

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re RON DESANTIS,)
)
)
)
)
Respondent.)
_____)

Complaint No. 23-059

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, April 21, 2023, 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 lack of legal sufficiency, based on the following analysis:

1. This complaint was filed by Taylor Budowich of West Palm Beach, Florida.
2. The Respondent, Ron DeSantis, serves as the Governor of the State of Florida.
3. The complaint alleges that Respondent committed several ethics violations.
4. The complaint primarily concerns (1) what it refers to as "gifts" that are "made by organizations and individuals that are funded by donations from Governor DeSantis's political supporters and, therefore have a direct financial interest in his official decision to resign from office and run for president," and (2) a possible future application of what is known as the

Resign-to-Run Law, Section 99.012(4), Florida Statutes,¹ to Respondent. The complaint alleges that Respondent "has solicited and accepted millions of dollars in benefits." In three lists in the complaint, these alleged benefits are detailed; the complaint identifies the first list of alleged gifts/benefits to Respondent as coming from political committees:

- Friends of Ron DeSantis, Governor DeSantis's Florida political committee, has raised approximately \$12,000,000 and made expenditures in excess of \$1,600,000 since January 1, 2023, to promote his presidential candidacy;
- According to the most recent data, Federal political committees, including Ready for Ron, Ron to the Rescue, and Courageous Conservatives PAC, are actively raising money and making expenditures advocating Ron DeSantis's election as president;
 - Ready for Ron made \$281,405.21 in disbursements;
 - Ron to the Rescue made \$1,273.00 in disbursements; and
 - Courageous Conservatives PAC made \$277,617.23 in disbursements;
- The founder of Ron to the Rescue, a Federal Super PAC, says "he has 10 staffers and about \$20 million in commitments to support a DeSantis presidential campaign;
- The Republican State Leadership Committee, a federal political committee, has thrown its financial support behind Governor DeSantis and has its own

¹ Section 99.012 states:

- (a) Any officer who qualifies for federal public office must resign from the office he or she presently holds if the terms, or any part thereof, run concurrently with each other.
- (b) The resignation is irrevocable.
- (c) The resignation must be submitted at least 10 days before the first day of qualifying for the office he or she intends to seek.
- (d) The written resignation must be effective no later than the earlier of the following dates:
 - 1. The date the officer would take office, if elected; or
 - 2. The date the officer's successor is required to take office.
- (e)1. An elected district, county, or municipal officer shall submit his or her resignation to the officer before whom he or she qualified for the office he or she holds, with a copy to the Governor and the Department of State.
- 2. An appointed district, county, or municipal officer shall submit his or her resignation to the officer or authority which appointed him or her to the office he or she holds, with a copy to the Governor and the Department of State.
- 3. All other officers shall submit their resignations to the Governor with a copy to the Department of State.
- (f)1. The failure of an officer who qualifies for federal public office to submit a resignation pursuant to this subsection constitutes an automatic irrevocable resignation, effective immediately, from the office he or she presently holds.
- 2. The Department of State shall send a notice of the automatic resignation to the Governor, and in the case of a district, county, or municipal officer, a copy to:
 - a. The officer before whom he or she qualified if the officer held an elective office; or
 - b. The officer or authority who appointed him or her if the officer held an appointive office.
- (g) The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.

fundraising activities in support of Governor DeSantis's presidential run and has promoted his book;

- Courageous Conservatives PAC has placed paid digital advertisements promoting Governor DeSantis's presidential run;
- Federal political committees are reportedly making consulting payments for potential presidential campaign staff;
- Ron to the Rescue, a Federal Super PAC, had "a booth at the New Hampshire GOP meeting, manned by staff from the super PAC and volunteers who are from New Hampshire, including former state officials who are supporting the Florida governor[;]" and
- Attendees to the Lincoln Reagan Dinner 2023, sponsored by the Harris County Republican Party, are reportedly paying \$500 or more per ticket to receive a copy of Governor DeSantis's book.

