

**STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION**

JEAN RIDORE,)
)
 Petitioner,)
)
 vs.)
)
 STATE BOARD OF ADMINISTRATION,)
)
 Respondent.)
 _____)

SBA Case No. 2015-3477

FINAL ORDER

On May 5, 2016, the Presiding Officer submitted her Recommended Order to the State Board of Administration in this proceeding. A copy of the Recommended Order indicates that copies were served upon the pro se Petitioner, Jean Ridore, and upon counsel for the Respondent. This matter was decided after an informal proceeding. Respondent timely filed a Proposed Recommended Order. Petitioner did not file a Proposed Recommended Order. Neither party filed exceptions to the Recommended Order which were due on May 20, 2016. A copy of the Recommended Order is attached hereto as Exhibit A. The matter is now pending before the Chief of Defined Contribution Programs for final agency action.

ORDERED

The Recommended Order (Exhibit A) is hereby adopted in its entirety. The Petitioner's request for removal of the hold that had been placed on his Florida Retirement System ("FRS") Investment Plan account, pending resolution of the criminal

charges that have been filed against him, hereby is denied. The criminal charges are for offenses that would allow forfeiture pursuant to Section 112.3173(2)(e)4. and 6., Florida Statutes, if Petitioner eventually is convicted of such offenses. Therefore, the hold is appropriate.

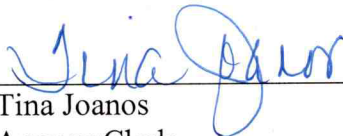
Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the State Board of Administration in the Office of the General Counsel, State Board of Administration, 1801 Hermitage Boulevard, Suite 100, Tallahassee, Florida, 32308, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days from the date the Final Order is filed with the Clerk of the State Board of Administration.

DONE AND ORDERED this 27th day of May, 2016, in Tallahassee, Florida.

**STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION**

Joan B. Haseman
Joan B. Haseman
Chief of Defined Contribution Programs
State Board of Administration
1801 Hermitage Boulevard, Suite 100
Tallahassee, Florida 32308
(850) 488-4406


FILED ON THIS DATE PURSUANT TO SECTION 120.52, FLORIDA STATUTES WITH THE DESIGNATED CLERK OF THE STATE BOARD OF ADMINISTRATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.



Tina Joanos
Agency Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order was sent to Jean Ridore, pro se, both by email transmission, [REDACTED] and by U.P.S. to [REDACTED] and by email transmission to Brian Newman, Esq. (brian@penningtonlaw.com) and Brandice Dickson, Esq., (brandi@penningtonlaw.com) at Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., P.O. Box 10095, Tallahassee, Florida 32302-2095, this 27th day of may, 2016.



Ruth A. Smith
Assistant General Counsel
State Board of Administration of Florida
1801 Hermitage Boulevard
Suite 100
Tallahassee, FL 32308

STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION

JEAN RIDORE,

Petitioner,

vs.

Case No.: 2015-3477

STATE BOARD OF ADMINISTRATION,

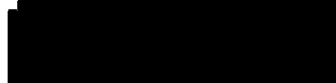
Respondent.

RECOMMENDED ORDER

This case was heard in an informal proceeding pursuant to Section 120.57(2), Florida Statutes, before the undersigned presiding officer for the State of Florida, State Board of Administration (SBA) on March 8, 2016, in Tallahassee, Florida. The appearances were as follows:

APPEARANCES

For Petitioner: Jean Ridore, pro se



For Respondent: Brian A. Newman, Esquire
Pennington, P.A.
Post Office Box 10095
Tallahassee, Florida 32302-2095

STATEMENT OF THE ISSUE

The issue is whether the SBA can place a hold Petitioner's Investment Plan account pending the resolution of criminal charges that have been filed against him. The issue raised at the hearing of whether Petitioner can withdraw his employee contributions has been

EXHIBIT A

resolved affirmatively, and Petitioner has been advised that if he withdraws his employee contributions, he will be declared a retiree from the Florida Retirement System (FRS) by operation of law.

PRELIMINARY STATEMENT

Petitioner attended the hearing by telephone, testified on his own behalf, and presented no other witnesses. Respondent presented the testimony of Mini Watson, SBA Director of Policy, Risk Management, and Compliance. Respondent's Exhibits 1 through 4 were admitted into evidence over Petitioner's objection.

A transcript of the hearing was made, filed with the agency, and provided to the parties, who were invited to submit proposed recommended orders within thirty days after the transcript was filed. Respondent filed a proposed recommended order; Petitioner made no further filings.

MATERIAL UNDISPUTED FACTS

1. Petitioner is a member of the FRS defined contribution Investment Plan by virtue of his former employment with the Miami-Dade County Public Schools. Petitioner was the Principal of the North Miami Adult Education Center, an FRS participating employer.
2. Petitioner has been charged with three felony counts of Compensation/Reward for Official Behavior, Official Misconduct, and Grand Theft. Petitioner is alleged to have used his position as a principal to, among other things, solicit and receive "kickbacks" from ghost employee salaries.
3. Petitioner's Investment Plan account has been placed on hold pending resolution of the charges against him. Petitioner did not dispute these facts at the hearing.

