STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA ELECTIONS COMMISSION,

Petitioner,

vs. Case No. 18-0513FEC

JOHN B. RILEY,

Respondent.
_____/

FINAL ORDER

This case came before Administrative Law Judge ("ALJ") Darren A. Schwartz of the Division of Administrative Hearings ("DOAH") for final hearing by video teleconference on April 6, 2018, at sites in Tallahassee and Miami, Florida.

APPEARANCES

For Petitioner: Stephanie Jane Cunningham, Esquire
Florida Elections Commission
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For Respondent: James Harrell Greason, Esquire
James H. Greason, Attorney at Law
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STATEMENT OF THE ISSUES

Whether Respondent, John B. Riley ("Respondent"), willfully violated sections 106.11(4) and 106.19(1)(d), Florida Statutes (2016), with regard to a check drawn on his campaign account in

the amount of $316.00, made payable to the City of Opa-Locka, without sufficient funds on deposit to pay the $316.00 fee to run in a special election for a seat on the City of Opa-Locka City Commission; or willfully violated section 106.07(5) and willfully and knowingly violated section 106.19(1)(c), with regard to accurately reporting information on his September 12, 2016, M8 Campaign Treasurer's Report ("M8 Report"); and, if so, what civil penalties are appropriate.

PRELIMINARY STATEMENT

On December 15, 2017, Petitioner, Florida Elections Commission ("Commission"), entered an Order of Probable Cause, charging Respondent with four counts of violating state campaign finance laws, specifically, sections 106.11(4), 106.19(1)(d), 106.07(5), and 106.19(1)(c). On December 24, 2017, Respondent requested a formal administrative hearing to contest the Order of Probable Cause. On January 8, 2018, the Commission dismissed Respondent's request without prejudice. On January 16, 2018, Respondent filed an amended request for hearing and a motion to dismiss for lack of subject matter jurisdiction.

On January 31, 2018, the Commission referred the matter to DOAH to assign an ALJ to conduct the final hearing. On February 13, 2018, the undersigned entered an Order setting the final hearing for April 6, 2018. On February 13, 2018, the Commission filed a response in opposition to the motion to

dismiss. On February 23, 2018, a telephonic hearing was held on the motion, and on February 26, 2018, the undersigned entered an Order denying the motion. On March 5, 2018, Respondent filed an amended motion to dismiss for lack of subject matter jurisdiction. On March 12, 2018, the Commission filed a response in opposition to the motion. On March 22, 2018, a telephonic hearing was held on the motion, and following the hearing, the undersigned entered an Order denying the motion.

On March 30, 2018, the parties' Joint Pre-hearing Stipulation was filed. On April 6, 2018, the final hearing was held. The Commission did not appear at the hearing, but it was represented at the hearing through its counsel. Respondent appeared at the hearing along with his counsel.

At the hearing, the Commission presented the testimony of Respondent. The Commission's Exhibits 1 through 21 were received in evidence upon stipulation of the parties. Respondent testified on his own behalf and presented the additional testimony of Joanna Flores. Respondent's Exhibits A through F were received in evidence upon stipulation of the parties.

The Commission timely filed a Proposed Final Order ("PFO") on May 11, 2018. Respondent filed a PFO on May 16, 2018, five days late. The Commission's PFO was considered in the preparation of this Final Order. Respondent's untimely filed PFO was not considered.

The facts contained in the parties' Joint Pre-hearing Stipulation have been incorporated into this Final Order as indicated below. Unless otherwise indicated, citations to the Florida Statutes are to the 2016 version.

FINDINGS OF FACT

1. Respondent is a retired, disabled veteran and currently serves part time as an elected city commissioner for the City of Opa-Locka, Florida.

2. Respondent previously ran for public office on multiple occasions beginning in 1976. He was elected and served as a city commissioner for the City of Opa-Locka in 1982 and as mayor in 1984.

