

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: JEFFREY M. SISKIND,

Case No. 22-0053EC

Respondent.

RECOMMENDED ORDER

Pursuant to the notice, a hearing was conducted in this case by video conference via Zoom on March 16, 2022, before Administrative Law Judge June C. McKinney of the Division of Administrative Hearings (“DOAH”).

APPEARANCES

For Advocate: Melody A. Hadley, Esquire
 Office of the Attorney General
 The Capitol, Plaza Level 01
 Tallahassee, Florida 32399-1050

For Respondent: Jeffrey Marc Siskind, Esquire
 Siskind Legal, PLLC
 3465 Santa Barbara Drive
 Wellington, Florida 33414

STATEMENT OF THE ISSUES

The issues in this case are whether Respondent Jeffrey M. Siskind (“Respondent” or “Siskind”) violated article II, section 8 of the Florida Constitution, and section 112.3144, Florida Statutes, by filing an inaccurate CE Form 6, “Full and Public Disclosure of Financial Interests,” for the year 2017; and, if so, what is the appropriate penalty.

PRELIMINARY STATEMENT

On October 30, 2019, the Florida Commission on Ethics (“Commission”) issued an Order Finding Probable Cause “that there is probable cause to believe that the Respondent, as a candidate for Attorney General, violated Article II, Section 8,

Florida Constitution, and Section 112.3144, Florida Statutes, by filing an inaccurate 2017 CE Form 6, ‘Full and Public Disclosure of Financial Interests.’”

The Order Finding Probable Cause against Respondent was referred to DOAH on January 6, 2022.

On January 19, 2022, the case was scheduled for hearing on March 16, 2022. The final hearing proceeded as scheduled.

On March 8, 2022, Advocate for the Commission (“Advocate”) and Respondent jointly filed a Joint Prehearing Stipulation, in which they identified stipulated facts for which no further proof would be necessary, and the relevant facts stipulated therein are accepted and made part of the Findings of Fact below.

At the hearing, the Advocate presented the testimony of two witnesses: Siskind and Robert Furr. Advocate Exhibits numbered 12, 13, 18, and 19 were admitted into evidence.

Respondent testified on his own behalf and presented the testimony of Joshua Angell. Respondent’s Exhibits numbered 1 through 6, 8, and 9 were admitted into evidence.

During the hearing, Joint Exhibits 1 and 2 were entered into evidence.

At the close of the hearing, the parties requested an extended deadline of 30 days following receipt of the hearing transcript by DOAH to file post-hearing submittals.¹

¹ By agreeing to an extended deadline for post-hearing submission beyond ten days after the filing of the transcript, the parties waived the 30-day timeframe for issuance of the Recommended Order. See Fla. Admin. Code R. 28-106.216.

The proceedings were transcribed, and the one-volume Transcript was filed at DOAH on May 2, 2022.

That same day, Respondent filed a Motion to Dismiss Case. On May 3, 2022, Advocate filed a response. On May 5, 2022, the undersigned denied the Motion to Dismiss Case.

On June 1, 2022, the parties filed a Joint Motion for Extension of Time to File Proposed Recommended Orders (“Motion”). The undersigned granted the Motion. Both parties filed their proposed recommended orders, which have been carefully considered in the preparation of this Recommended Order.

Unless otherwise noted, all statutory references are to the versions in effect at the time of the alleged violations.

FINDINGS OF FACT

1. Respondent was a candidate for Florida Attorney General in 2018.
2. As a candidate for Florida Attorney General in 2018, Respondent was subject to article II, section 8 of the Florida Constitution, and was subject to the requirements of chapter 112, part III, Code of Ethics.²
3. Respondent was required to file a CE Form 6, “Full and Public Disclosure of Financial Interests,” for the year 2017.
4. On June 21, 2018, Siskind utilized the wrong form by submitting the 2016 CE Form 6.
5. On or about June 22, 2018, Siskind corrected the form filed in error on June 21, 2018, and filed the correct version, 2017 CE Form 6 (“Form 6”), for the year 2017. By

² Respondent stipulated in paragraph 2 of the Joint Prehearing Stipulation that he is subject to article II, section 8 of the Florida Constitution, and the requirements of chapter 112, part III, Code of Ethics, by virtue of his position as a candidate for Florida Attorney General in 2018.

his notarized signature on the form, Respondent affirmed under oath that the information disclosed, therein, was “true, accurate, and complete.”