The complaint identifies the second list of alleged benefits to Respondent as coming from advocacy organizations:

- A 501(c)(4) organization, formed on January 30, 2023, named And to the Republic has hosted three events featuring Governor DeSantis in New York, Philadelphia, and Chicago, reportedly intends to host future events featuring Governor DeSantis that will no doubt involve the solicitation [of] even more contributions in furtherance of his presidential run, and has paid for Facebook advertisements in Iowa and Nevada to promote Governor DeSantis's upcoming travel to these states; and
- Governor DeSantis has solicited and received other gifts associated with And to the Republic's activities, which **likely include** the (a) use of real property necessary for the book tour and speaking events such as a speaking venue and hotel rooms, (b) air and ground transportation necessary for the book tour, services needed for the events, such as staffing requirements, (c) products needed while attending the speaking events, such as food and beverage.

[Emphasis added.]

The complaint identifies the third list of alleged benefits to Respondent as relating to Respondent's book tour:

- A book advance, reportedly in excess of \$2 million;
- Royalties, which have been increased by book sales and promotion by political committees, as described above; and
- Governor DeSantis has solicited and received other gifts associated with the book tour, which **likely include** (a) the use of real property necessary for the book tour and speaking events such as a speaking venue and hotel rooms, (b) air and ground transportation necessary for the book tour, (c) services needed

for the events, such as staffing requirements, and (d) products needed while on the book tour, such as food and beverage.

[Emphasis added.]

5. The complaint presents an argument that Respondent's decision to resign under the Resign-to-Run Law is an official action.

Section 112.313(2), Florida Statutes

6. The complaint alleges that Respondent violated Section 112.313(2), Florida Statutes, by soliciting or accepting things of value, particularly those things listed in the three lists detailed above in paragraph 4, with an understanding that they would influence his decision to run for president and, by extension, his decision to submit a resignation under the Resign-to-Run Law, which the complaint alleges is an official decision.

7. Section 112.313(2) states:

No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

8. Section 112.313(2) prohibits the solicitation or acceptance of anything of value by a public officer, among others covered by the prohibition, where there is an understanding or agreement that a donation or contribution of a thing of value to a recipient will influence an official decision of the public officer.

9. The complaint fails to indicate a possible violation of Section 112.313(2). The complaint fails to indicate in a factual, substantive, nonconclusory manner that Respondent solicited or accepted anything with an understanding that it would influence an official decision associated with his public office. The complaint details alleged actions taken by other

organizations for the benefit of Respondent's anticipated presidential campaign, but never once expressly alleges that Respondent and these organizations have an agreement or understanding, or that Respondent has conditioned any public action on any donation, contribution, gift, or other thing of value. In the absence of an explicit allegation of a quid pro quo, the complaint does not indicate a violation of Section 112.313(2).

Section 112.31485, Florida Statutes

10. The complaint also makes a series of allegations that Respondent violated Section 112.31485, Florida Statutes. The complaint offers the conclusion that Respondent "has solicited and received millions of dollars' worth of gifts . . . from political committees in violation of Section 112.31485(2)(a) of the Florida Statutes." The complaint further concludes that the gifts, which are detailed above in the first list of alleged gifts/benefits, are not permitted by Chapter 106. Additionally, the complaint alleges that Respondent solicited and accepted the promotion of his book tour by various political committees and that he was directly and indirectly enriched through the book advance and payment of royalties.

11. Section 112.31485 states in the relevant part:

(1)(a) For purposes of this section, the term "gift" means any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106.

(b) For purposes of this section, the term "immediate family" means any parent, spouse, child, or sibling.

(2)(a) A reporting individual or procurement employee or a member of his or her immediate family is prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee.

(b) A political committee is prohibited from giving, directly or indirectly, any gift to a reporting individual or procurement employee or a member of his or her immediate family.

12. Section 112.31485 prohibits a reporting individual and the members of his or her immediate family from soliciting or knowingly accepting, directly or indirectly, any thing of value from a political committee that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to Chapter 106 of the Florida Statutes.

