STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: DAVID STEWART, Case No. 19-0031EC

Respondent.
_____/

RECOMMENDED ORDER

A final hearing was held in this proceeding before Cathy M. Sellers, an Administrative Law Judge ("ALJ") with the Division of Administrative Hearings ("DOAH"), on September 24, 2019, in West Palm Beach, Florida.

APPEARANCES

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For Respondent: Brennan Donnelly, Esquire
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STATEMENT OF THE ISSUES

The issues to be determined in this proceeding are: (1) Whether Respondent violated section 112.313(2), Florida Statutes (2015),[1/] by soliciting something of value to him based upon an understanding that his vote, official action, or judgment would be influenced thereby; and (2) whether Respondent violated

section 112.313(6) by corruptly using or attempting to use his official position to secure a special privilege or benefit for himself.

PRELIMINARY STATEMENT

On January 3, 2018, Catherine Phillips Padilla[2/] ("Complainant") filed a complaint with the Florida Commission on Ethics ("Commission"), alleging that Respondent David Stewart, the Mayor of the Town of Lantana, had solicited sex from her in exchange for ensuring approval, by the Town Council of the Town of Lantana, of the installation of speed bumps in her neighborhood.[3/]

Following an investigation, on October 24, 2018, the Commission issued an Order Finding Probable Cause to believe that Respondent violated section 112.313(2) by soliciting something of value from a constituent with the understanding that his vote, official action, or judgment would be influenced; and violated section 112.313(6) by using or attempting to use his official position to secure a benefit for himself. On January 4, 2019, the matter was referred to DOAH for assignment of an ALJ to conduct a hearing.

The final hearing initially was scheduled for March 14 and 15, 2019, but at the parties' request, was continued to May 13 and 14, 2019; July 9 and 10, 2019; and September 24 and 25, 2019. The final hearing was held on September 24, 2019.

The Commission presented the testimony of Complainant and Deborah Manzo in its case—in—chief, and presented the testimony of Kathleen Mann in its rebuttal case. Joint Exhibit A, the redacted transcript of the deposition of David Brinkley, was admitted pursuant to the parties' stipulation. The Commission tendered Commission's Exhibit 5, the Town of Lantana Ethics Ordinance, and Commission's Exhibit 6, the Palm Beach County Code of Ethics, for admission into evidence; both exhibits were excluded as not relevant to the charged violations of chapter 112.[4/] Respondent presented the testimony of Mary Lacorraza and Catherine Clark, and testified on his own behalf. Respondent's Exhibits 1 and 2 were admitted into evidence over objection.

The one—volume Transcript was filed at DOAH on October 17, 2019. The parties' proposed recommended orders were timely filed at DOAH on November 18, 2019, and have been duly considered in preparing this Recommended Order.

FINDINGS OF FACT

The Parties

1. The Commission is created by sections 112.320 and 112.321, and authorized by Article II, section 8, of the Florida Constitution to conduct investigations and make public reports on all complaints concerning breach of public trust by specified

public officers, including elected local government officials. See § 112.313(1), Fla. Stat.

2. Respondent currently serves as the Mayor of the Town of Lantana, Florida. He has served in that position for 19 years, and he occupied that position at the time of the alleged violations of chapter 112 giving rise to this proceeding.

Evidence Adduced at the Final Hearing

3. Complainant is a resident of the Town of Lantana, Florida.

4. For an extended period of time, up to and including August 2015, Complainant was actively involved in attempting to obtain approval, by the Lantana Town Council ("Council"), for the installation of traffic—calming speed bumps in her residential neighborhood. Specifically, she spearheaded neighborhood efforts to obtain approval of the speed bumps, gathered signatures in a petition drive to present to the town council requesting approval of the speed bumps, and communicated with town staff regarding the process and requirements for obtaining such approval.

5. On August 10, 2015, the Council voted to approve the installation of speed bumps in Complainant's neighborhood.

6. On January 3, 2018, Complainant filed Complaint No. 18—001 (the "Complaint") with the Commission, alleging that Respondent had, on more than one occasion, solicited sex from her

in exchange for ensuring Council approval of the speed bumps in her neighborhood.

