STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: BRYAN LOBER,

Respondent, Case No. 26-2084EC

______________________________________/

RECOMMENDED ORDER

An administrative hearing was held in the above-styled case on June 29, 2026, via Zoom Conferencing before James H. Peterson, III, Administrative Law Judge with the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Joseph C. Burns, Esquire
Melody A. Hadley, Esquire
Advocates for the Florida Commission on Ethics
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For Respondent: William N. Spicola, Esquire
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Luke Newman, P.A.
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For Rebecca Lober: Kevin Mawn, Esquire
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Titusville, Florida 32796

STATEMENT OF THE ISSUE

Whether Respondent violated section 112.313(6), Florida Statutes, and article II, section 8(h)(2), Florida Constitution, by intentionally using Brevard County's tax exemption certificate for three purchases that were not for Brevard County business or the benefit of Brevard County, but rather for his personal benefit or the benefit of another.

PRELIMINARY STATEMENT

On April 30, 2025, the Florida Commission on Ethics (Commission) issued an Order Finding Probable Cause to believe that Respondent, Bryan Lober (Respondent), as a County Commissioner for Brevard County, Florida, violated section 112.313(6) and article II, section 8(h)(2) of the Florida Constitution by intentionally using Brevard County's tax-exempt certificate for purchases that were not for Brevard County business in order to get the benefit for himself or another of not paying the sales tax.

On April 21, 2026, the Commission forwarded the case to the Division of Administrative Hearings where it was assigned to the undersigned and scheduled for the administrative hearing held June 29, 2026. At the hearing, the Commission presented the testimony of Respondent, Rebecca Lober, Rachel Sadoff, and Robert Malone, and offered six exhibits received into evidence as Advocate's Exhibits 1 (Email using County Tax-Exempt Certificate), 2 (County Tax-Exempt Certificate), 4 (Respondent's March 2021 Campaign Finance Report), 7 (Respondent's July 2021 Campaign Finance Report), 8 (DOR response memo), and 10 (Report of Investigation). Respondent called no additional witnesses beyond those called by the Advocate, and offered three exhibits received into evidence as Respondent's Exhibits 17 (PAC Contribution-Return Records), 19 (Florida Department of Revenue Voluntary Disclosure and Related Payment), and 22 (September 5, 2025, Notarized Statement of Rebecca E. Lober).

The proceedings were recorded and a transcript was ordered. The parties were given 30 days from the filing of the transcript to submit their proposed recommended orders. The one-volume Transcript of the hearing was filed July 22, 2026. Thereafter, the parties timely filed their Proposed Recommended Orders, which were considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Respondent served as a Brevard County Commissioner from November 2018 until April 1, 2022.

2. At all material times, Brevard County maintained a County tax-exempt certificate (County Tax-Exempt Certificate) that could be used for governmental purchases.

3. The three purchases at issue in this case utilized the County Tax-Exempt Certificate for three transactions made on Rockler.com: one on March 20, 2021; one on July 25, 2021; and one on July 27, 2021, for the account rockler@bryanlober.com (Rockler Transactions). Sales tax was not collected by Rockler.com for the Rockler Transactions.

4. Loberb@gmail.com is an email address that Respondent uses.

5. Rockler received an email from Loberb@gmail.com on March 20, 2021, indicating that the transaction on March 20, 2021, was for Brevard County business.

6. There were no subsequent emails to Rockler from Loberb@gmail.com indicating that the July 25, 2021, or the July 27, 2021, transactions were for Brevard County business.

7. At the time of each of the three Rockler Transactions, neither Respondent nor his spouse, Rebecca Lober, had a tax exemption certificate issued by the Florida Department of Revenue.

8. The Rockler transactions were paid for in whole with a campaign payment card, not with a Brevard County-issued purchasing card.

9. The Rockler transactions appear on Respondent's campaign finance reports.

10. Respondent's campaign refunded campaign contributions, including $1,000 contribution-limit checks before and after the Rockler Transactions.