13. The first list of alleged gifts/benefits (from political committees) in paragraph 4, above, details actions taken by political committees to promote Respondent's anticipated presidential campaign. The complaint, by implication, alleges that these actions taken by political committees, in service of Respondent's anticipated presidential candidacy, are gifts to him, but the complaint never alleges in a nonconclusory manner that Respondent solicited or "knowingly" accepted the alleged gifts from the political committees. Political committees are lawful organizations authorized to exercise speech in particular ways to advocate for certain candidates or political outcomes without so much as even the tacit approval of the particular candidate or anyone else affected by the particular political issue. Without an explanation as to what Respondent specifically solicited or "knowingly accepted," and how that acceptance occurred, the allegation is conclusory and cannot form the basis of an investigation.

14. To the extent the complaint alleges that the political committees have taken actions not permitted under Chapter 106, that conduct cannot be ascribed to Respondent and, therefore, is not appropriately addressed here.

Section 112.3215, Florida Statutes

15. The complaint cites Section 112.3215, Florida Statutes, to allege that Respondent has violated the Expenditure Ban, which is found at Section 112.3215(6)(a), Florida Statutes. That provision prohibits every executive branch reporting individual from knowingly accepting, directly or indirectly, any expenditure. According to Section 112.3215(1)(d), an expenditure is a

payment, distribution, loan, advance, reimbursement, deposit, or anything of value *made by a lobbyist or principal* for the purpose of lobbying. A lobbyist is defined at Section 112.3215(1)(h), Florida Statutes, in part as:

a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity.

16. The complaint fails to indicate possible violation of Section 112.3215(6)(a). In addition to failing to indicate in a factual, substantive, nonconclusory manner that Respondent "knowingly accepted" anything of value, as explained above, the complaint also does not indicate that the things of value listed in paragraph 4 were given by a lobbyist or a principal of a lobbyist.

Section 112.313(4), Florida Statutes

17. Although the complaint does not specifically cite to the statute, a discussion of Section 112.313(4), Florida Statutes, is warranted by the allegations. Section 112.313(4) states:

No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

18. Section 112.313(4) prohibits a public officer, among others, including his or her spouse or minor child, from accepting anything of value when the public officer knows or, with the exercise of reasonable care, should know that the thing of value was given to influence the official actions of the public officer.

19. While the complaint takes great pains to allege that specific political committees and advocacy organizations have undertaken activity that arguably is of benefit to Respondent,

there is no explicit allegation in the complaint that Respondent, or his spouse and minor children, have personally accepted anything from these organizations, as would be needed to violate the statutory prohibition.

20. With regard to the portion of the gift list pertaining to the book tour, Respondent's alleged book advance is not sufficiently alleged to indicate that it is unauthorized compensation. The complaint does not allege or otherwise demonstrate, for example, that the book advance is unearned or is disproportionate to what other similarly-situated public figures could obtain for the same or similar work. See CEO 01-2.

21. With regard to the allegation that Respondent has solicited or accepted gifts associated with the book tour, all of the details of this allegation are presented speculatively. According to the complaint, the items that Respondent allegedly accepted or solicited in connection to the book tour "likely include[s]" the certain items detailed in paragraph 4, above. The complaint never makes a definitive allegation that Respondent ever accepted any particular thing of value from a source that offered it with an expectation that it influence his official decision making. As we said above, allegations that are not presented in a factual, substantive, nonconclusory manner do not invoke the investigatory jurisdiction of the Commission.

Article II, Section 8(h)(2), Florida Constitution

22. The complaint makes two allegations that Respondent has violated the prohibition found in Article II, Section 8(h)(2), Florida Constitution.² First, the complaint alleges that Respondent "has received a disproportionate benefit that was intended to influence his decision to run for president and resign from office," to wit the gifts described above in paragraph 4. Second, the complaint alleges that Respondent has obtained a disproportionate benefit from

² The prohibition now found in Article II, Section 8(h)(2), Florida Constitution, was redesignated from Article II Section 8(g)(2), Florida Constitution, on December 31, 2022. Article XII, Section 38, Florida Constitution.

failing to file a statement of candidacy as allegedly required by the Federal Election Campaign Act of 1971, as amended.³

23. Article II, Section 8(h)(2), Florida Constitution, prohibits a public officer or employee from abusing his or her position 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.