7. At the final hearing, Complainant testified that in June or July 2015——before the August 10, 2015, Council meeting at which the speed bumps item would be considered——Respondent asked her to lunch and picked her up in his vehicle. According to Complainant, they went to Flanigan's restaurant, where they had lunch. Complainant testified that during lunch, Respondent told her that if she had sex with him, he would ensure that the speed bumps for her neighborhood were approved. Complainant testified that she refused to have sex with him, but that after lunch, Respondent drove them to the Dutchman Motel,[5/] got out of the vehicle, and walked toward the motel. Complainant testified that she stayed in the vehicle, honked the horn, and signaled "no"; that Respondent returned to the vehicle; and that they drove away.

8. Complainant also testified that on August 10, 2015, before the Town Council meeting at which the speed bumps would be considered, Respondent called her and asked if she had changed her mind, telling her that it was not too late to go to the motel, have sex, and "get [your] speed bumps." Complainant testified that she told him "no thanks, I'll take my chances."

9. As noted above, on August 10, 2015, the Council approved the installation of speed bumps in Complainant's neighborhood.

The vote to approve the speed bumps was unanimous, with Respondent voting in favor.

10. Complainant testified that on August 11, 2015, Respondent called her and asked if she was going to thank him for getting the speed bumps, to which she responded "well, I did it myself." Complainant testified that Respondent said "fine, then I'm going to yank those speed bumps right out of there."

11. The speed bumps have not been removed from Complainant's neighborhood, and Complainant is unaware of any effort on Respondent's part to have them removed.

12. Complainant testified at the final hearing that she told two persons, Kem Mason and David Brinkley, that Respondent had solicited sex from her in exchange for ensuring approval of the speed bumps in her neighborhood.

13. Specifically, she testified that she told Mason about Respondent's alleged solicitation of sex at some point after the speed bumps had been approved, while they were both at an election polling place. However, she subsequently testified that she had told him about Respondent's alleged solicitation when she saw him (Mason) at Publix.

14. Brinkley was Complainant's neighbor, and they had worked together, along with other residents of their neighborhood, to obtain Council approval of the speed bumps.

15. Complainant testified that she told Brinkley about Respondent's solicitation of sex from her in exchange for ensuring approval of the speed bumps while they were at Brinkley's house on August 10, 2015, before the Council vote on the speed bumps scheduled for later that day.

16. However, Brinkley credibly testified in his deposition[6/] that Complainant told him about Respondent's alleged solicitation of sex from her a substantial amount of time——Brinkley characterized it as "probably a year or two"——after the Council's approval of the speed bumps. Brinkley testified that Complainant told him about the matter because she wanted him to know that it would be the subject of forthcoming news media coverage.

17. Complainant also testified that she did not have lunch with Respondent and her neighbor, Mary Lacorazza, after Respondent solicited sex from her.

18. However, Lacorazza credibly testified that, at Complainant's persistent urging,[7/] she and Complainant had lunch with Respondent at Applebee's in October 2015 for the purpose of celebrating the approval of speed bumps in their neighborhood.[8/] Lacorazza testified, credibly, that during the lunch, Complainant behaved in a "completely friendly" manner toward Respondent.[9/]

19. Respondent denied ever having solicited sex from Complainant in exchange for ensuring Council approval of the

speed bumps; ever having gone to a motel with her; or ever threatening to have the speed bumps in her neighborhood removed.

20. Respondent has known Complainant for several years, and at the final hearing, both Respondent and Complainant characterized their relationship as a friendship. The evidence establishes that they worked together on town projects; attended Kiwanis meetings and worked on Kiwanis projects together, before and after August 10, 2015; and communicated with each other through phone calls and text messages, before and after August 10, 2015. At one point, they had a pedicure, followed by lunch, together. Additionally, Respondent rented a van for Complainant to visit her son for the Thanksgiving holiday in 2014, and, at some point, Respondent loaned Complainant money.[10/]

21. Respondent denied ever having dated, or having a romantic relationship with, Complainant.

22. Respondent confirmed Lacorazza's testimony that he had had lunch with Complainant and Lacorazza in late 2015, after the Council's approval of the installation of speed bumps in their neighborhood. Respondent testified that at the lunch, Complainant's attitude toward him was "fine" and "nothing out of the ordinary."