6. Form 6 has instructions to assist with the completion of the form.

7. Respondent read and understood the instructions for Form 6 prior to completing and filing the form.

8. Respondent prepared and filled out his Form 6.

9. Form 6 comprises six parts: Part A, Net Worth; Part B, Assets; Part C, Liabilities; Part D, Income; Part E, Interests in Specified Businesses; and Part F, Training.

10. The instructions for Part A, under the heading “Net Worth,” provide, in relevant part:

Report your net worth as of December 31, 2017, or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

11. On Form 6, under “Part A – Net Worth,” Respondent listed his net worth as \$2,120,035.77.

12. Respondent used June 20, 2018, as his reporting date for Form 6.

13. The instructions for Part B, under the heading “ASSETS WORTH MORE THAN \$1,000,” provide, in relevant part:

Describe, and state the value of, each asset you had on the reporting date you selected for your net worth in Part A, if the asset was worth more than \$1,000 and if you have not already included that asset in the aggregate value of your household good and personal effects. Assets include, but are not limited to, things like interests in real property; cash; stocks; bonds; certificates of deposit; interests in businesses; beneficial interests in trusts; money owed you; bank accounts; Deferred Retirement Option Program (DROP) accounts; and the Florida Prepaid College Plan

How to Value Assets:

-Value each asset by its fair market value on the date used in Part A for your net worth.

* * *

-Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.

* * *

-Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by “buy-out” agreements. It is suggested that the method of valuation chosen be indicated on the form.

14. On Form 6, Respondent disclosed the following assets and values: Western Credit Resolution Trust (“Trust”) \$5,574,554.20; Loan \$5,500.00; Bank Account—Florida Community Bank \$2,000.00; and Bank Account—Wells Fargo \$2,311.55.

15. Respondent included the value of the Trust in his computation of the net worth. However, Respondent did not list the method used to value the Trust as suggested by the form’s instructions.

16. Respondent created a Trust on or about June 10, 2018.

17. CannaMed Pharmaceuticals, LLC (“CannaMed”), is the only asset of the Trust. The Trust formation document provides:

The Trust Corpus shall be the property, both real and personal, and rights to property which the Settlor has or shall fund into the Trust, net of any and all debts appertaining thereto (“Property”), which Trust Property shall initially consist of Property which the Settlor conveys to the Trust. The Settlor hereby irrevocably assigns to the Trust all the Settlor’s title and interest in CannaMed Pharmaceuticals, LLC (“CannaMED”), a Maryland limited liability company, equal to five percent (5%) of the member interest in CannaMED, and all of the Settlor’s one hundred

percent (100%) title and interest in Chance & Anthem, LLC, a Florida limited liability company (“C&A[”]), which in turn owns seventy percent (70%) of the member interest in CannaMED.

18. CannaMed is a Maryland limited liability corporation formed to pursue a medical cannabis license in response to a request for applications from the Maryland Medical Cannabis Commission.

19. CannaMed was denied a medical cannabis license by the State of Maryland.

20. After being denied a license by Maryland, CannaMed filed for a United States Drug Enforcement Administration (“DEA”) cannabis license. The DEA application was still pending at the time of the hearing in CannaMed’s current name, NuCanna Pharmaceuticals, LLC.

21. As of June 20, 2018, CannaMed did not have a Maryland or any other state license to enter into a business regarding medical cannabis.

22. A Maryland cannabis business cannot conduct business legally without a license in Maryland.

23. As of June 20, 2018, CannaMed did not have a DEA license to enter into a business regarding medical cannabis.

24. A cannabis business cannot conduct business legally on the federal level without a license issued by the DEA.

25. As of June 20, 2018, CannaMed’s business transactions included an appeal to the denial of the Maryland license and the pending DEA cannabis license application.

Chance & Anthem, LLC

26. Respondent owns Chance & Anthem, LLC, a company used as funding for two profits.

27. On or about January 29, 2018, Chance & Anthem, LLC, filed for bankruptcy in the State of Maryland.

28. In May 2018, the bankruptcy case was transferred to the Southern District of Florida.

29. Robert Furr (“Furr”) is a Florida Bar member who is a bankruptcy attorney and bankruptcy panel trustee for the United States Trustees Program for the Southern District of Florida. Approximately since 1990, Furr has been appointed to Chapters 7s, 11s, and 12s as a bankruptcy trustee in South Florida.

