

JUL 30 2025

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

COMMISSION ON ETHICS

In re MIKE NORRIS,

Respondent.

Complaint No. 25-116

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

On Friday, July 25, 2025, the Commission on Ethics met in its 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 Theresa Pontieri of Palm Coast, Florida.¹
2. The Respondent, Mike Norris, allegedly serves as the Mayor of the City of Palm Coast.
3. The complaint is comprised of an investigative report commissioned by the City into certain conduct by the Respondent. It includes an 11-page summary by the law firm which

¹ The complaint identifies the Complainant as the "Vice Mayor" of the City of Palm Coast, and contains a letter from the City Council indicating it voted to forward its internal investigation of the Respondent to the Commission on Ethics. However, the Commission on Ethics is authorized to accept referrals of ethics matters from only certain public agencies, and municipalities are not one of the agencies enumerated in the referral statute. See § 112.324(1)(b), Florida Statutes. Accordingly, this complaint will be treated as having been filed by the Complainant in her private capacity.

conducted the investigation followed by a series of summarized sworn statements from various City officers and employees—including the Respondent—as well as news articles and internal City filings. The investigative report concerns about two allegations, both of which are addressed below.

4. The complaint first claims the Respondent violated the City Charter by attempting to pressure the Acting City Manager and the Chief of Staff into resigning. The complaint claims the Respondent lacked authority to attempt, on his own, to terminate the employment of these individuals.

5. 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). Here, the allegation in paragraph 4 is based on content in the investigative report included in the complaint. Because of this, the complaint hinges upon hearsay statements contained within an investigative report that is, in itself, hearsay. In these types of situations, Section 90.805, Florida Statutes, states "[h]earsay within hearsay is not excluded[,] provided each part of the combined statements conform with an exception to the hearsay rule as provided in . 90.803 or 90.804." See also Lee v. Dep't of Health & Rehab. Servs., 698 So. 2d 1194, 1200-1201 (Fa. 1997); and Harris v. Game & Fresh Water Fish Com'n., 495 So. 2d 806, 809 (Fla 1st DCA 1986). Here, the investigative report commissioned by the City appears to be a business record that qualifies as a hearsay exception under Section 90.803(6), Florida Statutes.² See Reichenberg v. Davis, 846 So

² Rule 34-5.002(2)(a)2. of the Florida Administrative Code states an allegation in an ethics complaint will be considered to be based on information other than hearsay so long as the evidence supporting the allegation is hearsay that is, or likely would be, admissible under Sections 90.801 through 90.805, Florida Statutes. See also Florida Elections Commission v. Valliere, 45 So. 3d 506 (Fla. 4th DCA 2010).

2d 1233, 1234 (Fla. 5th DCA 2003) and Harris, 495 So. 2d at 809 (both cases indicating that agency investigatory reports could qualify as business records under Section 90.803(6) if all elements to that exception are shown). The question then becomes whether the specific content in the investigatory report—or, at least, the content related to the allegation described in paragraph 4, above—is based on the Complainant's personal knowledge or, on its own, separately and independently qualifies for a hearsay exception.

6. Initially, there is no indication in the complaint that the Complainant has personal, first-hand knowledge that the Respondent was seeking the resignations of the Acting City Manager or the Chief of Staff. However, pages 49 through 52 of the complaint contain a sworn statement by the Respondent. In the sworn statement, he admits to requesting the "immediate resignation" of these two employees. He later indicates he "requested their resignations, but [] did not demand them." These statements appear to qualify for the hearsay exception related to party admissions. See § 90.803(18)(a), Fla. Stat. (stating an admission may be "the party's own statement in either an individual or a representative capacity"). Regardless, even if the allegation in paragraph 4 is considered on its merits, it does not provide a legally sufficient basis for investigation for the reasons explained below.

7. Section 112.313(6), Florida Statutes, which is the only provision in the Code of Ethics relevant to the allegations in paragraph 4, 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. [Section 112.313(6), Florida Statutes]

Section 112.312(9), Florida Statutes, defines "corruptly" 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.

