

STATE OF FLORIDA
FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY

FLORIDA AGRICULTURAL AND MECHANICAL
UNIVERSITY BOARD OF TRUSTEES,

Petitioner,
vs.

FAMU Case No.: 08-003
DOAH Case No.: 08-4095

ROBERT L. THOMAS,

Respondent.

FILED
2007 FEB 18 A 10:32
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

On January 26, 2009, Administrative Law Judge Ella Jane P. Davis with the Division of Administrative Hearings submitted a Recommended Order in the above-styled case. A copy of the Recommended Order is attached hereto as Exhibit 1. Exceptions were not filed in this case. The matter is now before Florida Agricultural and Mechanical University Board of Trustees (FAMU or Petitioner) for final agency action.

PRELIMINARY STATEMENT

Respondent, during all times material hereto, was employed as a tenured associate professor in the Florida A&M University (University), College of Pharmacy and Pharmaceutical Sciences (COPPS). On May 31, 2007, the University offered Respondent an employment contract that reflected an administrative appointment as Interim Dean of COPPS and associate professor. The period of appointment specified in the contract was July 1, 2007, through June 30, 2008. The annual salary rate for the contract was \$158,417.00 with a biweekly pay amount of \$6,069.61. The contract was executed by Respondent on June 15, 2007, and was signed by the University's authorized representative on June 22, 2007.

On July 2, 2007, FAMU President, Dr. James H. Ammons, announced during a general faculty meeting that Dr. Henry Lewis had been appointed as Dean of COPPS. Respondent was present when Dr. Ammons made the announcement to the faculty. Dr. Lewis's appointment as Dean of COPPS was for the period July 1, 2007, through June 30, 2008; the same period as was reflected in Respondent's contract as Interim Dean. As noted, Respondent, on July 2, 2007, received notice of Dr. Ammons' decision appointing Dean Lewis as Dean of COPPS. Consequently, July 1, 2007, was the final day upon which Respondent served as Interim Dean of COPPS. Respondent resumed his normal teaching responsibilities during the Fall Semester, 2007.

Pursuant to FAMU Regulations, Respondent's annual salary was adjusted to \$122,648.00 to reflect the fact that Respondent no longer performed administrative duties as Interim Dean of COPPS. Despite the reduction in Respondent's annual salary, FAMU continued to pay Respondent a biweekly amount of \$6,069.61 between July 2, 2007, and July 26, 2007, as if he were still Interim Dean. Including tax considerations, this resulted in overpayments to Respondent in the amount of \$2,603.86.

This matter was referred to the Division of Administrative Hearings and a final hearing was held on October 22, 2008. Administrative Law Judge Ella Jane P. Davis presided over the final hearing. During the final hearing, the University and Respondent offered testimony and exhibits. A transcript of the proceedings was filed with the Division of Administrative Hearings on November 5, 2008. The University submitted a Proposed Recommended Order to the Administrative Law Judge. Respondent elected not to file a Proposed Recommended Order.

STATEMENT OF THE ISSUE

Whether Respondent should be required to pay Petitioner's claimed overpayment of salary as calculated in the amount of \$2,603.86, for the pay periods between July 2, 2007, and July 26, 2007, and whether the effective date for modification in salary as assigned by Petitioner should be consistent with the date of Respondent's amended contract.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

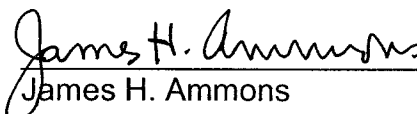
FAMU hereby accepts and incorporates by reference the Findings of Fact and Conclusions of Law set forth in the Administrative Law Judge's Recommended Order.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED and DIRECTED that the Recommendation of the Administrative Law Judge is ADOPTED.

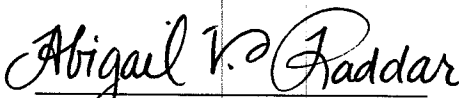
THEREFORE, Respondent is directed to repay \$2,603.86 to the University and the University is authorized to recoup the salary overpayments from Respondent.

DONE and ORDERED this 12th day of February, 2009.



James H. Ammons
President

Filed with the Agency this
12th day of February, 2009.



Abigail V. Raddar
Agency Clerk

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 Florida Agricultural and Mechanical University, Office of the General Counsel, Lee Hall, Suite 300, Tallahassee, Florida 32307, and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days of rendition of this Final Order.

Copy: Dr. Robert L. Thomas
Nellie C. Woodruff, Associate Vice President, Human Resources
Jacqueline Lester, Associate Director of Payroll
Claudio Llado, DOAH Clerk
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Eric J. Smith, Commissioner of Education
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