3. This case concerns Respondent's candidacy in 2016 for Opa-Locka city commissioner.

4. On August 11, 2016, Respondent became a candidate in a special election scheduled for November 8, 2016, to fill the un-expired term of former City Commissioner Terence Pinder, who died on May 24, 2016. The qualifying period for the November 8, 2016, special election began on August 1, 2016, and ended on Friday, August 12, 2016, at 12:00 p.m.

5. Respondent appointed himself as treasurer of his campaign and accepted his appointment as campaign treasurer on August 10, 2016.

6. On August 10, 2016, Respondent opened his campaign account with Wells Fargo bank. On that same date, Respondent made an initial cash contribution (loan) deposit into his campaign account in the amount of $250.00.

7. According to the City of Opa-Locka charter, the qualifying fee for the Opa-Locka City Commission seat was $250.00. A separate state assessment fee in the amount of $66.00 was also required to be paid, for a total fee of $316.00.

8. Respondent signed and issued Check No. 100 (dated August 9, 2016) from his Wells Fargo campaign account to the City of Opa-Locka in the total amount of $316.00, for the qualifying fee of $250.00 and state assessment fee of $66.00.

9. At the time he wrote the check, Respondent did not know how much money was in his campaign account.

10. Respondent had a finance committee of five volunteers collecting campaign contributions. Respondent gave the committee members deposit slips, and he instructed them to directly deposit the campaign contributions they received into the Wells Fargo bank campaign account. However, members of the committee bundled and held onto contributions, failing to deposit the contributions into the bank account.

11. The $316.00 check was tendered by Respondent to the City of Opa-Locka on August 11, 2016.

12. The $316.00 check was not paid from the campaign account and was returned unpaid due to insufficient funds.

13. On August 19, 2016, Respondent made an expenditure to Wells Fargo bank in the amount of $35.00, which represented a returned check fee. As indicated in the Commission's Exhibit 18, the returned $316.00 check and $35.00 returned check fee are reflected in a Wells Fargo Bank Statement covering the period of August 10, 2016, through August 22, 2016. However, when the statement was sent by the bank to Respondent, and when Respondent received the statement, is unclear based on the evidence adduced at hearing.

14. On Tuesday, September 6, 2016, Joanna Flores, CMC, city clerk, and supervisor of elections for the City of Opa-Locka (Respondent's filing officer), was informed by the City of Opa-Locka Finance Department that Respondent's $316.00 check was returned because of insufficient funds.

15. On September 7, 2016, Ms. Flores sent Respondent a letter via certified mail and electronic mail informing him that he was disqualified as a candidate for city commissioner on the November 8, 2016, ballot pursuant to section 99.061(7)(a)1., Florida Statutes, because of the returned check and Respondent's failure to pay the $316.00 fee by the end of the qualifying period.

16. After Respondent was disqualified, he had the committee members who had been holding the contribution checks return the checks to the donors.

17. Prior to his disqualification, Respondent never made any additional deposits into his campaign account, and he never had a balance of at least $316.00.

18. Between the submission of his $316.00 check to Ms. Flores and his disqualification, Respondent never checked his campaign account balance to determine the amount of funds available.

19. On September 12, 2016, after he had already been disqualified, Respondent filed his M8 Report for the period of August 1, 2016, to August 31, 2016. Respondent signed the report certifying that he examined the report and that it was true, correct, and complete.

20. On the first page of the September 12, 2016, M8 Report, included within the Commission's Exhibit 5, Respondent indicated a monetary expenditure in the amount of $316.00, the same amount as the required fee. However, Respondent did not identify the $316.00 fee on the third page of the report, which requested a list of "itemized" expenditures. Respondent testified he did not identify the $316.00 check on the list of itemized expenditures because the check had not cleared the bank. Respondent also reported that on August 10, 2016, he made a contribution (loan)

to his campaign in the amount of $325.00. Respondent also reported as an itemized expenditure, that on August 20, 2016, he made an expenditure to Wells Fargo bank in the amount of $35.00 for a bank fee.