11. Respondent denied personally using or providing the County Tax-Exempt Certificate for the Rockler transactions; denied directing anyone else to provide the certificate; and denied requesting, directing, authorizing, or knowingly causing tax-exempt treatment to be applied to any Rockler transaction.

12. The Office of the State Attorney for the Florida Eighteenth Judicial Circuit issued a June 28, 2024, letter concerning Florida Department of Law Enforcement (FDLE) Case No. EI-11-0077 and State Attorney Case No. 1724SA07573, which addressed the three Rockler Transactions.

13. After examining the same materials made available in this matter, the State Attorney's Office did not file criminal charges against Respondent and indicated that there was no evidence that Respondent requested a sales tax exemption be applied as to either of the latter two of the Rockler Transactions.

14. As part of Petitioner's Exhibit 1, the Commission introduced into evidence a copy of an email dated March 20, 2021, which states:

> **From:** LOBER, Bryan A. <loberb@gmail.com>
> **Date:** Saturday, March 20, 2021, 3:59:49 PM
> **To:** <customercare@rockler.com>
> **Cc:** Rockler Order <orders@rockler.com>
> **Subject:** TAX EXEMPT Certificate for Order#l004191024 [CSE: khDo8i, TKT: Jj8nFg]
>
> Dear Sir or Madam:
>
> I spoke with Marilyn at Rockler's customer service line at approximately 8:05AM (Eastern) this

> morning regarding a sales tax question. As I mentioned to Marilyn, your FAQ page (https://www.rockler.com/customer-service/faq-ordering#TaxExemptCustomers) indicates that the tax-exempt certificate must be signed.
>
> As I advised Marilyn, Florida does not have any area for which a signature is normally affixed on our tax-exempt certificates. Marilyn advised that I go ahead and place the order and subsequently email customercare@rockler.com with my order number in the subject line and a copy of my tax-exempt certificate (number 85-8012621749C-1 which expires 10/31/2022) so that it may be applied to my order before it ships. She also asked that I place a note in the comments/memo section of the order indicating that the order is tax exempt.
>
> The account with which I have placed the order is rockler@bryanlober.com. I have used this account for personal purchases in the past and I intend to continue to do so in the future to keep all Rockler purchases together. When I have an order which is placed for or on behalf of my employer (Brevard County Board of County Commissioners), I intend to notate the memo/comments section of the order, as I have done with this most recent order, so that tax is not charged on applicable orders.
>
> As such, please be advised I just placed an order on Rockler's website in which I notated that the order is tax exempt. (All the text of this email was placed into the memo section ("Tax Exempt Information (Optional)") of that order.) Please do not process the order if, for any reason, you are unable to apply the tax-exempt certificate.
>
> Thank you in advance for your assistance.
>
> Truly,
> Bryan

15. In his testimony, Respondent denied authoring the Loberb@gmail.com email dated March 20, 2021, set forth above. He admitted, however, that the

Loberb@gmail.com email address was one that both he and his wife have used.

16. Regarding her use of the Loberb@gmail.com email and orders using the Tax-Exempt Certificate, Respondent's wife, Rebecca E. Lober, provided the following notarized statement introduced in this case as Respondent's Exhibit 22:

> Rebecca E. Lober
> 5747 Nanjack Cir
> PMB 191
> Memphis, TN 38115-2058
>
> Date: September 5, 2025
>
> To Whom It May Concern:
>
> I, Rebecca E. Lober, make the following voluntary statement to the best of my current recollection and belief, understanding that it may be used in a pending matter. I provide this statement voluntarily and without waiving any legal privileges or rights, including, without limitation, my constitutional right against self-incrimination and marital communications privilege as codified in § 90.504, Fla. Stat.
>
> My husband, Bryan A. Lober, formerly held public office. Several years ago, during his time in that elected position, he asked me to place an order for certain materials. At the time, I misunderstood or misheard the nature of the request and believed the order was being placed for his official governmental duties, rather than for campaign purposes. I now understand that the materials were in fact intended for campaign use.
>
> He provided me with payment card details, which I understood to be associated with his government office. I do not recall having physical possession of the card. When I entered the card information online, to the best of my present recollection, I believe the billing address may have been auto-filled

by the browser based on previously stored information. Believing the order was for his official role, I designated his government office as the shipping address and entered his official government office phone number, (321) 454-6601 as the contact number. This number rang all of the phones at my husband's government office and, to my understanding, no other phones. I point the latter out as I understand FDLE incorrectly identified, in its written investigative summary, this to be "his personal phone number" thereby implying improper intent. Please be aware that it was this very same number that the vendor called as referenced in the investigative summary.