23. The Commission's investigator, Kathleen Mann, testified that during her interview of Respondent conducted during the Commission's investigation into the Complaint, Respondent told

her that he did have lunch with Complainant and Lacorazza, but that he denied having had lunch with Complainant alone, or at Flanigan's restaurant.

24. When questioned at the final hearing regarding whether, at some time, he had lunch alone with Complainant, Respondent testified that he did not recall. He elaborated that he goes on numerous lunches with town residents, acquaintances, and neighbors, and that "to try to remember every lunch I've gone to is very hard unless it's memorable." He conceded that "it's very possible. I truthfully don't remember 100 percent; but if she says it happened, it's very possible it happened."

25. Respondent acknowledged that he is subject to the State of Florida Code of Ethics ("State Ethics Code"); that he annually receives training on the State Ethics Code; and that he had received such training by the time the charged violations are alleged to have occurred, in 2015.[11/]

26. Respondent acknowledged that if an elected official solicited sex in exchange for his or her vote, such conduct would constitute misuse of his or her position. To that point, he testified "[i]f you're asking for something in exchange of [sic] a vote, that's something you don't do; ethics 101."

Findings of Ultimate Fact

27. Based on the foregoing, the undersigned determines, as a matter of ultimate fact, that the Commission did not prove, by

clear and convincing evidence, that Respondent violated section 112.313(2) by soliciting something of value from a constituent with the understanding that his vote, official action, or judgment would be influenced, as charged in the Order Finding Probable Cause issued by the Commission on October 24, 2018.[12/]

28. Additionally, based on the foregoing, the undersigned determines, as a matter of ultimate fact, that the Commission did not prove, by clear and convincing evidence, that Respondent violated section 112.313(6) by using or attempting to use his position to secure a benefit for himself, as charged in the Order Finding Probable Cause issued by the Commission on October 24, 2018.[13/]

29. Complainant's testimony is the only direct evidence in this proceeding offered to show that Respondent solicited sex from her in exchange for ensuring Council approval of speed bumps in her neighborhood and subsequently threatened to have them removed. As discussed above, Respondent denied having ever engaged in such conduct. There was no other direct evidence, consisting of other witness testimony, electronic mail or text messages, documents, or other evidence, presented at the final hearing to show that Respondent committed the conduct charged in this proceeding.[14/]

30. The credibility and veracity of Complainant's testimony at the final hearing was substantially undercut by the credible testimony of Lacorazza and Brinkley.

31. Lacorazza was a very credible witness. She is Complainant's neighbor with whom Complainant had worked on obtaining approval of the speed bumps, and she had no demonstrated motive to be untruthful regarding any aspect of the matters at issue in this proceeding. She testified clearly, firmly, and without hesitation, that she and Complainant had lunch with Respondent to celebrate the approval of the speed bumps in her and Complainant's neighborhood. She recalled that they had gone to lunch at Complainant's persistent urging, and that they had done so in or about October 2015, toward the end of turtle nesting season. She readily recalled that they had gone to Applebee's restaurant and sat at a horseshoe—shaped booth, that Complainant sat across the table from Respondent, and that Complainant was friendly to Respondent during the lunch.

32. Lacorazza's credible testimony directly contradicts, and, thus, undercuts the credibility of, Complainant's testimony that she did not have lunch with Respondent after the Council approved the speed bumps. Further, Lacorazza's testimony establishes that Complainant engaged in behavior that is inconsistent with——and, thus, casts doubt on——her claim that

Respondent solicited sex from her in exchange for ensuring Council approval of speed bumps in her neighborhood.

