

JUL 30 2014

COMMISSION ON ETHICS

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICSIn re FRANTZ PIERRE,

Respondent.

Complaint No. 14-063

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, July 25, 2014, the Commission on Ethics met in executive session and considered this complaint for legal sufficiency pursuant to Commission Rule 34-5.002, F.A.C. The Commission's review was limited to questions of jurisdiction of the Commission and of the adequacy of the details of the complaint to allege a violation of the Code of Ethics for Public Officers and Employees. No factual investigation preceded the review, and therefore the Commission's conclusions do not reflect on the accuracy of the allegations of the complaint.

The Commission voted to dismiss the complaint for legal insufficiency, based on the following analysis:

1. This complaint was filed by Stephanie Kienzle of North Miami Beach, Florida.
2. The Respondent, Frantz Pierre, allegedly serves as a member of the City Council of the City of North Miami Beach.
3. The complaint alleges that the Respondent recused himself from a March 4, 2014, Council measure and filed a related memorandum of voting conflict (CE Form 8B, attached to the complaint), stating and memorializing on the form, respectively, that he was in negotiation with the owner of the property which was the subject of the measure; that the property owner denied such negotiations; that the asking price for the property was \$4.2 million; and that the

Respondent's annual "combined salary" (as evidenced by his 2012 CE Form 1, Statement of Financial Interests, attached to the complaint) was approximately \$83,000. Thus, the complaint concludes, the Respondent committed perjury on the Form 8B or the Form 1 because "he cannot possibly afford a \$4.2 million dollar home on that income alone."

4. The complaint fails to indicate a possible violation of any standard of conduct or disclosure standard within the jurisdiction of the Commission on Ethics. More particularly, perjury is a criminal offense cognizable by law enforcement authorities but not by the Commission; and perjury regarding a written document requires a verification, oath, or affirmation, none of which is part of the signing of either a Form 8B or a Form 1. Section 92.525, Florida Statutes. Also, regarding the voting conflicts law, Section 112.3143(3)(a), Florida Statutes, the complaint indicates compliance by the Respondent, not a possible violation.¹ As to Section 112.3145, Florida Statutes, which requires disclosure of financial interests, the complaint contains no factual allegation that the Respondent failed to disclose sources of income or other required information, but merely states the Complainant's perception or conclusion that the Respondent did not have the financial wherewithal to be involved in negotiations regarding the property.

Accordingly, this complaint is hereby dismissed for failure to constitute a legally sufficient complaint with the issuance of this public report.

¹ Section 286.012, Florida Statutes, which is known as the "voting requirements law," is not a standard of conduct within the complaint jurisdiction of the Commission. However, it allows abstention from voting in a broader universe of circumstances than that requiring abstention under Section 112.3143(3)(a). To the extent the complaint can be read to allege that the Respondent was *required* to vote on the measure, such allegation is outside the jurisdiction of the Commission on Ethics.

ORDERED by the State of Florida Commission on Ethics meeting in executive session
on July 25, 2014.

July 30, 2014
Date Rendered

Linda M. Robison
Linda McKee Robison
Chair, Florida Commission on Ethics

cc: Mr. Frantz Pierre, Respondent
Ms. Stephanie Kienzle, Complainant

LMR/cca/mwf