I also sent an email to the vendor requesting that the office's government-issued tax exemption certificate be applied. My actions were based on the belief that I was helping with an official purchase. In retrospect, I believe I misheard my husband. He likely said "for the D2 campaign," which I misinterpreted it or misheard as "for D2," which I reasonably associated with his official district office duties. While I cannot recall the exact phrasing, this is my best good-faith recollection.

My husband and I have been married for over 13 years. From early in our relationship, I have regularly assisted him with both professional and political responsibilities. For example, in or around 2011, while he was employed as an attorney for the State of Florida, I helped him organize witnesses for an evidentiary hearing or trial. A colleague of my husband at the time, Christopher J. Bove, expressed concern about my involvement in that process, though we viewed such teamwork as consistent with our longstanding partnership. Despite such occasional criticism, we have consistently collaborated in various aspects of his work. It has also been somewhat routine for us to make calls as well as send texts and emails on each other's behalf and use one another's email accounts when assisting one another.

Both my husband and I are licensed attorneys in good standing. He has practiced law for nearly 15 years, and I have practiced for approximately 14 years. We are both in our 40s and have never before been accused of, investigated for, or disciplined in connection with any similar matter. As a duly licensed attorney in good standing, I understand the importance of complying with ethical and legal standards, which is why I take this matter seriously and wish to clarify my role in good faith. Neither my husband nor I would ever jeopardize our reputations – least of all to gain roughly $120. Putting aside my word, it is objectively verifiable public record as reflected in timely filed DS-DE 2 campaign finance reports that my husband's campaign returned uncashed and undeposited contribution limit checks ($1000 each) received from PACs both before and after the transaction in question, demonstrating that there could not have been a financial motive for wrongdoing.

Given the nature of our working relationship, and my belief at the time, I acted in good faith and without any intent to misuse public resources or misrepresent the purpose of the order. I regret the confusion that resulted from my misunderstanding or mishearing.

No one from the Clerk's Office, FDLE, or any other agency has ever previously asked me about the subject matter of this letter.

This statement is made voluntarily and without coercion. While I make no admission of wrongdoing, I respectfully reserve all rights and legal defenses available to me. This statement is intended solely to provide factual clarification based on my present understanding and recollection.

Sincerely,
/S/
Rebecca E. Lober

17. In her testimony, Mrs. Lober identified her notarized statement set forth above and testified that everything in the statement was true and accurate to the best of her knowledge and recollection, that she had no updates or corrections, and that she stood by the statement.

18. Mrs. Lober's notarized statement states that she placed the initial Rockler order and emailed the vendor because she mistakenly believed the purchase related to County business. Mrs. Lober's hearing testimony was consistent with her notarized statement, and she testified that she placed an order, thought it was for County business, and used the County's office address and phone number.

19. Mrs. Lober had independent counsel at the hearing. She testified that she had not waived any legal privileges or rights; that she was aware of her constitutional right against self-incrimination and the marital communications privilege; and that she reserved those rights in her statement.

20. During cross-examination, Mrs. Lober invoked the Fifth Amendment in response to the Advocate's questions concerning the Rockler email set forth in Petitioner's Exhibit 1, and the Rockler orders. She recognized the email but invoked the Fifth Amendment when asked how she recognized it.

21. Mrs. Lober also invoked the Fifth Amendment when asked whether she spoke with Marilyn, whether she made a Rockler purchase on March 20, 2021, whether she had familiarity with the Rockler account, and whether she made later Rockler purchases after March 20, 2021.