30. In bankruptcy cases, Furr is responsible for assets, and, as trustee, he takes the place of the debtor. Furr is responsible for administering assigned bankruptcy cases to recover, collect, and sell assets for the benefit of creditors.

31. On or about May 25, 2018, Furr was appointed as bankruptcy trustee assigned to administer the assets of Chance & Anthem, LLC.

32. As part of the bankruptcy case, the debtor is required to file a schedule of its creditors and a Statement of Financial Affairs.

33. On February 12, 2018, Respondent filed an Official Form 202 in the bankruptcy case, where he listed CannaMed as an asset and valued it at \$1,000.00.

34. On April 24, 2018, Respondent amended the schedule and changed the value for CannaMed to \$14,000,000.00.

35. Furr reviewed the value of Chance & Anthem, LLC’s, assets, including CannaMed, while working on the bankruptcy case.

36. On July 9, 2018, at the 341 Meeting of Creditors, Respondent informed Furr that CannaMed never had income, explained CannaMed had no business operations, and said it was more or less a shell company.

37. Respondent was also deposed on September 5, 2018, and on December 19, 2019, in the bankruptcy case and questioned about CannaMed.

38. After the 341 Meeting of Creditors and depositions, Furr, with his accountant, determined that CannaMed never had any revenues, expenditures for its employees, or facilities, and was only a license application. Furr concluded that CannaMed was worthless and had no value.

Hearing

39. At the hearing, Furr testified that CannaMed was a business that attempted to start but never got off the ground and had no assets.

40. Furr admitted, at hearing, that he could not legally administer any assets for CannaMed because, if it was a valid cannabis-related business, the policy of the United States Trustee Office prohibits the administration of such assets.

41. Furr also acknowledged on cross-examination that he has never had a business with a pending application for a license as an asset come up in his experience as a bankruptcy trustee and testified, “I don’t know the value one way or the other. I have never seen it.”

42. Furr further explained, at hearing, that his accountant did not perform a valuation for CannaMed, but just discussed whether he thought CannaMed had any value. After CannaMed was reviewed in the bankruptcy case, it was determined there was no value to it, and Furr decided Siskind’s explanation was pure speculation.

43. Furr also testified that the no value determination was based on CannaMed’s complete lack of hard assets, business, cash, license, and nothing in existence. Furr testified that CannaMed was a market projection at the beginning of something that could have worth if certain things happened.

44. At hearing, Respondent presented expert testimony from Joshua Angell (“Angell”), the senior managing director of the Valuation Services and Economic Damages Group of Ellrich, Neal, Smith & Stohlman. Angell is a Certified Public Accountant with credentials as a Chartered Financial Analyst, Accredited Senior Appraiser, and accredited in business valuation by the American Institute of Certified Public Accountants.

45. Angell’s job duties include overseeing all valuations done at his firm. Angell testified that he has been performing valuations since 2009. He explained that he has evaluated hundreds of businesses, including early-stage companies similar to CannaMed.

46. Angell testified that to prepare for the hearing, his CannaMed review included: Form 6, budgets; pro forma budget prepared for the Maryland Medical Cannabis Commission; forecasted pro forma operational or projected build-out and projected full build-out costs; the operation profit and loss statement (“P&L”) for the

grower facility and the cultivation facility; phase 1 and 2 operational P&L; and the three-phase operation summary.

47. Angell also testified that he reviewed the set of instructions attached to Form 6, including page 4, which provided directions on how to value assets and closely-held companies.

48. At the hearing, Angell explained the Form 6, page 4, instructions for closely-held businesses in detail. He testified that the instructions direct any method of valuation be used that most closely approximates fair market value. He detailed that using the word “approximates” in the directions is different from directions that say “estimate value” or “determine value” because the American Society of Appraisers standards require limited procedures and review and limited documents to “approximate fair market value.”

49. Angell further testified that fair market value is a standard of value that a hypothetical buyer would pay a hypothetical seller at a cash equivalent price of the thing of value.

50. Angell also testified that there are different methodologies for valuation, and a different methodology might be used for different scenarios based on what is trying to be determined.

51. Angell admitted, at hearing, that he did not appraise CannaMed or verify any of the figures provided to him by Respondent, but he just reviewed the numbers provided to access the methodology used by Respondent.