21. On September 15, 2016, the Florida Supreme Court issued its opinion in Wright v. City of Miami Gardens, 200 So. 3d 765 (Fla. 2016). In Wright, the Supreme Court held section 99.061(7)(a)1., as amended by the Florida Legislature in 2011, facially unconstitutional. The 2011 version of section 99.061(7)(a)1., in effect at the time of Ms. Flores' decision to disqualify Respondent, provided in pertinent part:

> (7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:
>
> 1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

§ 99.061(7)(a)1., Fla. Stat. (2011) (emphasis added).

22. Respondent was disqualified by the City of Opa-Locka based on the 2011 version of section 99.061(7)(a)1., because the $316.00 check was returned, and Respondent failed to pay the required fee before the end of the qualifying period.

23. After striking down the aforementioned version of the statute as unconstitutional, however, the Supreme Court, in Wright, went on to revive the prior version of section 99.061(7)(a)1., in existence before the 2011 amendments. Wright, 200 So. 3d at 779. The prior version provided, in pertinent part, that if a candidate's qualifying check was returned, the candidate was allowed 48 hours after being notified of that fact by the filing officer to pay the fee by cashier's check, "the end of the qualifying period notwithstanding." § 99.061(7)(a)1., Fla. Stat. (2010); Wright, 200 So. 3d at 768.

24. Based on the Supreme Court's decision in Wright and upon advice from the City of Opa-Locka city attorney, on September 15, 2016, Ms. Flores informed Respondent that he could resubmit a check and be allowed to qualify for the special election. On September 16, 2016, Respondent tendered to the City of Opa-Locka two personal money orders issued by Wells Fargo bank in the amount of $316.00 and $20.00, respectively. Accordingly, Ms. Flores, once again, qualified Respondent as a candidate.[1/]

25. Against this backdrop, on September 23, 2016, Anna M. Alvarado, an opponent of Respondent in the special election for

the City Commissioner seat, filed a sworn complaint with the Commission, alleging that Respondent committed certain campaign finance law violations.

26. On September 28, 2016, the City of Opa-Locka adopted Resolution 16-9249, resetting the special election that had been set for November 8, 2016, and calling for a special election to be held on November 29, 2016, to fill the unexpired term of Commissioner Pinder.

27. Respondent filed another Campaign Treasurer's Report on October 11, 2016, for the period of September 1, 2016, through September 30, 2016. In this report, Respondent reported as an itemized expenditure the $316.00 qualifying fee.

28. Respondent filed an amended M8 Report on October 17, 2016, for the period of August 1, 2016, through August 30, 2016. In the itemized contributions section of the amended report, Respondent deleted the August 10, 2016, $325.00 loan and added the August 10, 2016, $250.00 loan. In the itemized expenditures section of the amended report, Respondent deleted the August 20, 2016, $35.00 bank fee and added the August 19, 2016, $35.00 bank fee.

29. Respondent knew that he was required to report all contributions received and all expenditures made by the campaign on his Campaign Treasurer's Report. Respondent's filing officer notified Respondent that he was required to certify to the

correctness of each Campaign Treasurer's Report and that he bears the responsibility for the accuracy and veracity of each report.

30. Respondent's filing officer provided him with a copy of chapter 106 and The Candidate and Campaign Treasurer's Handbook. Respondent read chapter 106.

31. In sum, the Commission failed to demonstrate, by clear and convincing evidence, that Respondent willfully violated sections 106.11(4) and 106.19(1)(d), when he signed the $316.00 check drawn on his campaign account without sufficient funds on deposit to pay the amount of the fee.

32. Respondent did not voluntarily and intentionally bounce the $316.00 filing fee check to the City of Opa-Locka with specific intent and bad purpose to violate or disregard the requirements of the law. Respondent credibly and persuasively testified that he had a committee of volunteers collect campaign contributions; he instructed the committee members to directly deposit the contributions into the Wells Fargo bank account; the committee members failed to deposit contributions into the account; and he was unaware of the account balance when he tendered the fee to Ms. Flores on August 11, 2016. Respondent's testimony was unrefuted.