22. Mrs. Lober testified that she reserved those rights to be cautious and that, after over five years of investigations, inquiries, and related legal matters, she was simply being cautious.

23. Mrs. Lober's invocation of the Fifth Amendment was consistent with self-protection concerning questions directed at her own conduct. The invocation did not repudiate Mrs. Lober's notarized statement and did not establish that Respondent authored, sent, authorized, directed, or knowingly

caused any Rockler email or tax-exempt treatment.

24. Mrs. Lober's notarized statement and testimony are consistent with Respondent's denial that he authored the March 20, 2021, email to Rockler, and supports Respondent's testimony that he did not request, direct, authorize, or knowingly cause tax-exempt treatment to be applied to any Rockler transaction.

25. Regarding his wife's use of the Tax-Exempt Certificate, Respondent testified, "I can tell you to an absolute certainty, I did not ask her to do that."

26. As to the July orders, the record contains no July email, order, comment, notation, instruction, call record, witness testimony, or admitted exhibit showing that Respondent requested, directed, authorized, or knowingly caused Rockler to apply Brevard County tax-exempt treatment to the July 25 or July 27, 2021, transactions.

27. Accordingly, the fact that Rockler ultimately did not collect sales tax on the July transactions does not establish who caused the omission, when it occurred, how it occurred, or that Respondent requested, directed, authorized, approved, or knowingly caused tax-exempt treatment at the time of either July transaction.

28. While, in her testimony, Brevard County Clerk of Court and Comptroller Rachel Sadoff acknowledged that there were facts suggesting Respondent misused the county's Tax-Exempt Certificate, she never spoke to Respondent regarding the Rockler Transactions. She further testified that she had no personal knowledge as to who sent the Rockler Transactions.

29. Robert Malone, an investigator for the Florida Commission on Ethics, gave credible and reliable testimony at the final hearing regarding the investigative steps he personally took and the investigative limits.

30. Investigator Malone believed that Respondent sent the March 20, 2021, email because the email was in Respondent's name. However, no one told him during his investigation that they witnessed Respondent send an email to Rockler.

31. Investigator Malone did not personally interview anyone from Rockler or a Rockler representative.

32. In fact, there was no testimony presented from any witness with personal knowledge that Respondent personally authored, sent, directed, authorized, or knowingly caused the March 20, 2021, Rockler email or any request for tax-exemptions for the Rockler Transactions.

33. In February 2025, Respondent, through his attorney, paid $134.77 on behalf of Respondent's campaign for unpaid taxes on the Rockler Transactions. Although the $134.77 payment exceeded the seven percent sales-tax rate in Brevard County that would be due for the Rockler Transactions, the payment was made based upon the greater amount alleged by FDLE for those purchases.

34. Respondent's campaign's late payment of the disputed tax amount does not establish that Respondent requested, directed, authorized, or knowingly caused tax-exempt treatment at the time of any Rockler transaction and does not establish corrupt intent.

35. In sum, the evidence presented was insufficient to prove that Respondent requested, directed, authorized, or knowingly caused Rockler to apply Brevard County tax-exempt treatment for the March 20, 2021, July 25, 2021, or July 27, 2021, transactions, or that Respondent acted with corrupt intent as to any of the Rockler Transactions.

CONCLUSIONS OF LAW

36. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding. § 120.57(1), Fla. Stat.

37. Section 112.322 and Florida Administrative Code Rule 34-5.0015 authorize the Commission on Ethics to conduct investigations and to make public reports on complaints concerning violations of chapter 112, part III, Florida Statutes (the Code of Ethics for Public Officers and Employees).

38. Respondent was subject to the requirements of chapter 112, part III, the Code of Ethics for public officers and employees, for his acts and omissions during his tenure as a County Commissioner for Brevard County, Florida.

