

**STATE BOARD OF ADMINISTRATION
OF FLORIDA**

GUERDY MARKOWSKI,

Petitioner,

vs.

DOAH Case No. 24-3739

SBA Case No. 2024-0407

STATE BOARD OF ADMINISTRATION,

Respondent.

FINAL ORDER

On April 16, 2025, the Presiding Officer submitted her Recommended Order to the State Board of Administration of Florida (SBA) in this proceeding. The Recommended Order indicates that copies were served upon the *pro se* Petitioner, Guerdy Markowski, and upon counsel for the Respondent. No exceptions to the Recommended Order were filed by either party. 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. Ms. Markowski is a former employee of the State of Florida. She elected to participate in the Investment Plan by the end of her employment with the Office of State Courts, which was in September of 2007. Petitioner asserts that she has never taken a distribution from her account. The SBA produced a transcript of a phone call placed by Ms. Markowski to the MyFRS Financial Guidance Line requesting to cash out her Investment Plan account. Her Investment Plan benefits were distributed to her on

January 2, 2008. Petitioner did not present any evidence supporting her assertion that she had not taken a distribution. Accordingly, Petitioner is not entitled to the relief requested.

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 of Florida in the Office of the General Counsel, State Board of Administration of Florida, 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 4th day of June, 2025, in Tallahassee, Florida.

STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION
OF FLORIDA

A handwritten signature in dark ink, appearing to read "Daniel Beard", is written over a horizontal line.

Daniel Beard
Chief of Defined Contributions Programs
State Board of Administration of Florida
1801 Hermitage Boulevard, Suite 100
Tallahassee, FL 32308
(850) 488-4406

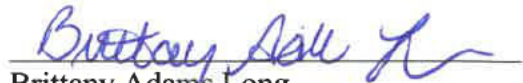
FILED ON THIS DATE PURSUANT TO
SECTION 120.52, FLORIDA STATUTES,
WITH THE DESIGNATED CLERK OF THE
STATE BOARD OF ADMINISTRATION,
RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.



Hillary Eason
Agency Clerk

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing Final Order was served
this 4th day of June, 2025, by mail and electronic mail to the following:



Brittany Adams Long
Assistant General Counsel
State Board of Administration of Florida
1801 Hermitage Boulevard, Suite 100
Tallahassee, FL 32308

Guerdy Markowski, pro se



Petitioner

Jonathan W. Taylor, Esquire

Moffa, Sutton, & Donnini, P.A.
Trade Center South, Suite 930
100 West Cypress Creek Road
Fort Lauderdale, Florida 33309

Rex D. Ware, Esquire
Moffa, Sutton, & Donnini, P.A.
3500 Financial Plaza, Suite 330
Tallahassee, Florida 32312
Counsel for Respondent

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

GUERDY MARKOWSKI,

Petitioner,

vs.

Case No. 24-3739

STATE BOARD OF
ADMINISTRATION,

Respondent.

RECOMMENDED ORDER

Administrative Law Judge ("ALJ") Brittany O. Finkbeiner conducted the final hearing in this case for the Division of Administrative Hearings ("DOAH") on January 15, 2025, by Zoom conference.

APPEARANCES

For Petitioner: Guerdy Markowski, pro se



For Respondent: Jonathan W. Taylor, Esquire
Moffa, Sutton, & Donnini, P.A.
Trade Center South, Suite 930
100 West Cypress Creek Road
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Tallahassee, Florida 32312

STATEMENT OF THE ISSUE

Whether Petitioner, Guerdy Markowski ("Ms. Markowski"), established that her Florida Retirement System ("FRS") Investment Plan benefits were not distributed.

PRELIMINARY STATEMENT

On August 9, 2024, Ms. Markowski filed an FRS Investment Plan Request for Intervention with the State Board of Administration ("SBA"), claiming that her FRS Investment Plan benefits were never distributed. The SBA thereafter issued a Response to Request for Intervention ("Response"). In the Response, the SBA rejected Ms. Markowski's allegations and request for relief, explaining to Ms. Markowski that her benefits were distributed in January 2008. Ms. Markowski then filed a Florida Retirement System Investment Plan Petition for Hearing.