33. Brinkley's testimony also directly contradicts Complainant's testimony. As discussed above, Complainant testified at the final hearing that she had told Brinkley on August 10, 2015——the day of the Council's vote on the speed bumps——that Respondent had solicited sex from her in exchange for ensuring approval of the speed bumps. However, Brinkley credibly testified that Complainant did not tell him about Respondent's alleged solicitation until sometime much later[15/]——and that she had done so at that time specifically to let him know of forthcoming media coverage regarding her allegations against Respondent.

34. Brinkley was Complainant's neighbor, and he worked with her on the speed bumps approval effort. He had no demonstrated motive to be untruthful regarding the timeframe when Complainant told him that Respondent solicited her for sex in exchange for ensuring approval of the speed bumps. Brinkley's credible testimony directly contradicts Complainant's statement that she told him of Respondent's alleged solicitation very close in time to its alleged occurrence, and, thus, casts substantial doubt on the credibility and veracity of Complainant's testimony in this proceeding.

35. Additionally, Complainant's own testimony at the final hearing regarding having told Kem Mason about Respondent's alleged solicitation was inconsistent. As discussed above, Complainant first testified that she told Mason at an election polling place, but later testified that she had told him at Publix. Although this inconsistency concerns a relatively minor point, it nonetheless undercuts her credibility as a witness, and it certainly contributes to her testimony falling short of the clarity, precision, and lack of confusion required to meet the clear and convincing evidentiary standard.[16/]

36. The undersigned found credible Respondent's testimony that he did not solicit sex from Complainant in exchange for ensuring approval of the speed bumps in her neighborhood and that he did not threaten to have them removed.

37. Although Respondent told Mann, during the Commission investigation, that he had never had lunch alone with Complainant, he plausibly explained at the final hearing that he could not specifically recall that lunch because he has many lunches with many people, making it difficult for him to recall each of those lunches. Additionally, he acknowledged that he "probably did" have lunch alone with Complainant at some point. The undersigned finds Respondent's testimony on this point credible.

38. Furthermore, in any event, Respondent's acknowledgment that he had (or "probably" had) lunch alone with Complainant does not establish that he solicited sex from her in exchange for ensuring approval of speed bumps for her neighborhood.

39. For these reasons, the undersigned determines, as a matter of ultimate fact, that the Commission did not establish, by clear and convincing evidence, that Respondent violated sections 112.313(2) or 112.313(6), as charged in the Order Finding Probable Cause.

CONCLUSIONS OF LAW

40. DOAH has jurisdiction over the subject matter of, and parties to, this proceeding.

41. The Commission has jurisdiction to receive complaints alleging violations of chapter 112, part III, and to investigate those complaints; to make findings and issue a report as to whether a public official has violated any provision of chapter 112, part III; and to recommend an appropriate penalty, as provided in section 112.317.

42. Respondent has been charged with violating sections 112.313(2) and 112.313(6).

43. The Commission bears the burden of proof in this proceeding to establish that Respondent committed the violations of chapter 112 charged in the Order Finding Probable Cause. See Balino v. Dep't of Health and Rehab. Servs., 348 So. 2d 349, 350

(Fla. 1st DCA 1977)(the general rule is that, absent a contrary statutory directive, the burden of proof is on the party asserting the affirmative of the issue).

44. Because the Commission proposes to take penal action against Respondent, it must demonstrate, by clear and convincing evidence, that Respondent committed the charged violations of chapter 112. Latham v. Fla. Comm'n on Ethics, 694 So. 2d 83, 86 (Fla. 1st DCA 1997). The Florida Supreme Court has described the clear and convincing evidentiary standard as follows:

> Clear and convincing evidence requires that the evidence must be found to be 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).

This standard of proof is intermediate, and is "more than a 'preponderance of the evidence,' but . . . need not be 'beyond and to the exclusion of a reasonable doubt.'" Id., quoting In re LaMotte, 341 So. 2d 513, 516 (Fla. 1977).

Charged Violation of Section 112.313(2)

45. Section 112.313(2) states:

> (2) SOLICITATION OR ACCEPTANCE OF GIFTS.

