

**STATE OF FLORIDA  
STATE BOARD OF ADMINISTRATION**

KEVIN MULLALLY,	)	
	)	
Petitioner,	)	
	)	
vs.	)	SBA Case No. 2019-0389
	)	
STATE BOARD OF ADMINISTRATION,	)	
	)	
Respondent.	)	
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**FINAL ORDER OF DISMISSAL**

On September 13, 2021, the Presiding Officer submitted, to the State Board of Administration (“SBA”), her Recommended Order of Dismissal (“Order”) on Respondent’s Consent Motion to Lift Stay and Dismiss Proceedings, finding that the proceeding now appears to be moot. The proceeding, which involved a request from Petitioner, a Florida Retirement System (“FRS”) Investment Plan member, to be enrolled in the State University Optional Retirement Program (“SUSORP”) without being required first to transfer to the FRS Pension Plan, had been stayed to allow Petitioner to file a complaint with the Department of Management Services (“DMS”), the entity that administers both SUSORP and the FRS Pension Plan. The DMS proceeding found for the Petitioner. In addition, the appellate case, *Alvarez v. State Bd. of Admin.*, 5D19-2679, 2021 WL 3436340, at \*3 (Fla. 5<sup>th</sup> DCA August 6, 2021), that involved similar facts to those of the instant matter, was decided. The case held that an FRS Investment Plan member wishing to transfer to SUSORP is not required to first transfer to the FRS Pension Plan. A copy of the Order is attached hereto as Exhibit A. The matter is now pending before the Chief of Defined Contribution Programs for final agency action.

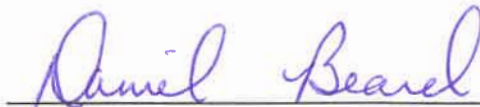
**ORDERED**

This Final Order of Dismissal is entered dismissing the Petitioner's case, based on the fact that Petitioner has obtained his requested relief from DMS and on the decision in the *Alvarez* case.

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 16th day of December, 2021, in Tallahassee, Florida.

**STATE OF FLORIDA  
STATE BOARD OF ADMINISTRATION**



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**Daniel Beard**  
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.

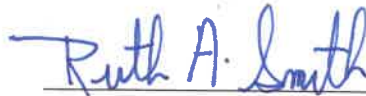


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Tina Joanos  
Agency Clerk

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Final Order of Dismissal was sent to Kevin Mullally, *pro se*, both by email transmission to [Kevinamullally@gmail.com](mailto:Kevinamullally@gmail.com) and by UPS to 1821 Carollee Lane, Winter Park, Florida 32789; and by email transmission to Deborah Minnis, Esq. ([dminnis@ausley.com](mailto:dminnis@ausley.com)) and Ruth Vafek ([rvafek@ausley.com](mailto:rvafek@ausley.com)), [jmcvaney@ausley.com](mailto:jmcvaney@ausley.com), Ausley & McMullen, P.A., 123 South Calhoun Street, P.O. Box 391, Tallahassee, Florida 32301, this 16th day of December, 2021.



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

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STATE BOARD OF ADMINISTRATION

KEVIN MULLALLY,

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CASE NO. 2019-0389

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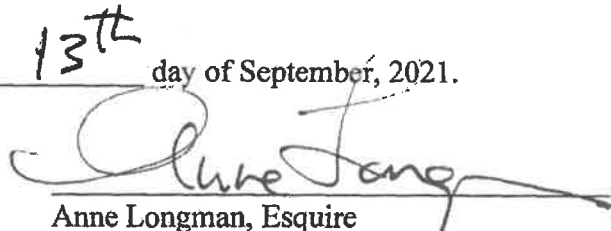
Respondent.

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**RECOMMENDED ORDER OF DISMISSAL**

In accordance with that Consent Motion to Lift Stay and Dismiss Proceedings, dated September 13, 2021, the facts recited therein and attachments thereto, it appears that the instant proceeding is moot. I therefore recommend that Respondent, State Board of Administration, enter an order dismissing this case.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of September, 2021.



Anne Longman, Esquire  
Presiding Officer  
For the State Board of Administration  
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Petitioner

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