The final hearing took place on January 15, 2025. The SBA's Exhibits 1 through 6 were admitted into evidence. Ms. Markowski testified on her own behalf and did not present any witnesses or exhibits. The one-volume final hearing Transcript was filed with DOAH on February 26, 2025. The parties agreed to have 30 days from the date the transcript was filed in which to file proposed recommended orders. The SBA timely submitted its proposed recommended order, which was considered in the preparation of this Recommended Order.

All references to the Florida Statutes refer to the codification in place at the time this cause accrued.

FINDINGS OF FACT

1. The SBA is an agency of the State of Florida, and is authorized to Administer the FRS Investment Plan.

2. Ms. Markowski is a former employee of the State of Florida. She was employed by Highway Safety & Motor Vehicles from December 1995 to January 2000, by the Office of State Courts from November 2004 to September 2007, and by the Department of Commerce from December 2010 to April 2015.

3. Ms. Markowski elected to participate in the FRS Investment Plan by the end of her employment with the Office of State Courts.

4. On January 2, 2008, Ms. Markowski called the MyFRS Financial Guidance Line and spoke with an Ernst & Young financial planner, Mr. Ruddy. The phone call was recorded and transcribed and the transcript was entered into evidence. Ms. Markowski initially denied having any memory of the January 2008 phone call. However, through her testimony, she ultimately corroborated the conversation that was reflected in the transcript.

5. During the phone call, Ms. Markowski clearly and directly stated that she wished to "cash out" her retirement benefits. Following a series of questions to verify Petitioner's identity, Mr. Ruddy explained Petitioner's options for receiving disbursement of her funds and explained other details and consequences of the transaction, including applicable penalties. Throughout the conversation, Ms. Markowski stated that she understood.

6. On January 2, 2008, Ms. Markowski's FRS benefits were distributed to her.

7. Around 17 years after her FRS Investment Plan benefits were paid, Ms. Markowski filed an FRS Investment Plan Request for Intervention with the SBA arguing that her benefits were never distributed.

8. Ms. Markowski's testimony throughout the hearing was inconsistent and, therefore, largely unreliable. The record evidence overwhelmingly shows that she requested and received her FRS benefits in 2008. However, Petitioner's untenable claim to the contrary seemed based on a good-faith, albeit mistaken, recollection of the relevant sequence of events.

CONCLUSIONS OF LAW

9. DOAH has personal and subject matter jurisdiction in this proceeding pursuant to sections 120.569, and 120.57(1), Florida Statutes.

10. The Florida Legislature created the FRS Investment Plan as detailed in section 121.4501(1), Florida Statutes. Payments from the plan are made pursuant to section 121.4501(7).


11. Petitioner has the burden of proving, by a preponderance of the evidence, that she did not receive her FRS benefits. § 120.57(1)(j), Fla. Stat.

12. Petitioner failed to produce any evidence that her FRS benefits were not distributed to her. The undisputed record evidence clearly shows that Petitioner received her FRS benefits on January 8, 2008.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the State Board of Administration enter a final order dismissing Petitioner, Guerdy Markowski's, Florida Retirement System Investment Plan Petition for Hearing.

DONE AND ENTERED this 16th day of April, 2025, in Tallahassee, Leon County, Florida.


Case No. 24-3739

BRITTANY O. FINKBEINER
Administrative Law Judge
DOAH Tallahassee Office

Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, Florida 32301-3060
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 16th day of April, 2025.

COPIES FURNISHED:

Jonathan W. Taylor, Esquire
(eServed)

Rex D. Ware, Esquire
(eServed)

Guerdy Markowski
(Address of Record)

Chris Spencer, Executive Director
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.