



FLORIDA
COMMISSION ON ETHICS

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April 7, 2025

Attention: Commission on Ethics
Re: Response to Advocate's Recommendation
Complaint No. 24-166, In re Bryan Lober

Honorable Members of the Commission on Ethics:

Please accept this as Mr. Lober's response to the Advocate's Recommendation dated February 21, 2025, regarding allegations that Mr. Lober used his county-issued purchasing card for personal use items (pages 4-5) and improperly used a County-issued sales tax exemption on three personal purchases (pages 5-6). The Commission should not follow the Advocate's Recommendation regarding probable cause for Abuse of Position for Disproportionate Benefit and Misuse of Public Position because the evidence does not support the Recommendation.

Mr. Lober was an elected County Commissioner in Brevard County. The County Comptroller conducted an audit of spending by all County Commission offices. Mr. Lober was included in the investigation of government spending as an elected County Commissioner.

Commission Rule 34-18.001 (4) provides that "(t)he requisite intent for finding a violation of the prohibition in Article II, Section 8(h)(2) of the Florida Constitution is that the public officer or public employee acted, or refrained from acting, with a *wrongful intent* for the purpose of obtaining any benefit, privilege, exemption, or result from the act or omission which is inconsistent with the proper performance of his or her public duties." (emphasis added)

Florida Statute 112.313(6) provides that "(n)o 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." (emphasis added)

The Advocate's Recommendation deals with six issues. First is using the county tax-exempt certificate for a campaign purchase; Mr. Lober paid the taxes to the Florida Department of Revenue. Second and Third are the same allegations, but on these purchases, there is no evidence that Mr. Lober provided the tax-exempt certificate and Mr. Lober paid the taxes to the Florida Department of Revenue. Fourth is the purchase of "Bivy Sticks," which the Advocate admits has a county purpose of providing communications during an emergency or natural disaster. Fifth is purchasing an office chair, which the Advocate concedes wasn't used for personal reasons. Sixth is purchasing an Amazon Prime Business account with obvious business purposes and where there

is no evidence whatsoever of a personal benefit having been sought or obtained. Each of these issues is discussed further below.

Regarding the three uses of the County Sales tax certificate, the Advocate discusses three purchases. For two of the purchases, Chief Assistant State Attorney Salmon indicated that “there is no evidence that (Mr. Lober) provided the tax-exempt certificate” when he processed two of the transactions. Mr. Lober may have made a mistake, or there was a misunderstanding about a de minimus amount of sales tax, but the Department of Revenue accepted payment of the tax. There is no indication of corrupt intent, and no benefit has occurred. It is public record that Mr. Lober refunded contribution limit (\$1000 each) campaign contributions both before and after these transactions. It makes no sense whatsoever for thousands of dollars in checks to be returned uncashed, only to fraudulently seek less than \$140.00.

The Advocate’s Recommendation regarding the use of the county-issued purchasing card focuses on the purchase and subscription for two “Bivy Sticks.” (page 4) Mr. Lober purchased two Bivy Sticks with the purchasing card and two months of the subscription service. (page 4). Bivy Sticks provide communication abilities in an emergency or natural disaster. The Advocate stated that Mr. Lober asked the Public Safety Office Director if he “would like his office to have satellite communication abilities in the event of an emergency or natural disaster.” The Director said yes, and the Advocate concluded that there was no evidence the first Bivy Stick was used for personal reasons. (page 4) That same conclusion applies to Mr. Lober’s possession of the Bivy Stick. Mr. Lober wanted his County Commission Office to have satellite communication abilities in the event of an emergency or natural disaster. The Advocate noted that Mr. Lober sent twenty-two messages when he was in a remote area of Maine without cell phone service or other communication abilities. The fact that Mr. Lober sent minimal messages, a number of which were sent to his own email including at least one beginning with the word “Test”, to test the system in areas lacking cellular coverage should not change the conclusion that the second Bivy Stick was purchased for the same purpose as the first and without corrupt intent. As such, Chief Assistant State Attorney Stacey Straub expressly acknowledged, that the device was “*tested* while out of the state.” (emphasis added)

Further evidencing business usage, in her report, FDLE’s investigative summary acknowledged:

Mr. Lober’s former office assistant, Maria “Kika” Golan, provided a copy of an email dated August 13, 2021, subject line, “Contact info during my vacation,” in which [Mr. Lober] provided a “satellite” phone number, 858-227-6976, to be used to contact him in case of an emergency. He explained that the phone number “only supports text messages, not calls.” The phone number was confirmed with ACR Electronics to be the phone number assigned to Mr. Lober’s activated Bivy Stick.

For purchasing the chair with the purchasing card, the Advocate concedes, “there is insufficient evidence to conclude that the purchase was used for personal reasons.”

The final purchase is the Amazon Business Prime Account for \$179.00. The Advocate suggests that Mr. Lober received benefits to his personal account, like free shipping or access to Prime Day discounts. The Report of Investigation relied upon by the Advocate jumps to the conclusion that the Business Prime account afforded Mr. Lober Prime benefits which he *could have* utilized for personal benefit. The implication is that Mr. Lober did not already receive such benefits at the time of purchase. However, as noted within FDLE's investigative summary, "records also indicate that Lober had an Amazon Student Prime account and that he was not paying for shipping on any orders." Mr. Lober was already receiving Prime benefits as he had an active personal subscription to Prime at the time of the Business Prime purchase. Hence, Mr. Lober could not have received benefits beyond those to which he was already entitled. Moreover, it is beyond dispute that numerous unquestionably business-related transactions were placed utilizing the Business Prime shipping benefit. Chief Assistant State Attorney Stacey Straub Salmons stated plainly that "(n)one of the purchases identified by the Comptroller or (the FDLE) investigation are of an obvious personal nature."

An independent officer, who had access to examine all of the documentation provided to the Commission, has already concluded that all purchasing card transactions, including the Bivy stick as well as the Business Prime purchase, are *not* of an apparent personal nature.

Any allegations of violation based on using the purchasing card are unfounded. As none of the items purchased were of an obvious personal nature, it is even a further stretch to say they were purchased with wrongful intent or to use the office corruptly.

I respectfully request that the Commission decline to find probable cause for a violation.

Sincerely,

/S/ William N. Spicola

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