osborne) to testify without Mr. Riggio's having to submit to cross-examination by Milanick, due to bar-bench type exchanges during the hearing, that the ALJ stated that Osborne's proof appeared to be sufficient even without testimony from Mr. Riggio, and that live testimony from Mr. Riggio at the hearing is necessary to support a costs/fees award. These exceptions are denied. The conduct attributed to the ALJ via the exceptions is within his prerogative as presiding officer, and the record contains competent substantial evidence supporting the costs/fees awarded, whether or not any "testimony" of Mr. Riggio is considered. See Osborne's hearing Exhibits 2, 3, and 5 and the hearing testimony of attorney fees/costs expert witness David Robinson, Esquire, who was cross-examined by Milanick (hearing transcript pages 40 through 54).

In exceptions numbered 36 through 49 ("Violating the doctrine of Res Judicata, by improperly Re-Opening the First Evidentiary Hearing on May 11, 2005, at which an award of \$4,976 was recommended and later ratified by the Fifth District Court of Appeals, to improperly attempt to pump up those fees by tens of thousands of dollar, under the guise of calling them entitlement fees"), Milanick argues that the ALJ's original RO

and its reinstatement by the 5th DCA precludes a determination or award by the ALJ or the Commission in any amount other than the amount in the first RO (\$4,976.00). These exceptions are denied. Section 112.317(8), Florida Statutes (2004), Kaminsky, supra, Rule 9.400, Florida Rules of Appellate Procedure, and the 5th DCA's order awarding appellate fees provide the legal bases for awards in addition to the \$4,976.00. The additional amounts go to "entitlement/amount" costs and fees and to appellate costs and fees; the \$4,976.00 goes only to the costs/fees incurred in defense of the ethics complaint itself. And the record of the second DOAH proceeding contains competent substantial evidence supporting the initial (ethics complaint defense) award, the entitlement to/amount of costs/fees award, and the appellate costs/fees award.

In exceptions numbered 50 through 56 ("Exceeding Jurisdictional Role; Exceeding Scope of Referral by the Commission and the ruling by the Fifth"), Milanick essentially states again his "res judicata" argument. For the reasons set forth above, these exceptions are again denied.

In exceptions numbered 57 through 62 ("Arbitrarily and Selectively Enforcing the Law, by freely allowing Petitioner to Violate Pre-Trial Order, and allowing Petitioner to Improperly Admit Evidence"), Milanick argues that the ALJ improperly

allowed Osborne's attorney's billing clerk to testify, even though she was not listed as a witness by Osborne, and argues that "brand new bills" (Osborne's DOAH hearing Exhibits 6 and 7) should not have been admitted by the ALJ into evidence. These exceptions are denied. It is the province of the ALJ, as the presiding officer, to make such rulings regarding witnesses and exhibits at a DOAH hearing, especially in light of the discovery history of this matter before DOAH. Also, the items and amounts detailed in Exhibits 6 and 7 (the "brand new bills") were not recommended by the ALJ for award by the Commission, and the items and amounts are not awarded herein. See paragraph 26 of the RO and see the ruling above on Osborne's exception.

In exceptions numbered 63 through 69 ("Improperly Granting the [Petitioner's] Motion to Compel"), Milanick argues that the ALJ should not have granted a discovery motion to compel production of documents filed by Osborne. These exceptions are denied. Such actions by an ALJ are within the province of a presiding officer. Also, the sanction against Milanick awarded by the ALJ regarding the motion to compel (one-half hour attorney time, \$75) is not addressed in the RO and is not before this Commission. See the transcript of the DOAH hearing, pages 6 and 136.