39. The burden of proof, absent a statutory directive to the contrary, is on the Commission, the party asserting the affirmative of the issue of these proceedings. *Dep't of Transp. v. J.W.C. Co., Inc.,* 396 So. 2d 778 (Fla. 1st DCA 1981); *Balino v. Dep't of Health and Rehab. Servs.,* 348 So. 2d 349 (Fla. 1st DCA 1977). In this proceeding, it is the Commission, through its Advocate, that is asserting the affirmative: that Respondent violated §112.313(6), Florida Statutes, and Article II, Section 8(h)(2), Florida Constitution.

40. Commission proceedings which, as in this case, seek recommended penalties against a public officer or employee require proof of the alleged violation(s) by clear and convincing evidence. *See Latham v. Florida Comm'n on Ethics,* 694 So. 2d 83 (Fla. 1st DCA 1997). Therefore, the burden of establishing by clear and convincing evidence the elements of Respondent's violations is on the Commission.

41. As noted by the Supreme Court of Florida:

> [C]lear 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: Henson, 913 So. 2d 579,590 (Fla. 2005) (quoting *Slomowitz v. Walker,* 429 So. 2d 797, 800 (Fla. 4th DCA 1983)). The Supreme Court of Florida also explained that, although the "clear and convincing" standard requires more than a "preponderance of the evidence," it does not require proof "beyond and to the exclusion of a reasonable doubt." *Id.*

42. Section 112.313(6), a provision with which Respondent is charged, provides as follows:

> 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.

43. The term "corruptly" is defined by section 112.312(9) as follows:

> "Corruptly" 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.

44. ln order to establish a violation of §112.313(6), the following elements must be shown by clear and convincing evidence:

a. Respondent must have been a public officer or employee;

b. Respondent must have:

i. used or attempted to use his official position or any property or resources within his trust,

or

ii. performed his official duties;

c. Respondent's actions must have been taken to secure a special privilege, benefit, or exemption for himself or others;

d. Respondent must have acted corruptly, that is, with wrongful intent and for the purpose of benefiting himself or another person from some act

> or omission which was inconsistent with the proper performance of public duties.

45. Article II, Section 8(h)(2), the other provision with which Respondent is charged, provides as follows:

> 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:
>
> (h)(l) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.
>
> (2) A public officer or public employee shall not abuse his or her public position in order to obtain a disproportionate benefit for himself or herself; his or her spouse, children, or employer; or for any business with which he or she contracts; in which he or she is an officer, a partner, a director, or a proprietor; or in which he or she owns an interest.

46. Respondent was, at all relevant times, a "public officer" as provided in section 112.313(6) and article II, section 8(h)(2) of the Florida Constitution. The first element for violation of Section 112.313(6) was met.

47. The second element, however, was not met, because, considering Respondent's denials and all the other evidence, there is lack of clear and convincing evidence that Respondent misused his position or the County Tax-Exempt certificate to make purchases for his re-election campaign or that Respondent otherwise inappropriately used a resource within his trust and his position to secure a special benefit for himself.

48. Further, the evidence did not clearly and convincingly prove that Respondent acted with corrupt intent, an element required to prove a violation of section 112.313(6) or article II, section 8(h)(2) of the Florida Constitution.

49. To satisfy the statutory element of corrupt intent, clear and convincing evidence must be adduced that Respondent acted with reasonable notice that his conduct was inconsistent with the proper performance of his public duties and would be a violation of the law or the Code of Ethics. *Blackburn v. State Comm'n on Ethics,* 589 So. 2d 431, 434 (Fla. 1st DCA 1991).

50. While circumstantial evidence may be relied upon to prove the wrongful intent, see *United States v. Britton,* 289 F.3d 976, 981 (7th Cir. 2002), the evidence presented in this case, circumstantial and otherwise, was insufficient to clearly and convincingly prove the alleged violations.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusion of Law, it is RECOMMENDED that the Florida Commission on Ethics enter a final order finding no violation of section 112.313(6) or article II, section 8(h)(2), of the Florida Constitution, and dismissing Ethics Referral No. 24-166 and this case against Respondent.

DONE AND ENTERED this 15th day of September, 2026, in Tallahassee, Leon County, Florida.

Case No. 26-2084EC

JAMES H. PETERSON, III
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 15th day of September, 2026.

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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.