24. While the complaint focuses heavily on making the allegation that Respondent has received a disproportionate benefit, the complaint does not describe in support of either allegation any affirmative act or omission by Respondent that would constitute an abuse of his public position. With reference to the alleged gifts detailed in paragraph 4, as stated earlier, the complaint does not allege Respondent undertook any affirmative act to solicit or accept those items. With regard to allegation that Respondent failed to file a statement of candidacy as required by federal elections laws, the complaint does not indicate a use of Respondent's position in the failure to file such documents. The act of filing or refusing to file a statement of candidacy for a federal election bears no relation to one's holding a public position in Florida; certainly, throughout time, many have filed one without also holding the Office of Governor of the State of Florida. Because the complaint does not allege in a factual, substantive, nonconclusory manner that Respondent abused his position to achieve a disproportionate benefit for himself or certain others, no investigation can be initiated under Article II, Section 8(h)(2), Florida Constitution.

³ To the extent the complaint alleges violations of federal law, such allegations are outside the jurisdiction of the Commission on Ethics.

Section 112.313(6), Florida Statutes

25. The complaint alleges that Respondent has misused his position with a corrupt intent to benefit himself, through book sales on his book tour, by allegedly making "approximately 15 out-of-state campaign trips accompanied by his official security detail, at a reported cost of over \$2.4 million to Florida taxpayers."

26. In making this allegation, the complaint cited Section 112.313(6), Florida Statutes. Section 112.313(6) states:

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.

Pursuant to Section 112.312(9), Florida Statutes, "corruptly" is defined as

. . . 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.

Section 112.313(6) prohibits public officials and employees from corruptly using or attempting to use their official positions or property or resources within their trust, and it prohibits them from corruptly performing their official duties, in order to secure a special privilege, benefit, or exemption for themselves or another.

27. The complaint fails to indicate possible violation of Section 112.313(6). To indicate possible violation of the statute, a complaint must allege, in a factual, substantive, nonconclusory manner, that a respondent corruptly used or attempted to use his or her public position or resources within his or her public trust, or that he or she corruptly performed his or her official duties, in order to specially benefit himself or herself or another. Here, the complaint

does not indicate that the provision of a security detail to Respondent when he is traveling is corrupt. There is a public purpose for the provision of protective services to the Governor and his family, even when he travels. See, generally, Section 943.68, Florida Statutes.

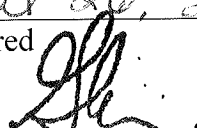
28. To the extent this complaint alleges waste, such allegations not within the jurisdiction of the Commission of Ethics.

Section 112.313(7)(a)

29. The complaint lastly alleges a violation of Section 112.313(7)(a), Florida Statutes. The complaint alleges that Respondent's contractual relationships related to the book tour are conflicting contractual relationships because the book tour causes Respondent to be "absent from Florida." The complaint, however, does not provide an adequate factual basis for this allegation. There is no inherent reason why Respondent, as Governor, cannot travel outside the State, and the complaint does not provide additional information to establish that such travel creates a continuing or frequently recurring conflict between his private interests and the performance of his public duties or that it impedes the full and faithful discharge of his public duties. For this reason, the complaint fails to allege a violation of Section 112.313(7)(a).

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

ORDERED by the State of Florida Commission on Ethics meeting in executive session on Friday, April 21, 2023.

April 26, 2023
Date Rendered

Glenton "Glen" Gilzean, Jr.
Chair, Florida Commission on Ethics

GG/sjz

cc: Mr. Ryan D. Newman, General Counsel for the Executive Office of the Governor
Mr. Jared J. Roberts, Attorney for Complainant