

CITY OF STAMFORD
Board of Ethics
Stamford Government Center
(Meeting held virtually via zoom)
May 24, 2021

Public Hearing Minutes - Jacobson v. Figueroa

The Public Hearing was recorded and such recording is available to the public from the Board of Ethics and the City of Stamford. Such recording is intended to be the official record of the Hearing and not these minutes, and such recording is incorporated into these minutes by reference and made a part hereof. These minutes summarize the proceedings and are not intended as verbatim notes.

Present

Investigating Board Members Benjamin Folkinshteyn, Thomas Hynes, Kevin Quinn
Hearing Board Members Christine Dzujna, Allan Lang, Fred Springer
Alan Pickel, Esq. - Counsel for Respondent, Annabel Figueroa
Daniel Young, Esq. - Counsel for the Investigating Board
Stephen Conover, Esq. - Counsel to the Hearing Board

Others:

Annabel Figueroa—Respondent
Jonathan Jacobson—Complainant
Kimberly Hawreluk—Human Resources Processing Technician

The Hearing was called to order by Hearing Board Chair Allan Lang at 6:10 p.m. He announced the purpose of the meeting was a Public Hearing to determine a violation of the Code of Ethics following the Investigating Board finding of probable cause on the complaint filed by Jonathan Jacobson against Annabel Figueroa.

Chair Lang identified the members of the Hearing Board and asked the attorneys to introduce themselves and whom they represent.

Attorney Pickel was then permitted to present two motions:

Motion to Disqualify:

On behalf of the Respondent, Attorney Pickel moved to disqualify the Hearing Board because the members of the Hearing Board lacked impartiality as a result of having worked with Myrna Sessa in her role as a member of the Board of Ethics. He cited several court decisions about the need for impartiality and claimed that the Respondent would be denied due process if the Hearing Board members conducted the Hearing.

On behalf of the Investigating Board, Attorney Young objected to the Motion to Disqualify because there was no showing that the Hearing Board members lack impartiality. Additionally, he stated that the Code of Ethics does not provide an alternative method to resolve the matter. He cited court decisions on the rule of necessity that permits a decision-maker to decide a dispute even if he or she would ordinarily be disqualified for some bias; while he did not concede the Hearing Board was partial in any way, he explained the rationale of the doctrine is

that if there is no other person who can make the decision, let the biased person decide the case rather than have no decision made at all.

The Hearing Board voted unanimously to deny the Motion to Disqualify.

Motion to Dismiss:

On behalf of the Respondent, Attorney Pickel moved to dismiss the complaint for two reasons: the lack impartiality among the Hearing Board members and the lack of notice of the factual basis for the Investigating Board's finding of probable cause. He argued that the Investigating Board's failure to provide any specific evidence of a violation of the Code of Ethics, denied the Respondent due process if this Hearing was conducted.

On behalf of the Investigating Board, Attorney Young objected to the Motion to Dismiss because the Investigating Board's report provided sufficient and proper notice to the Respondent of the underlying facts to support the Investigating Board's finding of probable cause and the Code provisions that were violated.

The Hearing Board voted unanimously to deny the Motion to Dismiss.

On behalf of the Investigating Board, Attorney Young called the Complainant Jonathan Jacobson as a witness. After being sworn, Jonathan Jacobson testified about the procedural background of the nomination of Myrna Sessa for re-appointment to the Board of Ethics. Mr. Jacobson testified about several discussions he had with Annabel Figueroa about her comments about and vote on the re-appointment of Myrna Sessa to the Board of Ethics including a telephone conversation when Annabel Figueroa explained her personal reasons for voting against Ms. Sessa's re-appointment. Exhibits 1 to 16 were admitted without objection, and Exhibits 20, 21 and 25 were admitted over objection.

On behalf of the Respondent, Attorney Pickel cross-examined Mr. Jacobson about the events and accusations he made in the complaint.

The Hearing recessed at 9:00 p.m. without completion of Attorney Pickel's cross-examination of Mr. Jacobson, which will be continued at the next session of the Public Hearing on May 26, 2021 at 6:00 p.m.

Respectfully submitted,

Allan Lang
Chair