CONCLUSIONS OF LAW

4. The Florida Constitution makes plain that "[a]ny public officer or employee who is convicted of a felony involving a breach of the public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law." ART. II, § 8(d), FLA. CONST. Section 112.3173, Florida Statutes, implements this provision of the Florida Constitution and provides for the forfeiture of retirement benefits upon conviction of a qualifying crime that constitutes a breach of the public trust. In addition, Section 121.091(5)(k), Florida Statutes, made applicable to the Investment Plan by Section 121.012, Florida Statutes, forbids payment of benefits to an FRS member pending outcome of specified criminal charges.

5. The Respondent's authority to place a hold pending the resolution of criminal charges is further detailed in Rule 1911.008(2)(b), Florida Administrative Code:

(b) When the SBA, becomes aware of any accusation of criminal wrong doing against any member of the FRS Investment Plan, the SBA will put a hold on the member's account to preclude the member from removing any money from the account, until a determination is made on whether charges have been filed and whether the charges are for a forfeitable offense.

(c) If the charges against the member are not pursued and are dropped by law enforcement officials, the hold on the member's account will be released upon receipt of notification from the proper law enforcement agency.

(d) If the member is indicted and convicted or pleads guilty, or pleads nolo contendere, the SBA will acquire a certified copy of the judgment and will contact the member to advise the member that the Investment Plan benefit is forfeited and that the member has the right to a hearing to contest the forfeiture. The hold on the member's account will remain in place until:

1. The time to request a hearing has passed and no request for a hearing is made, or

2. The conclusion of the hearing and any appeal of the final order issued after the conclusion of the hearing.

Rule 19-11.008(2), F.A.C.

6. Respondent has demonstrated that the hold is appropriate as it has made an initial showing that the Petitioner been charged with forfeitable offenses (e.g. Unlawful Compensation or Reward for Official Behavior (838.016, Fla.Stat.) and Official Misconduct (838.022, Fla.Stat.)). See §112.3173(2)(e) 4. and 6., Fla.Stat.

7. In order to withhold Petitioner's benefits pending the outcome of his charges, the SBA must present evidence that reasonably indicates that Petitioner has been charged with criminal violations that could constitute forfeitable offenses should he be convicted. The SBA has met this burden by demonstrating that the charged offenses are among those covered by Section 112.3173, Florida Statutes.

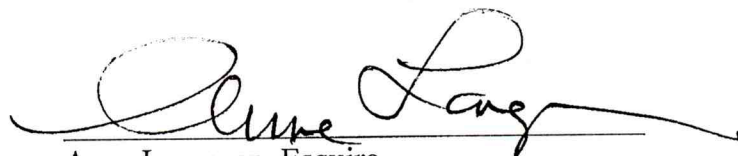
8. What remains to be found is whether Petitioner will be "convicted" of a covered offense, within the meaning of the statute. *Jenne v. Dep't of Management Services, Div. of Retirement*, 36 So.3d 738 (Fla. 1st DCA 2010) *rev. denied* (Sept. 28, 2010). If Petitioner is convicted of a qualifying offense, he will have the opportunity to further contest the forfeiture of his retirement benefits at that time. If the charges are dropped, the hold will be released. See, Rule 19-1.008(2)(c) and (d), Florida Administrative Code.

9. There is nothing in the applicable statutes which would permit Respondent to consider the potential hardship to Petitioner and his family from the imposition of a hold on his retirement benefits. As discussed at hearing, Petitioner may withdraw his employee contributions, but in doing so, will be considered to be an FRS retiree.

RECOMMENDATION

Having considered the law and the undisputed facts of record, I recommend that Respondent, State Board of Administration, issue a final order denying the relief requested.

RESPECTFULLY SUBMITTED this 5th day of May, 2016.



Anne Longman, Esquire
Presiding Officer
For the State Board of Administration
Lewis, Longman & Walker, P.A.
315 South Calhoun Street, Suite 830
Tallahassee, FL 32301-1872

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS: THIS IS NOT A FINAL ORDER

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions must be filed with the Agency Clerk of the State Board of Administration and served on opposing counsel at the addresses shown below. The SBA then will enter a Final Order which will set out the final agency decision in this case.

Filed via electronic delivery with:
Agency Clerk
Office of the General Counsel
Florida State Board of Administration
1801 Hermitage Blvd., Suite 100
Tallahassee, FL 32308
Tina.joanos@sbafla.com
mini.watson@sbafla.com
(850) 488-4406

COPIES FURNISHED via mail and electronic mail to:

Jean Ridore



Petitioner

and via electronic mail only to:

Brian A. Newman, Esquire
Brandice D. Dickson, Esquire
Pennington, P.A.
215 S. Monroe Street, Suite 200
Tallahassee, Florida 32301
slindsey@penningtonlaw.com

Counsel for Respondent