DATE FILED

JUL 22 2024

COMMISSION ON ETHICS

CONFIDENTIAL

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re RANDALL FINE,	)	
	)	Complaint No. 24-135
Respondent.	)	
	)	

DETERMINATION OF INVESTIGATIVE JURISDICTION
AND ORDER TO INVESTIGATE

UPON REVIEW of this complaint, I find as follows:

1. This complaint was filed by Robert Burns of Palm Bay, Florida.

2. The Respondent, Randall Fine, serves as a member of the Florida House of Representatives and is a candidate for Florida Senate.

3. The complaint alleges the Respondent improperly disclosed his interest in a corporation—Jayvid Holdings, LLC—as an "Asset" on his 2023 CE Form 6 ("Full and Public Disclosure of Financial Interests"), and improperly disclosed Jayvid Holdings, LLC as a "Primary Source of Income" on that same filing. The complaint claims these disclosures were improper as Jayvid Holdings, LLC was administratively dissolved in 2017. As support, the complaint includes the Respondent's 2023 CE Form 6, as well as records from the Division of Corporations indicating that Jayvid Holdings, LLC has an "inactive" status and was administratively dissolved in

September 2017 for failing to file an annual report.[1] This indicates possible violation of Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes.[2]

4. The factual allegations addressed in Paragraph 3, above, do not appear to be immaterial, inconsequential, or de minimis as defined in Section 112.3144(11)(c), Florida Statutes.[3] The information that the complaint claims was improperly disclosed was relevant to identifying the extent and amount of the Respondent's financial assets and sources of income.

5. The remaining allegations in the complaint—all of which concern disclosures made on the Respondent's financial disclosure filings—do not provide a legally sufficient basis for investigation under either Article II, Section 8, Florida Constitution, or Section 112.3144, Florida Statutes, which are the only relevant prohibitions over which the Commission has jurisdiction.

6. The complaint claims the Respondent—in the "Income" section of his 2021 and 2023 CE Form 6 filings—improperly listed his home address as the address of Jayvid Holdings, LLC, instead of listing the address for the corporation found in the records of the Division of Corporations. The complaint claims no "business exist[s] under the address provided" on the Respondent's 2021 and 2023 filings.

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[1] The Complainant can be considered to have personal knowledge of the information disclosed on the Respondent's 2023 CE Form 6 as the financial disclosure is a publicly available document. Content in the Division of Corporations records would be admissible as a hearsay exception under Section 90.803(8), Florida Statutes.

[2] Although the complaint claims its allegations also constitute violations of Section 112.313(6), Florida Statutes (Misuse of Public Position), and Section 112.313(8), Florida Statutes (Disclosure or Use of Certain Information), the standards of conduct identified in these prohibitions are not related to the allegations in the complaint, which solely concern violations of the financial disclosure laws.

[3] Section 112.3144(11)(c), Florida Statutes, provides: "For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest."

7. The Commission on Ethics has jurisdiction to investigate only those allegations "based upon personal knowledge or information other than hearsay." See Chapter 2024-53, Laws of Florida (amending Section 112.324(1)(a), Florida Statutes, to require an allegation to be "based upon personal knowledge or information other than hearsay" to be sufficient for investigation). The allegations in paragraph 6 appear to be based on the Complainant's personal knowledge or information qualifying for a hearsay exception, as previously explained in footnote 1. Regardless, even considering the allegations in Paragraph 6 on their merits, they do not provide a legally sufficient basis for investigation, as explained below.

8. In particular, the instructions for the 2021 CE Form 6 and the 2023 CE Form 6 only require filers to list a valid "address" for each source of income disclosed. While the records from the Division of Corporations—which are included in the complaint—do indicate a different "principal address" and "mailing address" for Jayvid Holdings, LLC than what was reflected on the Respondent's 2021 and 2023 disclosure filings, it is possible the corporation had multiple mailing addresses, including the one actually listed on the filings. To the extent that the complaint claims no business "exist[s]" at the address provided by the Respondent—which the complaint identifies as the Respondent's home—this allegation is conclusory, and while material assertions of fact are taken as true in an analysis of legal sufficiency, conclusions or unwarranted deductions of fact are not a sufficiently specific basis for investigation.