> No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

46. To demonstrate a violation of this statute, the following elements must be established: (a) the respondent must be either a public officer, a public employee, or a candidate for nomination or election for such position; (b) the respondent must have solicited or accepted something of value to him or her, including a gift, loan, reward, promise of future employment, favor, or service; and (c) such solicitation or acceptance must have been based on an understanding that the respondent's vote, official action, or judgment would be influenced thereby.

47. The term "solicit" is defined as "to make petition to, to approach with a request or plea; to urge (something, such as one's cause) strongly; to entice or lure especially into evil; to proposition (someone) especially as or in the character of a prostitute; to try to obtain by usually urgent requests or pleas." "Solicit," Merriam–Webster Dictionary, http://merriam–webster.com/dictionary/solicit (last visited December 9, 2019).

48. Respondent is the Mayor of the Town of Lantana, and therefore is a public officer. Accordingly, the first element of the charged violation of section 112.313(2) is met.

49. However, for the reasons discussed above, the evidence does not clearly and convincingly establish that Respondent solicited sex from Complainant in exchange for ensuring approval of speed bumps in her neighborhood. Accordingly, it is concluded that the Commission failed to prove, by clear and convincing evidence, that Respondent solicited or accepted something of value to himself, including a gift, loan, reward, promise of future employment, favor, or service; or that he solicited or accepted something of value to himself based on an understanding that his vote, official action, or judgment would be influenced thereby.

50. Therefore, it is concluded that Respondent did not violate section 112.313(2), as charged in the Order Finding Probable Cause.

Charged Violation of Section 112.313(6)

51. Section 112.313(6) states:

> (6) MISUSE OF PUBLIC POSITION.
>
> No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for

> himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

52. To demonstrate a violation of this statute, the following elements must be established: (a) the respondent must be a public officer, employee of an agency, or local government attorney; (b) the respondent must have used or attempted to use his or her official position or any property or resources within his or her trust or performed his or her official duties; (c) the respondent's actions must have been taken to secure a special privilege, benefit, or exemption for himself or herself or others; and (d) the respondent must have acted corruptly, as that term is defined in section 112.312(9).

53. The term "corruptly" is defined in section 112.312(9) as follows: " '[c]orruptly' means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties."

54. As stated above, Respondent is the Mayor of the Town of Lantana, and therefore is a public officer. Accordingly, the first element of the charged violation of section 112.313(6) is met.

55. However, as discussed above, the evidence does not clearly and convincingly establish that Respondent solicited sex

from Complainant in exchange for ensuring approval of speed bumps in her neighborhood. Therefore, it is concluded that the Commission failed to prove, by clear and convincing evidence, that Respondent used or attempted to use his official position or any property or resources within his trust or performed his official duties to secure a special privilege, benefit, or exemption for himself, or that he acted corruptly, as defined section 112.312(9).

56. Accordingly, it is concluded that Respondent did not violate section 112.313(6), as charged in the Order Finding Probable Cause.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Florida Commission on Ethics enter a final order and public report finding that Respondent did not violate sections 112.313(2) or 112.313(6), and dismissing the charges against Respondent.

DONE AND ENTERED this 16th day of December, 2019, in Tallahassee, Leon County, Florida.

CATHY M. SELLERS
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 16th day of December, 2019.

ENDNOTES

[1/] The violations of chapter 112 at issue in this proceeding are alleged to have occurred in 2015. Accordingly, the 2015 version of chapter 112, Florida Statutes, applies to this proceeding. Childers v. Dep't of Envtl. Prot., 696 So. 2d 962, 964 (Fla. 1st DCA 1997)(the version of a statute in effect at the time of the alleged conduct giving rise to a disciplinary action controls).

[2/] At the final hearing, Complainant Catherine Phillips Padilla was variously referred to as "Phillips," "Phillips Padilla," and "Padilla." For consistency and brevity, she is referred to as "Complainant" in this Recommended Order.

[3/] On January 16, 2018, Complainant filed an amendment to the Complaint, alleging that when Respondent learned that she had filed a complaint against him with the Commission, he went to her residence to confront her, and tried to gain entry to her home.

[4/] The Commission proffered Exhibits 5 and 6 to preserve its tender for appeal.