In exceptions numbered 70 through 76 ("Other Violations of Due Process" "Apparent Conflict of Interest"), Milanick argues that this entire matter or proceeding somehow is "erroneous," "improper," or similarly-afflicted because the Commission and its counsel were involved in the handling of this matter, including the appellate litigation before the 5th DCA (which, according to the exceptions involves the same facts, persons, and issues as the instant matter before the Commission), because of the referral of this matter to DOAH for the second hearing and attendant contact, and because the Commission's Executive Director "disallowed [Milanick's] new claim to investigate other charges." These exceptions are denied. None of the points in the exceptions shows that the Commission cannot entertain this matter on a RO from DOAH, as is provided for under Chapter 120, Florida Statutes, and other applicable law. Further, the Commission's interest in this matter, as an agency protective of its interpretation of the ethics costs/fees statute (an interpretation of the statute having nothing to do with the costs/fees issues now before it via the instant RO), is no more at issue, having ended with the 5th DCA's reversal of the Commission's interpretation. Additionally, the "disallowance of new charges" point merely concerns the Commission's Executive Director's correspondence with Milanick concerning his

submission of papers (not filed as an ethics complaint) seeking to have the Commission investigate or act beyond its Constitutional and statutory charge.⁵

In exceptions numbered 77 through 96 ("Specific Exceptions" "No Substantial, Competent evidence to Support Award"), Milanick merely restates his previous exceptions going to discovery/presiding officer decisions made by the ALJ and going to the issue of whether the three costs/fees awards made in the instant RO are provided for as a matter of law and are based on competent substantial evidence. These exceptions are denied. As stated above, discovery/presiding officer decisions are the province of the ALJ and are not to be second-guessed by this Commission as a reviewing agency under Chapter 120, Florida Statutes; the awards are provided for via statute, caselaw, Rules of Appellate Procedure, and order of the 5th DCA; and the awards are supported by competent substantial evidence.

Findings of Fact

The Commission on Ethics accepts and incorporates into this Final Order On Attorney's Fees And Costs the findings of fact in the Recommended Order On Attorney's Fees and Costs from the

⁵ The items referred to are not in the record of the first or second DOAH proceeding. They consist of a lengthy "Statement/Affidavit of Alexander J. Milanick," with lengthy attachments, filed with the Commission on May 3, 2007, and Executive Director Claypool's response thereto.

Administrative Law Judge of the Division of Administrative Hearings rendered on November 14, 2007. The findings, including the findings going to Osborne's incurrence of costs and attorney fees in defending against Milanick's ethics allegations and Osborne's incurrence of costs and attorney fees in proving entitlement to and the amount of his costs and fees incurred in defending against the ethics allegations (including his costs and fees incurred in the appeal to the District Court, a necessary effort of his attorneys in proving his entitlement to and the amount of his costs and fees, given the posture of the matter after the Commission's earlier denial of costs and fees), are based upon competent, substantial evidence, and the proceedings upon which the findings are based complied with essential requirements of law.

Conclusions of Law

The Commission on Ethics accepts and incorporates into this Final Order On Attorney's Fees And Costs the conclusions of law in the Recommended Order On Attorney's Fees And Costs from the Administrative Law Judge of the Division of Administrative Hearings rendered on November 14, 2007.

Disposition

Accordingly, the Commission on Ethics accepts the recommendation of the Administrative Law Judge that it award

attorney fees and costs, and hereby awards the fees and costs in favor of Charles Osborne and against Alexander J. Milanick as follows: attorney fees and costs in the amount of \$4,976.00 incurred by Osborne in defense of the ethics complaint filed by Milanick (the original award); attorney fees and costs in the amount of \$56,772.73 incurred by Osborne in proving entitlement to and the amount of fees and costs incurred in defense of the ethics complaint filed by Milanick; and attorney fees and costs in the amount of \$15,485.70 incurred by Osborne in appeal to the 5th DCA. (Total award of \$77,234.43).

ORDERED by the State of Florida Commission on Ethics meeting in public session on January 25, 2008.

January 30, 2008
Date Rendered

Albert P. Massey, III
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, P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709 (PHYSICAL ADDRESS AT 3600 MACLAY BLVD., SOUTH, SUITE 201, TALLAHASSEE, FLORIDA); 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. Robert J. Riggio, Attorney for Charles Osborne
Dr. Alexander J. Milanick
The Honorable Harry L. Hooper,
Division of Administrative Hearings