33. Moreover, it makes no sense that Respondent would intentionally bounce his filing fee check he tendered to Ms. Flores on the last day of the qualifying period, knowing that

the consequence of such action would disqualify him from the race under the law existing at that time.

34. The Commission also failed to demonstrate, by clear and convincing evidence, that Respondent willfully and knowingly omitted information from his September 12, 2016, M8 Campaign Treasurer's Report. The Commission contends Respondent failed to disclose the $316.00 filing fee on the report. As detailed above, that check bounced. Nevertheless, Respondent, in fact, reported the $316.00 filing fee check as an expenditure on the first page of the report, although Respondent did not identify the check on the third page of the report as an "itemized" expenditure. Respondent also filed another Campaign Treasurer's Report on October 11, 2016, for the period of September 1, 2016, through September 30, 2016. In this report, Respondent reported as an itemized expenditure the $316.00 qualifying fee.

35. The Commission also contends that although Respondent made a contribution (loan) to his campaign account in the amount of $250.00 on August 10, 2016, he willfully and knowingly reported the amount as $325.00. The Commission further contends that although Respondent made an expenditure to Wells Fargo bank on August 19, 2016, in the amount of $35.00, he willfully and knowingly reported that the expenditure had been made on August 20, 2016. As detailed above, Respondent corrected these errors in an amended report.

36. The Commission also failed to demonstrate, by clear and convincing evidence, that Respondent willfully certified that the campaign's September 12, 2016, M8 Report was true, correct, and complete, when it was not.

CONCLUSIONS OF LAW

37. DOAH has jurisdiction over the parties and the subject matter of this proceeding. §§ 106.25(5), 120.569, and 120.57(1), Fla. Stat. (2017).

38. The Commission has the burden to prove the violations alleged in the Order of Probable Cause by clear and convincing evidence. The "clear and convincing evidence" standard requires that the evidence be found credible, the facts to which the witnesses testify must be distinctly remembered, the testimony must be precise and explicit, and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established. In re Davey, 645 So. 2d 398, 404 (Fla. 1994); Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

39. Section 106.11(4) provides:

> (4) No candidate, campaign manager, treasurer, deputy treasurer, or political committee or any officer or agent thereof, or any person acting on behalf of any of the foregoing, shall authorize any expenses, nor

> shall any campaign treasurer or deputy treasurer sign a check drawn on the primary campaign account for any purpose, unless there are sufficient funds on deposit in the primary depository account of the candidate or political committee to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid. However, an expense may be incurred for the purchase of goods or services if there are sufficient funds on deposit in the primary depository account to pay the full amount of the incurred expense, to honor all checks drawn on such account, which checks are outstanding, and to meet all other expenses previously authorized but not yet paid, provided that payment for such goods or services is made upon final delivery and acceptance of the goods or services; and an expenditure from petty cash pursuant to the provisions of s. 106.12 may be authorized, if there is a sufficient amount of money in the petty cash fund to pay for such expenditure. Payment for credit card purchases shall be made pursuant to s.106.125. Any expense incurred or authorized in excess of such funds on deposit shall, in addition to other penalties provided by law, constitute a violation of this chapter. As used in this subsection, the term "sufficient funds on deposit in the primary depository account of the candidate or political committee" means that the funds at issue have been delivered for deposit to the financial institution at which such account is maintained. The term shall not be construed to mean that such funds are available for withdrawal in accordance with the deposit rules or the funds availability policies of such financial institution.

40. Section 106.19(1)(c) and (d) and section 106.19(2) provide, in pertinent part:

(1) Any candidate; campaign manager, campaign treasurer, or deputy treasurer of any candidate; committee chair, vice chair, campaign treasurer, deputy treasurer, or other officer of any political committee; agent or person acting on behalf of any candidate or political committee; or other person who knowingly and willfully:

* * *

(c) Falsely reports or deliberately fails to include any information required by this chapter; or

(d) Makes or authorizes any expenditure in violation of s. 106.11(4) or any other expenditure prohibited by this chapter; is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any candidate, campaign treasurer, or deputy treasurer; any chair, vice chair, or other officer of any political committee; any agent or person acting on behalf of any candidate or political committee; or any other person who violates paragraph (1)(a), paragraph (1)(b), or paragraph (1)(d) shall be subject to a civil penalty equal to three times the amount involved in the illegal act. Such penalty may be in addition to the penalties provided by subsection (1) and shall be paid into the General Revenue Fund of this state.