9. The complaint next alleges the Respondent, when completing his 2017 CE Form 6, improperly disclosed his interest in a consulting company as an "Asset." The complaint claims the company was declared defunct in September 2017 and, therefore, should not have been included on the 2017 filing. However, Section 112.3231, Florida Statutes, establishes a five-year statute of limitations for ethics complaints. Public records from the Commission on Ethics indicate

the Respondent filed his 2017 CE Form 6 on June 11, 2018. Because the complaint was filed on June 24, 2024, any allegations concerning potential misconduct by the Respondent in 2018 are beyond the Commission's limitations period and may not be considered in an investigation.

10. The complaint also claims the Respondent inflated the value of his home when disclosing it as an "Asset" on his 2021, 2022, and 2023 CE Form 6 filings, emphasizing the value listed was higher than the fair market value assessed by the County Property Appraiser for each of those years.

11. The allegations in paragraph 10 appear to be based on the Complainant's personal knowledge, inasmuch as they pertain to information on the Respondent's publicly available disclosure filings, as well as material from the County Property Appraiser that qualifies as a hearsay exception under Section 90.803(8). Regardless, for the reasons explained below, they do not provide a legally sufficient basis for investigation.

12. Concerning real property, the instructions for the "Asset" portion of the 2021, 2022, and 2023 CE Form 6 did not require that fair market value be used. Instead, the instructions state "[r]eal property *may* be valued at its market value for tax purposes, *unless a more accurate fair market value is available*." (emphasis added). Here, to the extent that the value disclosed on the filings differed than the fair market value assessed by the County Property Appraiser, the complaint fails to indicate, through factual, nonconclusory allegations, why the Respondent's value was inaccurate or improper. In short, the fact that the disclosed value may have been higher than the fair market value determined by the County Property Appraiser, without more explanation as to why it was inaccurate, does not provide a legally sufficient basis for investigation.

13. The complaint next claims the Respondent's divorce decree from his first wife listed numerous personal assets over $1,000 that were not specifically listed in the "Asset" portion of his

disclosure filings. In particular, the complaint notes that the Respondent failed to disclose his personal vehicle and Rolex watch, despite both items being valued at over $1,000. However, the complaint fails to indicate when the divorce decree was issued and—except for the personal vehicle and the watch—what additional items were not disclosed or how much they were worth on the reporting dates used by the Respondent on his filings. Without more detailed allegations, these claim are conclusory and do not provide a sufficiently specific basis for investigation. Moreover, regarding the alleged failure to disclose the personal vehicle and the watch, we note that Section 112.3144(5), Florida Statutes, indicates "jewelry" and "vehicles for personal use"—along with other enumerated items—do not have to be individually listed on a CE Form 6. Instead, the statute indicates they may be aggregated and reported in a lump sum as "household goods and personal effects," assuming their total value is over $1,000.

14. The complaint next alleges the Respondent disclosed as an "Asset" on his 2023 CE Form 6 a personal loan of $250,000 to his political action committee. The complaint claims this disclosure was improper as the committee's publicly available campaign contribution records from 2016—which are included in the complaint—indicate a loan in that amount was received from the Respondent's consulting company, not from the Respondent personally. The complaint asserts the Respondent was attempting to inflate his Net Worth by claiming, as a personal asset, a loan originating from one of his businesses.

15. It does not appear from the complaint that the allegations in paragraph 14 are based on personal knowledge or information other than hearsay. The 2023 CE Form 6 and the campaign contribution records show only that that one of the Respondent's businesses made a loan of $250,000 to his political committee in 2016, and that he reported a personal loan to the political committee of that same amount on his disclosure filing eight years later. However, the complaint

contains no explanation for its conclusion that the loan made in 2016 was the same loan that the Respondent was claiming on his 2023 CE Form 6. Without further allegations demonstrating the Complainant's personal knowledge that the loans were the same, the Commission has no authority to investigate the claim. Moreover, the claim itself, without such further substantiation, is conclusory and does provide a legally sufficient basis for investigation.

WHEREFORE, staff of the Commission on Ethics shall conduct a preliminary investigation of this complaint for a probable cause determination of whether the Respondent has violated Article II, Section 8, Florida Constitution, and Section 112.3144, Florida Statutes, as set forth in paragraph 3, above.

July 22, 2024
Date

Kerrie J. Stillman
Kerrie Stillman
Executive Director

KS/gps