

**OFFICIAL MEETING MINUTES
OF THE
PALM BEACH COUNTY COMMISSION ON ETHICS (COE)
STATUS CHECK
PALM BEACH COUNTY, FLORIDA**

DECEMBER 21, 2022

**WEDNESDAY
10:00 A.M.**

**WEBEX TELECONFERENCE
WEISMAN GOVERNMENTAL CENTER**

COUNTY STAFF PRESENT:

Rhonda Giger, COE General Counsel
Mark A. Higgs, COE Investigator II
Abigail Irizarry, COE Investigator II
Gina A. Levesque, COE Intake and Compliance Manager

CLERK OF THE CIRCUIT COURT & COMPTROLLER'S OFFICE STAFF PRESENT:

Jillian Zalewska, Deputy Clerk

ALSO PRESENT:

Flynn Bertisch, COE Advocate
Lynne Hubbard, Respondent
Earl Mallory, Hearing Officer
Gwendolyn Tuggle, Counsel for Respondent

I. CALL TO ORDER

The hearing officer called the meeting to order at 10:02 a.m.

II. C18-008 – STATUS CHECK

At Mr. Mallory's request, Mr. Bertisch and Ms. Tuggle stated their names for the record.

Mr. Mallory summarized the discussion of exhibits that had occurred at the previous status check and inquired if the respondent's exhibits had been produced in compliance with his instructions.

Ms. Tuggle stated that she had submitted to Mr. Bertisch and Ms. Levesque a list of documents with the exhibits attached and that all exhibits were numbered and identified.

Mr. Mallory said he had not received the exhibits.

Ms. Levesque stated that Ms. Tuggle had submitted the list the previous week. She proceeded to forward the list to Mr. Mallory via email.

Mr. Mallory read aloud from the forwarded document, and Ms. Tuggle explained that she was referring to a different submission, which consisted of a list identifying the exhibits and the actual exhibits as an attachment.

Mr. Mallory requested that Ms. Tuggle provide the submission to which she was referring.

Ms. Tuggle offered to provide the information via screenshare, and Mr. Mallory and Mr. Bertisch agreed.

Mr. Mallory displayed an exhibit list with attached exhibits that had been prepared by the County and noted that he had not received a submission from Ms. Tuggle in that format.

Ms. Tuggle said she had submitted a similar document years ago, before the first trial date had been cancelled, and would re-send it later in the day.

Mr. Mallory said he needed to know before the hearing if there were objections to any of the exhibits as well as the nature of those objections so he would be able to issue rulings. He also said that he would not allow any exhibits to be submitted that were not pre-marked on the list.

Mr. Mallory asked if there were any outstanding motions, and there were none from either the COE or the respondent.

Mr. Bertisch and Ms. Tuggle both indicated that discovery was complete and that no witnesses had been designated as experts.

In response to a question from Mr. Mallory, Ms. Levesque said that Willie Horton would be attending the meeting remotely and that COE Investigator Anthony Bennett would also attend via teleconference.

Ms. Tuggle said she had not been informed of Mr. Bennett's appearance but had no objection.

Mr. Mallory asked if there were any other items to be discussed.

Ms. Tuggle asked how exhibits would be handled during cross-examination and what the procedure would be if she wanted to play any recordings.

Mr. Mallory said that Ms. Levesque had possession of the exhibits and that they would be admitted as Ms. Tuggle submitted them. He asked if she had extracted the clips that she wished to produce.

Ms. Tuggle explained that the witnesses' testimony would determine which clips were relevant during cross-examination. She also said that she could identify the portions that might be significant.

Mr. Mallory asked if Ms. Tuggle had filed the recordings with the COE. Ms. Tuggle said that she had, and Ms. Levesque confirmed that she had received them.

Ms. Levesque said that the hearing would be held in chambers and the recordings could be shared with all attendees.

Mr. Mallory explained that the burden was on the COE to prove its case, and Ms. Tuggle could utilize exhibits and recordings during cross-examination. He also said that if the County carried its burden, Ms. Tuggle would present a defense, and the County could conduct cross-examination.

Ms. Tuggle and Mr. Bertisch agreed to the procedure.

Mr. Mallory asked if there were further questions, and Ms. Tuggle stated that she would submit the exhibits list that complied with Mr. Mallory's request.

III. ADJOURNMENT

At 10:24 a.m., Mr. Mallory declared the meeting adjourned.

APPROVED:

Chair/Vice Chair