41. Section 106.07(5) provides:

(5) The candidate and his or her campaign treasurer, in the case of a candidate, or the political committee chair and campaign treasurer of the committee, in the case of a political committee, shall certify as to the correctness of each report; and each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer, candidate, or

> political committee chair who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

42. The Commission must prove not only that Respondent violated a provision of the campaign finance laws, but that the action or omission constituting the violation was "willful." Section 106.25(3) provides:

> (3) For the purposes of commission jurisdiction, a violation shall mean the willful performance of an act prohibited by this chapter or chapter 104 or the willful failure to perform an act required by this chapter or chapter 104. The commission may not by rule determine what constitutes willfulness or further define the term "willful" for purposes of this chapter or chapter 104. Willfulness is a determination of fact; however, at the request of the respondent at any time after probable cause is found, willfulness may be considered and determined in an informal hearing before the commission.

43. Because these civil statutes are penal in nature, they must be strictly construed in favor of Respondent and against the Commission. Diaz de la Portilla v. Fla. Elec. Comm'n, 857 So. 2d 913, 917 (Fla. 3d DCA 2003).

44. The term "willful" is not defined by Florida statute or administrative rule. A willful act is therefore best defined by Florida case law "as one that is voluntarily and intentionally performed with specific intent and bad purpose to violate or

disregard the requirements of the law." Fugate v. Fla. Elec. Comm'n, 924 So. 2d 74, 75 (Fla. 1st DCA 2006); Fla. Elec. Comm'n v. Conserve & Protect Fla.'s Scenic Beauty, 2016 Fla. Div. Adm. Hear. LEXIS 123, *21 (Fla. DOAH Mar. 22, 2016)(Final Order).

45. The Commission's contention that Fugate is inapplicable is without merit. Fugate clearly recognizes that in the absence of a statutory or rule definition of the term "willful," it is proper for an ALJ to utilize the above definition. Thus, the Commission's reliance on other non-Florida cases outside the Florida campaign finance context is misplaced.

46. The Commission also relies on Beardslee v. Florida Elections Commission, 962 So. 2d 390 (Fla. 5th DCA 2007), and McGann v. Florida Elections Commission, 803 So. 2d 763 (Fla. 1st DCA 2007). However, both of these cases were decided based on a statutory definition of the term "willful," which has been repealed.

47. The Commission also relies on an ALJ's Summary Final Order issued in Florida Elections Commission v. Justice-2-Jesus, 2016 Fla. Div. Adm. Hear. LEXIS 31 (Fla. DOAH Jan. 28, 2016). There, Judge Bogan found, based on the undisputed facts, that the respondent's conduct was willful. In reaching this conclusion, Judge Bogan cited to Beardslee and McGann, but only for the proposition that willfulness is a question of fact. Judge Bogan's Order contains no citation to Fugate. Moreover, it

appears that some of the conduct at issue in Justice-2-Jesus occurred prior to the effective date of the repeal of the agency's rule defining the term "willful." In any event, the First District's decision in Fugate and Judge Early's thorough analysis of the issue in his Final Order, in Conserve and Protect Florida's Scenic Beauty, are the more reasoned and applicable decisions.