[5/] Complainant previously had been asked, in deposition, whether the motel had a sign, and had responded that she did not recall a

sign. At the final hearing, she testified that she recently had recalled the name of the motel.

[6/] As noted in the Preliminary Statement, the parties stipulated to the admission into evidence of Brinkley's deposition, portions of which were redacted, and, therefore, not able to be read or considered in this proceeding. Deposition testimony is hearsay because it is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. § 90.801(1)(c), Fla. Stat.; W.M. v. Dep't of Health and Rehab. Servs., 553 So. 2d 274, 276 (Fla. 1st DCA 1989). Hearsay is admissible in administrative proceedings; however, it is not sufficient in itself to support a finding of fact unless the hearsay would be admissible over objection in a civil proceeding. § 120.57(1)(c), Fla. Stat.; Fla. Admin Code R. 18—106.213. Under Florida law, deposition testimony qualifies for admission as an exception to the hearsay exclusionary rule——and, thus, is sufficient in itself to support findings of fact in administrative proceedings——if it falls in one of the categories set forth in Florida Rule of Civil Procedure 1.330(a)(3). Bank of Montreal v. Estate of Antoine, 86 So. 3d 1262, 1264 (Fla. 4th DCA 2012); Dinter v. Brewer, 420 So. 2d 932, 934 (Fla. 3d DCA 1982).

Rule 1.330(a)(3) provides, in pertinent part:

> The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: . . . (B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of state, unless it appears that the absence of the witness was procured by the party offering the deposition[.]

Here, the record reflects that Brinkley had moved to California for his employment. Thus, he was out of state at the time of the final hearing and his absence was not procured by either party to this proceeding. Accordingly, Brinkley's deposition testimony satisfies the requirements of rule 1.130(a)(3)(B), and, therefore, constitutes competent substantial evidence in itself on which findings of fact may be based.

[7/] Lacorazza characterized Complainant's repeated suggestions regarding having lunch with Respondent as "harping."

[8/] Lacorazza was clear about the timeframe of her lunch with Complainant and Respondent because it took place near the end of turtle nesting season, during October, while she was very busy with nest monitoring activities.

[9/] Lacorazza testified that sometime after their lunch with Respondent, Complainant texted and called her, calling Respondent an "asshole" because he purportedly was teasing her (Complainant) about something. Lacorazza did not specifically recall the matter about which Respondent purportedly teased Complainant. Under any circumstances, this evidence does not prove that Complainant was angry with Respondent because he had solicited sex from her in exchange for ensuring approval of the speed bumps.

[10/] The evidence does not establish when Respondent loaned Complainant money. The evidence establishes that Complainant repaid Respondent for the monetary loan and the van rental.

[11/] Respondent also acknowledged that he was subject to, and familiar with, the Palm Beach County Code of Ethics and the Town of Lantana Ethics Ordinance.

[12/] The question of whether the facts, as found in a recommended order, constitute a violation of statute or rule is a question of ultimate fact. Goin v. Comm'n on Ethics, 658 So. 2d 1131, 1138 (Fla. 1st DCA 1995); Langston v. Jamerson, 653 So. 2d 489, 491 (Fla. 1st DCA 1995).

[13/] Goin, 658 So. 2d at 1138; Langston, 653 So. 2d at 491.

[14/] Direct evidence is evidence based on personal knowledge or observation, and that, if true, proves a fact, without inference or presumption. Black's Law Dictionary (Deluxe 7th ed. 1999). Here, the only direct evidence regarding the alleged solicitation by Respondent for sex from Complainant in exchange for ensuring approval of the speed bumps in her neighborhood was the testimony of Complainant and Respondent presented at the final hearing.

[15/] Based on Brinkley's testimony that Complainant told him about Respondent's alleged solicitation shortly before it was covered in the local news media, it is inferred that she likely told him sometime in late 2017 or early 2018.

[16/] As discussed in greater detail below, the clear and convincing evidentiary standard requires testimony to be precise, explicit, distinctly remembered, and lacking in confusion. See In re Davey, 645 So. 2d 398, 404 (Fla. 1994).

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.