

**BOARD OF PENSION TRUSTEES
CITY OF JACKSONVILLE RETIREMENT SYSTEM**

In Re: Forfeiture of Pension Benefits

JOSEPH ANTHONY FULLER,

Petitioner

vs.

BOARD OF TRUSTEES OF THE CITY
OF JACKSONVILLE RETIREMENT
SYSTEM,

Respondent.

FINAL ORDER

This matter came to be heard by the Board of Trustees of the City of Jacksonville Retirement System ("the Board") on February 26, 2015, regarding the Recommended Order issued by Administrative Law Judge Lawrence P. Stevenson on November 19, 2014. The Recommended Order by Judge Stevenson recommended that the Respondent enter a final order withdrawing the Notice of Proposed Final Agency Action, which, pursuant to Section 112.3173 of the Florida Statutes, gave notice of the Board's intention to enter a final order terminating the pension rights and privileges to which Joseph Anthony Fuller may have been or would be entitled as a member of the Jacksonville Retirement System. The Board, having reviewed the complete record and being fully advised in the premises, hereby ORDERS and ADJUGES as follows:

FACTS

1. On or about June 12, 2014, Raymond Ferngren, Pension Administrator for the City of Jacksonville Retirement System, issued Petitioner, Joseph Anthony Fuller, a "Notice of

Proposed Final Agency Action” (the “Notice”) based on allegations of conduct that may have violated Chapter 112.3173, Florida Statutes.

Petitioner challenged his Notice, and a hearing was held by Judge Stevenson, assigned by Florida’s Division of Administrative Hearings (“DOAH”). Judge Stevenson was charged with determining whether Petitioner: (a) stole from his employer in violation of 112.3173, and (b) was terminated by his employer by reason of his admitted commission of theft, thereby necessitating the forfeiture of his pension benefits in accordance with Chapter 112.3173.

The hearing took place on September 24, 2014 and both parties were represented by counsel. In light of the testimonial and documentary evidence and argument of counsel, Judge Stevenson issued a Recommended Order on November 19, 2014, which recommended that “the Board of Trustees of the City of Jacksonville Retirement System enter a final order withdrawing the Notice of Proposed Final Agency Action.”

On December 4, 2014 Respondent filed six (6) exceptions to be considered by the Board, and Petitioner on December 11, 2014 filed his response to the exceptions, for the Board’s consideration at the time of its hearing on February 26, 2015.

An independent examination of the entire record reveals no reason to disturb the ALJ’s recommended disposition of this matter, and the Board finds that the facts and charges contained in the Notice are insufficient to support the forfeiture of Petitioner’s pension rights under Chapter 112.3173, Florida Statutes.

Therefore, in light of the foregoing, it is ORDERED that:

1. Respondent’s exceptions are hereby rejected in their entirety.
2. Administrative Law Judge Lawrence P. Stevenson’s Findings of Fact and Conclusions of Law are hereby adopted in their entirety.

3. Administrative Law Judge Lawrence P. Stevenson's recommendation to enter a final order withdrawing the Notice of Proposed Final Agency Action is hereby adopted.

4. Mr. Fuller's pension rights in the City of Jacksonville Retirement System are not forfeited.

DONE AND ENTERED this 12th day of March, 2015.

THE BOARD OF TRUSTEES OF THE CITY OF
JACKSONVILLE RETIREMENT SYSTEM



Name: David Klugarski

Title: BOARD OF TRUSTEES SECRETARY

APPEAL OF FINAL ORDER

This Order may be appealed by filing two copies of a Notice of Appeal accompanied by a filing fee, as provide in §120.68, Florida Statutes and Fla. R. App.P 9.100(b) and (c) within thirty (30) days of the rendition of this Final Order.

Copies to:

Raymond Ferngren, Pension Administrator
Jacksonville Retirement System
City of Jacksonville
117 West Duval Street, Suite 330
Jacksonville, Florida 32202

Wendy Byndloss, Esquire
Office of the General Counsel
City of Jacksonville
117 W. Duval Street, Suite 480
Jacksonville, Florida 32202

State of Florida
Division of Administrative Hearings
Claudia Llado, Clerk of the Division
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

T.A. Delegal, Esquire
Delegal Law Offices, P.A.
424 East Monroe Street
Jacksonville, Florida 32202