48. The Commission also argues that "the parties stipulated to Beardslee and McGann as the standard of willfulness." The Commission reads the Joint Pre-hearing Stipulation too broadly. In the Joint Pre-hearing Stipulation, the parties cited to Beardslee and McGann only in support of the proposition that "[w]illfulness is a question of fact." Nowhere in the Joint Pre-hearing Stipulation is there a statement of law concerning the standard for determining whether an act or omission is willful. Even if the parties stipulated to a standard of willfulness set out in a statute which has since been repealed, the undersigned would not be bound by the parties' stipulation on such a question of law. Diaz de la Portilla, 857 So. 2d at 917, n. 3 (recognizing that the parties' stipulation that the case would be governed by the preponderance of the evidence standard, a question of law, was not binding on the ALJ).

49. As detailed above, the Commission failed to demonstrate, by clear and convincing evidence, that Respondent

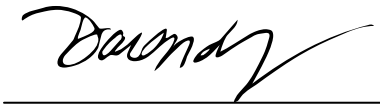
willfully violated sections 106.11(4) and 106.19(1)(d), when he signed the $316.00 check drawn on his campaign account without sufficient funds on deposit to pay the amount of the fee.

50. The Commission also failed to demonstrate, by clear and convincing evidence, that Respondent willfully violated sections 106.07(5) and 106.19(1)(c), and knowingly violated section 106.19(1)(c), by omitting or misreporting information on his September 12, 2016, M8 Report; or that Respondent willfully certified that the campaign's September 12, 2016, M8 Report was true, correct, and complete, when it was not.[2/]

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the Order of Probable Cause entered against Petitioner is DISMISSED.[3/]

DONE AND ORDERED this 24th day of May, 2018, in Tallahassee, Leon County, Florida.



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Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of May, 2018.

ENDNOTES

[1/] Respondent testified that Wells Fargo bank would not issue a cashier's check for under $500.00, and that is why he obtained the two money orders from the bank. The $20.00 money order was for the returned check fee charged to the City of Opa-locka when the $316.00 check was returned for insufficient funds.

[2/] Because the undersigned has concluded that Respondent did not commit any willful violations of the alleged statutes, it is unnecessary to analyze separately the additional question of whether Respondent's conduct was "knowingly" in violation of section 106.19(1)(c). In any event, had the undersigned reached this issue, the Commission failed to demonstrate, by clear and convincing evidence, that Respondent's conduct was knowingly in violation of section 106.19(1)(c).

[3/] Throughout this proceeding, Respondent has contended that the Commission lacks subject matter jurisdiction because all of the charges relate to a campaign expenditure which was reimbursed by Respondent prior to the date of filing of the sworn complaint. The undersigned addressed this issue in an Order denying Respondent's amended motion to dismiss for lack of subject matter jurisdiction issued on March 22, 2018. Respondent again raised the issue at hearing. In support of his position, Respondent relies on section 106.25(2), which provides, in pertinent part, as follows:

> (2) The commission shall investigate all violations of this chapter and chapter 104, but only after having received either a sworn complaint or information reported to it under this subsection by the Division of Elections. . . . If the complaint includes allegations of violations relating to expense items reimbursed by a candidate, committee, or organization to the campaign account before a sworn complaint is filed, the commission shall be barred from investigating such allegations.

§ 106.25(2), Fla. Stat. (2017) (emphasis added).

Again, Respondent's reliance on section 106.25(2) is misplaced. Contrary to Respondent's assertion, the complaint does not allege a violation relating to an expense item "reimbursed by a candidate." Reimburse means: "to pay back to someone: REPAY." Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/reimburse (last visited Mar. 1, 2018). The act of signing a bad check from a campaign account and subsequently making good on the payment does not qualify as "reimbursement of an expense item."

Respondent also relies on Wright v. City of Miami, 200 So. 3d 765 (Fla. 2016), and section 99.061(7)(a)1. Section 99.061(7)(a)1. and Wright apply to situations where a candidate is disqualified from running for office because of a returned check. Whether or not Respondent should have been disqualified for office is not an issue before the undersigned. The undersigned's discussion of Wright in the Findings of Fact is meant to simply provide the reader with an understanding of why Respondent was disqualified and then requalified after the Supreme Court's decision.

COPIES FURNISHED:

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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 the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the District Court of Appeal in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law.