52. Angell testified that Siskind used several appropriate and generally acceptable methodologies in arriving at his valuation of CannaMed. Angell credibly explained, in detail, that first, Siskind properly used the Venture Capital Method, by a capitalization of earnings value to derive the \$40 million. Angell went on to explain that Siskind then accurately applied a probability factor to the \$40 million, a method commonly used for early-stage companies called the Probability-Weighted Expected Return Model or scenario method. Next, Angell testified that to estimate the value of the trust, Siskind properly deducted the liabilities to get a net asset value, another commonly accepted method of valuation.

53. Angell further explained that Siskind properly applied a 75 percent, or one in four, likelihood of not being awarded the license as part of the calculation in his valuation. Angell testified it is a generally accepted method to apply the likelihood of not being successful to the valuation to make it accurate for an early-stage company like CannaMed that might not be successful.

54. Angell also testified and explained that Siskind complied with the instructions on page 4 of Form 6 for an early-stage company. Angell made clear that an early-stage company is usually one so early in development that it does not really have a viable product, is usually developing a product and has not begun operations yet to generate revenue, or the company may even be in the concept stage. Angell testified that CannaMed is an early-stage company.

55. Angell explained further that it is not unusual to ascribe a value to an early-stage company without revenue reports. He testified that one can “value pre-revenue companies.”

56. Angell also explained, at the hearing, that fair market value includes any assets or liabilities, including contingent assets a business will yield and liabilities. He testified that capitalized earnings value is based on future earnings. He explained, “almost every valuation is based upon what the business is expected to produce in the future.”

57. Angell testified that a company could have a pending license and have a fair market value because there is a probability that it may be awarded the license. He persuasively explained that even if the company is not commercially viable yet, because it is contingent on the outcome, it will have a very significant value.

58. Angell also testified about the value of a company without revenue and with minimal assets. He detailed that he even ran a list of publicly listed marijuana businesses that had no revenue and minimal assets, and he explained credibly, at hearing, that the values ranged significantly from as low as \$250,000.00 to as high as \$500 million, with a median of \$9 million, which he testified is in line with Siskind’s valuation of CannaMed.

59. At hearing, Siskind credibly testified that CannaMed never had any revenues, cash transfers, taxes, expenditures for its own employees, or facilities. It was merely an applicant waiting to obtain a license, at which time it will conduct cannabis business in and for itself.

60. Respondent explained further that Chance & Anthem, LLC, was the funding agent for CannaMed and paid all the expenses related to CannaMed's undertakings. He detailed that Chance & Anthem, LLC, paid the lease purchase on the property that was purchased from Machining Technologies for \$950,000.00. He explained further how the property was financed through a lease-purchase agreement and \$300,000.00 cash was put down on a building that another limited liability corporation purchased. Respondent testified that Alan Baez's company financed the remaining purchase price, \$650,000.00.

61. Respondent testified that CannaMed's business plan included buying out the limited liability corporation when it obtained the cannabis license to become facility owner.

62. Respondent described CannaMed's first facility as a seven-acre industrial facility with a 47,000 plus square feet building on it, and 10,000 square feet built out as office space.

63. Respondent explained that after CannaMed did not get a Maryland license, Chance & Anthem, LLC, continued to carry the building for another six months.

64. At the hearing, Siskind also candidly explained CannaMed's ownership structure. He testified that Chance & Anthem, LLC, owned 70 percent of CannaMed, which Respondent valued at \$7 million. Respondent also owned "JMS" share, five percent of CannaMed, which Respondent valued at \$500,000.00.

65. Respondent also explained that JMS's five percent and Chance & Anthem, LLC's, 70 percent were assigned to the Trust.

66. On cross-examination, Siskind credibly testified that, at the time of the hearing, there were still shares in CannaMed's treasury because not all the 25 percent was distributed. He explained that the last unit was sold for a quarter of a point to Robert Smith for \$25,000.00.

67. Respondent also testified that Chance & Anthem, LLC, was placed in Chapter 7 bankruptcy. He explained credibly that the April 24, 2018, \$14 million CannaMed amendment to the schedule in the bankruptcy case was based upon a 50 percent risk premium assigned to a \$28 million valuation, which was 70 percent of CannaMed's gross valuation of \$40 million owned by the debtor, Chance & Anthem, LLC.

68. At hearing, Siskind also testified that a service was hired, which provided three attorneys to support him on the CannaMed Maryland application project. The attorneys' backgrounds varied and included experience with previously working at a California cannabis operation before it opened, managing a California cannabis operation, and accounting and floor management for a casino business.