In order to indicate a possible violation of this provision, a complaint must substantively allege that a respondent corruptly used or attempted to use his or her public position or resources within his or her public trust, or corruptly performed his or her official duties, in order to benefit himself/herself or another; it is not enough that a *detriment* to a complainant or another is alleged.

8. Here, the allegations in paragraph 4, above, fail to indicate a possible violation by the Respondent of Section 112.313(6). Even accepting as true that the Respondent attempted to have the Acting City Manager and the Chief of Staff resign, and even if he lacked authority to do so, this identifies only a detriment to those individuals. The allegation fails to identify, in a factual, nonconclusory manner, any special private capacity benefit from the resignations for the Respondent—or any other individual or entity with whom he had a private capacity nexus—as would be needed to support the "corruption" required for a possible violation of Section 112.313(6).

9. The complaint next claims the Respondent has created a hostile work environment for City employees by engaging "in a pattern of inappropriate conduct and unprofessional behavior[.]" Examples of the Respondent's conduct are contained in the sworn statements, news article, and City filings included in the complaint. These examples include, but are not limited to, the following statements by the Respondent:

- Stating the toenail polish of the City's Director of Communications and Marketing was a "trash bag" color;
- Stating the Director of Human Resources was wearing a "Hillary Clinton pantsuit";
- Making demeaning comments about the need for—and work product of—the staff of the Communication and Marketing Department, indicating particular displeasure regarding their work on a City parade livestream;

- Stating to the Director of Human Resources that the City should hire younger employees as older workers carried costly healthcare benefits; and
- Using profanity and making verbally intimidating comments in several of these exchanges, as well as in other interactions with City officers and staff.

10. The allegations in paragraphs 9 are all contained within the investigative report, which may be considered a business record under Section 90.803(6), as described above. Moreover, in the sworn statement on pages 49 through 52 of the complaint, the Respondent admits to making several of the statements covered in paragraph 9. In particular, he admits to: (1) comparing the City Director's toenail polish to the color of a trash can; (2) stating the outfit of the Director of Human Resources "looked like a Hillary Clinton pantsuit"; (3) stating the livestream of a parade by the Communications and Marketing Department looked "crappy"; and (4) indicating that older employees cost more in benefits. While the Respondent claims certain of these comments were intended as "lighthearted" remarks and others were mere "factual observation[s,]" it appears these specific comments qualify as admissions under 90.803(18)(a), Florida Statutes. However, the complaint contains additional allegations concerning remarks by the Respondent that are not specifically addressed in his sworn statement. Rather, they are ascribed to him in sworn statements made by others, in a news article, and in various internal City documents filed by others, all of which is hearsay. Concerning these additional allegations, because they do not appear to be based on the Complainant's personal knowledge or information other than hearsay, no investigation can be conducted concerning them.


11. However, even if each allegation concerning the Respondent's language and comments was considered on its merits—including those comments not expressly addressed in his sworn statement—there still would not be a legally sufficient basis for investigation. Essentially, the complaint asserts the Respondent misused his public position under Section 112.313(6) by making profane and demeaning comments to City officers and staff. While these allegations may

involve a detriment to the individuals who were the subjects of the Respondent's comments, they fail to identify in a factual, nonconclusory manner any private capacity benefit to the Respondent or anyone to whom he has a private capacity nexus, as would be needed to violate Section 112.313(6). In short, while we find the comments alleged in the complaint to be distasteful and indefensible, the complaint fails to identify the type of concrete benefit that would be supportive of the "corruption" required under the statute.

12. And without a factual, nonconclusory allegation identify a benefit to a person or entity enumerated in Article II, Section 8(h)(2), Florida Constitution, the allegations in paragraphs 4 and 9 cannot constitute a violation of the Constitutional prohibition.

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, July 25, 2025.

July 30, 2025
Date Rendered

Luis M. Fusté
Chair, Florida Commission on Ethics

LMF/gps

cc: Mr. Mike Norris, Respondent
Ms. Theresa Pontieri, Complainant