



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
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May 18, 2022

Ms. Stephanie Kienzle
7535 S.W. 26th Court
Davie, FL 33314

Re: Complaint by Stephanie Kienzle against Hans Ottinot Sr.
The Florida Bar File No. 2022-50,526 (17D)

Dear Ms. Kienzle:

All correspondence and documents submitted in this matter have been carefully reviewed. You alleged Mr. Ottinot is the interim City Attorney for North Miami Beach and he has violated several Bar rules including competence, diligence, and candor toward the tribunal. You alleged it is Mr. Ottinot's responsibility to ensure that the members of the City Commission comply with all federal, state, and municipal laws. You alleged Mr. Ottinot has provided erroneous legal advice which has led to violations of State law as well as the City Charter. First, you alleged the City spent \$100,000 to purchase 1,000 Publix Gift Cards for distribution to residents who are allegedly experiencing financial hardship and food insecurity and used COVID-19 as a convenient excuse. You alleged it was an arbitrary misuse of public funds and Mr. Ottinot advised the mayor that it was lawful. You alleged the mayor requested Mr. Ottinot get the opinion of the Attorney General, but he refused. Second, you alleged Mr. Ottinot was incompetent when he allowed four members of the City Commission to vote themselves an additional raise of \$6,500 per year under the guise of an expense allowance. Third, you alleged you have been blocked from the City's social media accounts in violation of Florida Statutes 119 and 286.011. You alleged you demanded to be unblocked but Mr. Ottinot has not responded to your request. You alleged Mr. Ottinot disseminated emails to the Mayor and Commissioners of North Miami Beach and City Staff that you are a "serial racist Blogger," and you have been hurling racist attacks against him. Mr. Ottinot has responded to your allegations.

Mr. Ottinot acknowledged his representation as the interim City Attorney for North Miami Beach but denied your allegations. Mr. Ottinot contended he provided legal advice to his client regarding the gift card program based on his professional judgment. Mr. Ottinot maintained you may challenge the validity of the City's actions in a court of law. Mr. Ottinot contended he provided legal advice to his client regarding the increased expense allowance based on his professional judgment. Mr. Ottinot maintained you may challenge the validity of the City Commission's action regarding the expense allowance in a court of law. Mr. Ottinot contended

blocking your comments on the City's social media pages is within the City Manager's discretion and the City's Social Media Policy. Mr. Ottinot further maintained that with regards to his email that you alleged are disparaging, he is entitled to inform his client about your comments and complaints.

If the Bar seeks to discipline a lawyer, it is required by Supreme Court ruling to show, by "clear and convincing" evidence that there has been a violation of one or more of the Rules Regulating The Florida Bar. Clear and convincing evidence has been defined as "evidence so clear, direct and weighty and convincing as to enable [the factfinder] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue." This burden of proof is heavier than the burden of proof required in an ordinary civil trial. The information provided does not establish by clear and convincing evidence that Mr. Ottinot has violated any of the Rules Regulating the Florida Bar. Furthermore, The Supreme Court of Florida has ruled that the disciplinary process and proceedings are not to be used as a substitute for civil proceedings and remedies. *See The Florida Bar v. Della-Donna*, 583 So. 2d 307 (Fla. 1989).

After careful consideration, I conclude that there is insufficient evidence from the materials provided that Mr. Ottinot has violated any of the rules adopted by the Supreme Court of Florida which govern attorney discipline. Accordingly, continued disciplinary proceedings in this matter are inappropriate and our file has been closed effective May 17, 2022.

Please be advised that my action does not preclude you from consulting with private counsel, nor does it preclude you from exercising any legal remedy which may be available to you.

Pursuant to the Bar's records retention schedule, the computer record and file will be disposed of one year from the date of closing.

Sincerely,



Richard W. Coombs, Bar Counsel
Attorney Consumer Assistance Program
ACAP Hotline 866-352-0707

cc: Mr. Benjamin Henry Brodsky