69. Siskind credibly explained how he arrived at the CannaMed valuation at the hearing. Siskind testified that the numbers for the CannaMed valuation were taken as a guide from the actual build-out expenses and operation revenues and expenses from a 2009 California cannabis business that was a smaller facility constructed and in operation that Respondent had been involved in previously.

70. Siskind explained that Respondent's Exhibit 1, which included the start-up costs, build-out numbers and operating figures, expense accounts, and projected revenues, was used to calculate CannaMed's value. He testified reasonably that the numbers were adjusted based on the difference in facility size by imputing economies of scale and additional expenses for the entire research aspect of CannaMed's undertaking, which differed from the California project. Siskind testified that the calculation of it all totaled a \$40 million gross valuation set against a 25 percent chance of success. He credibly explained that the 25 percent was the required risk premium allowed for a one-in-four probability factor that CannaMed would obtain a full-flight operation.

71. Siskind's application of the 25 percent to the \$40 million gross valuation reduced CannaMed's value to \$10 million.

72. Siskind testified that the net asset value for the Trust for Form 6 is \$5,574,554.20. He explained that he arrived at the value by deducting the liabilities³ plus the 25 percent trustee fee and the JMS share of \$500,000.00 from Chance & Anthem, LLC's, \$7 million.

73. Siskind correctly followed instructions on page 4 and approximated fair market value for CannaMed. Siskind also properly arrived at \$5,574,554.20, which he listed in the Trust's asset and value column, and accurately utilized the Trust net asset value to calculate his net worth on Form 6.

CONCLUSIONS OF LAW

74. DOAH has jurisdiction of the subject matter of and the parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2021).

75. The Commission is authorized to conduct investigations and make public reports on complaints concerning violations of chapter 112, part III, Code of Ethics. § 112.322, Fla. Stat.; Fla. Admin. Code R. 34-5.0015.

76. The party asserting the affirmative of the issues in a proceeding bears the burden of proof. *Dep't of Transp. v. J.W.C. Co., Inc.*, 396 So. 2d 778 (Fla. 1st DCA 1981); and *Balino v. Dep't of HRS*, 348 So. 2d 349 (Fla. 1st DCA 1977). In this proceeding, the Commission, through its Advocate, is asserting the affirmative regarding Respondent's purported violations of article II, section 8 of the Florida Constitution, and section 112.3144.

77. Commission proceedings seeking recommended penalties against a public officer require proof of the alleged violations by clear and convincing evidence. *Latham v. Fla. Comm'n on Ethics*, 694 So. 2d 83 (Fla. 1st DCA 1997). To that end, Advocate has the burden of establishing by clear and convincing evidence Respondent's alleged violations.

78. As stated by the Supreme Court of Florida:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the

³ Respondent's Exhibit 1 details the liabilities.

witnesses testify must be distinctly remembered; the testimony must be precise and lacking in confusion as to the facts at issue. The evidence must be of such a 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 Henson, 913 So. 2d 579, 590 (Fla. 2005) (quoting *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983)).

79. Article II, section 8 of the Florida Constitution, provides as follows, in relevant part:

Ethics in government.— A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

* * *

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

* * *

(i) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

a. A copy of the person's most recent federal income tax return; or

b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

80. Section 112.3144 provides as follows, in relevant part:

Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics

81. In paragraph 34 of Advocate's Proposed Recommended Order, Advocate contends that: "Respondent's valuation of the Trust was inaccurate. Respondent failed to properly disclose this asset, and thus, his net worth as required by Article II, Section 8, Florida Constitution, and Section 112. 3144, Florida Statutes, on his 2017 CE Form 6."

82. Advocate relies on the Chance & Anthem, LLC, bankruptcy proceeding and Furr's testimony as the focal point of this case to advance the position that CannaMed is worthless, has no value, and Respondent filled out an inaccurate Form 6. The undersigned is not persuaded by such an allegation because the evidence does not support such an assertion. Even though the Advocate presented evidence that Furr determined CannaMed had no worth in the bankruptcy case, the record shows that the appraisal done in the bankruptcy proceeding that set the zero value was determined after discussions between Furr and his accountant. The credible evidence at the hearing demonstrates that various valuation methodologies are each used for different scenarios. In order to adequately make a comparison of values between the bankruptcy case and CannaMed's Form 6 valuation, the same valuation methodology would have to have been utilized. The evidence does not support that the bankruptcy case used the same valuation method as Respondent did for the Form 6. Therefore, the undersigned is unable to accept the zero value in the

bankruptcy case as valuation for CannaMed's valuation for Form 6 since different methodologies were used to determine each valuation.

