

**BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS**

RECEIVED

COMPLAINT No. 25-064

In Re: Rod Lincoln,

Respondent.

**RESPONSE IN OPPOSITION TO ADVOCATE'S MOTION TO
SCHEDULE MATTER, ADOPT THE ALJ'S ORDER,
RECOMMENDED PENALTY, AND RENDER FINAL ORDER**

Respondent Rod Lincoln, through undersigned counsel, submits this Response in Opposition to Advocate's Motion to Schedule Matter, Adopt ALJ's Order, Recommended Penalty, and Render Final Order and, in support thereof, states:

This Case Should Be Dismissed for Lack of Jurisdiction or, in the alternative, Dismissed as Being Moot

Mr. Lincoln was charged with violating Section 112.3145(9)(c), Florida Statutes, which provides as follows:

If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a

complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, ***the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.*** The commission shall forward its recommendation as provided in s. 112.324.

The only penalty for violating Section 112.3145(9)(c) is removal from office or public employment.

Mr. Lincoln resigned as a member of the Villages of Pasadena Hills Planning and Policy Committee on April 17, 2026. (Exhibit 1) Accordingly, he cannot be removed from a position from which he has already resigned. Thus, the Commission lacks jurisdiction to proceed further in this matter.

In the alternative, this matter should be dismissed as being moot. "A case is 'moot' when it presents no actual controversy or when the issues have ceased to exist." *Financial Impact Estimating Conference v. Floridians Protecting Freedom, Inc.* 390 So. 3d 758, 760 (Fla. 1st DCA 2024.) (citing *Waters v. Dep't of Corr.*, 306 So. 3d 1264, 1266 (Fla. 1st DCA 2020)). As Mr. Lincoln resigned as a member of the Villages of Pasadena Hills Planning and Policy Committee on April

17, 2026, there no longer exists an actual controversy and/ or the matters at issue in this proceeding have ceased to exist.

Accordingly, Mr. Lincoln moves that this complaint be dismissed for lack of jurisdiction, or in the alternative, that the complaint be dismissed as being moot.

***The Commission Should Deny the Advocate's Motion to
Schedule Matter, Adopt ALJ's Order,
Recommended Penalty, and Render Final Order***

If the Commission opts not to dismiss the complaint as provided herein, the Commission should deny the Advocate's Motion to Schedule Matter, Adopt ALJ's Order, Recommended Penalty, and Render Final Order as disputed issues of fact remained to be litigated.

In his Order Closing File and Relinquishing Jurisdiction, the ALJ "determined that there is no dispute herein as to any material fact." In his order entered April 8, 2026, the ALJ based his determination upon the motion of the Advocate filed April 6, 2026. Mr. Lincoln had no effective opportunity to file a response to the Advocate's Motion to Relinquish Jurisdiction, as the ALJ's order was entered two days after the Advocate filed the Motion to Relinquish Jurisdiction.

The Advocate's Motion to Relinquish Jurisdiction was grounded in Mr. Lincoln's response to Request for Admission 23 in which he admitted that he willfully failed to file his 2021 CE Form 1 prior to November 22, 2022¹ and in his response to Interrogatory 9 in which he stated that "[t]he 2021 CE Form 1 Statement of Financial Interests was filed, albeit not timely. The statute applies, not to failure to file timely, but to the failure to file at all."²

In addition, the Advocate's Motion to Relinquish Jurisdiction asserted that Mr. Lincoln agreed to the undisputed facts set forth in the Joint Pre-Hearing Stipulation.³ However, the Advocate fails to note that Mr. Lincoln stated, in the Joint Pre-Hearing Stipulation, that the issue of fact which remained to be litigated was "[w]hether Respondent failed to file his 2021 CE Form 1, 'Statement of Financial Interests.'"⁴

¹ Paragraph 12 of Advocate's Motion to Relinquish Jurisdiction.

² Paragraph 13 of Advocate's Motion to Relinquish Jurisdiction.

³ Paragraph 14 of Advocate's Motion to Relinquish Jurisdiction.

⁴ Paragraph G.II of the Joint Pre-Hearing Stipulation.

Also, the Advocate failed to note in the motion that Mr. Lincoln denied that he violated Section 112.3145(9)(c). Florida Statutes.⁵ Whether Mr. Lincoln willfully violated Section 112.3145(9)(c) is a question of fact which neither the Advocate nor ALJ nor the Commission can evade. *Fugate v. Florida Elections Commission*, 924 So. 2d 74, 76 (Fla. 1st DCA 2006).

The issue is whether Mr. Lincoln willfully failed to file a statement of financial interests, not whether he willfully failed to file his 2021 CE Form 1 prior to November 22, 2022. He did, in fact, file his 2021 CE Form 1, albeit on April 16, 2025.⁶

Thus, there remain issues of fact pending in this proceeding which preclude relinquishing jurisdiction to the Commission.

Conclusion

The Commission should dismiss the complaint for lack of jurisdiction, or in the alternative, that the complaint should be dismissed as being moot.

⁵Response to Request for Admission 24.

⁶ The reason for his failure to timely file the 2021 CE Form 1 would be one factor to be considered of whether Mr. Lincoln willfully failed to file his 2021 CE Form 1 in violation Section 112.3145(9)(c).

If the Commission opts not to dismiss the complaint as provided herein, the Commission should deny the Advocate's Motion to Schedule Matter, Adopt ALJ's Order, Recommended Penalty, and Render Final Order as disputed issues of fact remained to be litigated.

Respectfully submitted on this 8th day of May 2026 by:

/s/ Mark Herron
Mark Herron
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing was sent to Melody A Hadley, Office of the Attorney General, The Capitol, PL-01, Tallahassee FL 32399-1050, Melody.Hadley@myfloridalegal.com, via email on this 8th day of May 2026.

/s/ Mark Herron
Mark Herron

From: Rod Lincoln
To: Mark Herron; pcristingling@mypasco.net; npittos@pascocountyfl.net; Paul Finora; ROD LINCOLN
Subject: VOPH Advisory Committee , From Rod Lincoln
Date: Friday, April 17, 2026 4:41:50 PM

Rod Lincoln
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rlin470339@aol.com
813-997-4449

4-17-2026

Nectarios Pittos

Pasco County Planning Services Director, Pasco County

npittos@pascocountyfl.net

1-727-380-3520.

Dear Nectarios and Whomever it may concern:

Regretfully I am tendering my resignation as a member of the Villages of Pasadena Hills Planning and Policy Committee.

- **Resignation Reason:** Conflict with the Florida Commission on Ethics regarding the timely filing of the 2021 Statement of Financial Interests.
- **Legal Representation:** Attorney Mark Herron advised the resignation and stated eligibility for reappointment.
- **Document Access:** Available upon request from Rod Lincoln.

Sincerely

Rod Lincoln

CC:

Mark Herron

Messer Caparello

2618 Centennial Place

Tallahassee FL 32308

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Patty Crist Yingling
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Paul Finora
Chairman: Villages of Pasadena Hills Planning and Policy Committee.
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Rod Lincoln
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