

**OFFICIAL MEETING MINUTES
OF THE
PALM BEACH COUNTY COMMISSION ON ETHICS
STATUS CHECK AND SCHEDULE HEARING
PALM BEACH COUNTY, FLORIDA**

JANUARY 29, 2021

**THURSDAY
9:32 A.M.**

**COMMISSION CHAMBERS
ROBERT WEISMAN GOVERNMENTAL CENTER**

I. CALL TO ORDER (HEARING OFFICER THOMAS DOUGHERTY PRESIDING)

II. ROLL CALL - None

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Marisa Valentin, Deputy Clerk, Clerk of the Circuit Court & Comptroller's Office.

III. PRE-HEARING MOTIONS AND SCHEDULE

Proceedings began with Mr. Dougherty hearing and ruling on each of the respondent's motions.

III.a. Motion requesting Hearing Officer Thomas Dougherty's recusal.

Discussion ensued and the following points were made:

- The respondent lacked confidence in Mr. Dougherty's ability to remain impartial.
- There was no evidence showing any of the situations raised by the respondent had occurred.
- The respondent's counsel believed that Mr. Dougherty had a history of ex parte communication with the COE Advocate, Flynn Bertisch, and of issuing orders that were prejudicial against Ms. Hubbard.

- A previous ruling by Mr. Dougherty granted telephonic witness testimony that required the respondent's legal counsel to submit evidentiary paperwork in advance of the hearing.
- Mr. Dougherty had exhibited a track record of impartial rulings.
- Orders were researched, processed, and issued by Mr. Dougherty personally and not by his staff.
- The motion for recusal was denied; however, the decision was open to appeal if respondent's counsel had chosen to exercise that option.

III.b. Motion for continuance.

Discussion ensued and the following points were made:

- Respondent's counsel objected to any witness testimony provided other than in-person.
- A specific witness requested to provide testimony either via telephone or video conference due to the commute from Broward County and because of COVID-19 risks.
- Respondent's counsel disagreed with the prior submission of evidence, disclosure of strategy, and inability to cross examine the witness in person.
- The witness in question had a preexisting heart condition that increased the risk of COVID-19 exposure.
- Witness testimony would be permitted via video conference providing there was good cause, and evidence would be submitted digitally during the proceedings.
- A 60-day continuance was granted, and the final hearing would take place over the course of two days.

III.c. Extension of subpoenas issued on behalf of the respondent.

Gwendolyn S. Tuggle, attorney for the respondent said that reissuing subpoenas to witnesses was cost prohibitive, and requested that an extension be granted on those already issued.

Mr. Dougherty stated that he would include language in the order extending the subpoenas; however, he was unsure of its enforceability.

Mr. Bannon said that reminders would be sent via standard postal service, and officially updated subpoenas would be supplied should any of the witnesses' employers require one.

III. ADJOURNMENT

At 10:04 a.m., Hearing Officer Dougherty declared the meeting adjourned.