83. In its Proposed Recommended Order, Advocate also maintains that Respondent's valuation is "a complete fiction," that he inflated the value of his assets at his convenience, fabricated his financial status, and is not providing his accurate net worth. However, the record fails to demonstrate such, and Advocate's position is unsupported by competent evidence. Contrary to Advocate's claims, the evidence at hearing demonstrated that Respondent correctly used several appropriate and generally accepted methodologies in his valuation of CannaMed. No evidence or counter opinions were presented at the hearing to rebut Respondent's methodologies or valuation for Form 6. The record also demonstrates that Respondent followed the page 4 instructions, which required that he "in [his] judgment most closely approximate fair market value." Allowing those who fill out Form 6 to use their own judgment also provides the individual latitude. Additionally, the Form 6 instructions neither required that Respondent perform a formal valuation nor did it instruct him to go to a professional to have the valuation done. Respondent established by unrefuted and uncontested evidence CannaMed's gross valuation and the net value for the Trust. Therefore, the undisputed evidence demonstrates that CannaMed and the Trust's valuation for Form 6 are accurate.

84. Advocate also advances Respondent's Form 6 is inaccurate because Respondent's figures used in the valuation were not correct. Advocate contends that Angell neither appraised CannaMed nor vouched for the figures Respondent used. Even so, Advocate also failed to appraise the Form 6 figures at the hearing. No evidence was presented to rebut or show that Respondent's figures were incorrect. Instead, Respondent's valuation at the hearing was unchallenged by any other opinions and without any contrary, alternate, or contradictory figures, facts, or evidence in the record. Therefore, the uncontested evidence establishes CannaMed's figures were accurate.

85. Lastly, Advocate contends Respondent's Form 6 is inaccurate because CannaMed has no assets and no value because CannaMed is only a state application

that was denied and a pending federal license application, relying on future earnings. The record does not support Advocate's contention because the evidence at the hearing established that an early-stage company can have significant value without assets, and early-stage companies can be appraised without revenue. Also, the selling of units by CannaMed, including the quarter of a point to Robert Smith for \$25,000.00, further supports CannaMed has value. The record is also void of evidence to rebut any values presented at the hearing for CannaMed's shares. It is also important to note that page 4 of the instructions lists "capitalized earnings value" as a valuation method that can be used for valuation of a closely-held business. Angell opined, at hearing, that capitalized earnings value is based on future earnings. The un rebutted competent expert testimony also opined that Respondent's valuation of CannaMed for Form 6 fell in line with the marijuana businesses with no revenue and minimal assets from Angell's report. To that end, Respondent established an un rebutted CannaMed valuation at the hearing.

86. As set forth in the Findings of Fact above, the evidence, taken as a whole, demonstrates that Respondent properly followed the instructions on page 4, used generally accepted methodologies, and accurately valued CannaMed. The record establishes that CannaMed is the only asset in the Trust, and the valuation of the Trust is accurate. Therefore, Respondent properly disclosed \$5,574,554.20 for the Trust's net asset value and his net worth on Form 6. Accordingly, Advocate failed to prove by clear and convincing evidence that Respondent violated article II, section 8 of the Florida Constitution, or section 112.3144.⁴

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Commission on Ethics issue a final order and public report

⁴ It is unnecessary for the undersigned to rule on Respondent's claim that section 112.3144 fails to apply to candidates since the Advocate did not meet its burden to prove that Form 6 was inaccurate, the threshold issue in this matter.

determining that Respondent, Jeffrey Marc Siskind, did not commit a violation of article II, section 8 of the Florida Constitution, or section 112.3144.

DONE AND ENTERED this 3rd day of August, 2022, in Tallahassee, Leon County, Florida.



JUNE C. MCKINNEY
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of August, 2022.

COPIES FURNISHED:

Millie Wells Fulford, Agency Clerk
Florida Commission on Ethics
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

Melody A. Hadley, Esquire
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, Florida 32399-1050

Elizabeth A. Miller, Esquire
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, Florida 32399-1050

Jeffrey Marc Siskind, Esquire
Siskind Legal, PLLC
3465 Santa Barbara Drive
Wellington, Florida 33414

Kerrie Stillman, Executive Director
Florida Commission on Ethics
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

Steven Zuilkowski, General Counsel
Florida Commission on Ethics
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

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.