

DEC 05 2018

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

**IN RE: RICARDO "RIC" FERNANDEZ,**

**DOAH Case No.: 18-3102EC**

**Respondent.**

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**JOINT STIPULATION OF FACT, LAW, AND RECOMMENDED ORDER**

Respondent, Ricardo "Ric" Fernandez, and the Advocate for the Florida Commission on Ethics enter into this Joint Stipulation of Fact, Law, and Recommended Order with respect to the above-styled Complaint. Subject to acceptance by the Commission on Ethics, the parties agree that they enter into this stipulated settlement in lieu of further hearings in this cause. The parties stipulate as follows:

**STIPULATED FINDINGS OF FACT**

1. At all times material to this Complaint, Respondent served as the City Manager of the City of Tallahassee and, therefore, is subject to the provisions of the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, Florida Statutes.
2. On August 22, 2017, a sworn Complaint was filed with the Commission on Ethics alleging that Respondent violated the Code of Ethics.
- 3 Pursuant to Section 112.322, Florida Statutes, the Executive Director of the Commission on Ethics found that the Complaint was legally sufficient and on August 28, 2017, ordered a preliminary investigation of the Complaint for a probable cause determination of whether Respondent had violated the Code of Ethics. The Report of Investigation was released on April 6, 2018.
4. On June 13, 2018, the Commission on Ethics found probable cause to believe Respondent violated Sections 112.313(2), 112.313(4), 112.313(6), 112.3148(3), 112.3148(4), and

112.3148(8), Florida Statutes.<sup>1</sup>

The allegations are:

- I. Respondent violated Section 112.313(2), Florida Statutes, by accepting a gift (i.e., discount on the catering price for his daughter's wedding reception) with the understanding that Respondent's official action or judgment would be influenced thereby.
- II. Respondent violated Section 112.313(4), Florida Statutes, by accepting unauthorized compensation (i.e., a discount on catering for his daughter's wedding reception) when Respondent knew or should have known that it was given to influence his actions in his official capacity.
- III. Respondent violated Section 112.313(6), Florida Statutes, by corruptly using or attempting to use his official position or perform his official duties to secure a discount on catering for his daughter's wedding reception.
- V. Respondent violated Section 112.3148(4), Florida Statutes, by accepting a gift(s) in excess of \$100 (i.e., discount on catering for his daughter's wedding reception) from a vendor, lobbyist, and/or the partner, firm, employer, or principal of a lobbyist of the City of Tallahassee.
- VI. Respondent violated Section 112.3148(8), Florida Statutes, by failing to report a gift (i.e., discount on catering for his daughter's wedding reception) in excess of \$100.
- X. Respondent violated Section 112.313(2), Florida Statutes, by accepting a gift (i.e., football tickets) with the understanding that Respondent's official action or judgment would be influenced thereby.
- XI- XIV. Respondent violated Section 112.313(4), Florida Statutes, by accepting unauthorized compensation (i.e., FSU vs. Charleston Southern football tickets; FSU vs. North Carolina football tickets; FSU vs. Wake Forest football tickets; and FSU vs. Boston College football tickets) when Respondent knew or should have known that it was given to influence his actions in his official capacity.
- XV. Respondent violated Section 112.313(6), Florida Statutes, by corruptly using or attempting to use his official position or perform his official duties to secure FSU football tickets.
- XVI. Respondent violated Section 112.3148(3), Florida Statutes, by soliciting a gift (i.e., football tickets) from a vendor, lobbyist, and/or the partner, firm, employer,

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<sup>1</sup> The Commission on Ethics found no probable cause to believe Respondent violated Allegations IV, VII, VIII, and IX.



or principal of a lobbyist of the City of Tallahassee.

XVII- Respondent violated Section 112.3148(4), Florida Statutes, by accepting a gift(s)  
XX. in excess of \$100 (i.e., FSU vs. Charleston Southern football tickets; FSU vs. North Carolina football tickets; FSU vs. Wake Forest football tickets; and FSU vs. Boston College football tickets) from a vendor, lobbyist, and/or the partner, firm, employer, or principal of a lobbyist of the City of Tallahassee.

XXI- Respondent violated Section 112.3148(8), Florida Statutes, by failing to report a  
XXIV. gift(s) (i.e., FSU vs. Charleston Southern football tickets, FSU vs. North Carolina football tickets; FSU vs. Wake Forest football tickets; and FSU vs. Boston College football tickets) in excess of \$100.

5. Respondent admits the facts as set forth in the Report of Investigation which is specifically incorporated by reference in this Joint Stipulation as to Allegations VI, XVI, and XVII – XX.

6. Respondent denies the facts as set forth in the Report of Investigation as to Allegations I, II, III, V, X-XV, and XXI – XXIV.

7. Due to the distraction caused by these ethics allegations, Respondent resigned from his public position with the City of Tallahassee effective January 3, 2018.

#### STIPULATED CONCLUSIONS OF LAW

8. Respondent is subject to the provisions of Part III, Chapter 112, Florida Statutes, the Code of Ethics for Public Officers and Employees.

9. The Commission on Ethics has jurisdiction over the Complaint as filed in this proceeding and over Respondent.

10. Respondent admits Allegations VI, XVI, and XVII<sup>2</sup> as set forth in paragraph four

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<sup>2</sup> Respondent maintains that he would not have accepted a gift in excess of \$100, i.e., tickets to the 2nd, 3rd, and 4th games (making up Allegations XVIII-XX), had he believed that accepting football tickets for the 1st game (Allegation XVII) was prohibited.

(4) of the Stipulated Findings of Fact, above.

11. Respondent violated Section 112.3148(8), Florida Statutes, by failing to report a gift (i.e., discount on catering for his daughter's wedding reception) in excess of \$100. At the time, Respondent maintains that he was unaware that any discount from the originally quoted price had been offered to his daughter. Respondent has filed a Form 9, "Quarterly Gift Disclosure" with the Commission on Ethics.

12. Respondent violated Section 112.3148(3), Florida Statutes, by soliciting a gift (i.e., football tickets) from a vendor, lobbyist, and/or the partner, firm, employer, or principal of a lobbyist of the City of Tallahassee. Respondent maintains that he did not make a similar request for any other games for which he received tickets.

13. Respondent violated Section 112.3148(4), Florida Statutes, by accepting a gift(s) in excess of \$100 for football games during the 2016 Florida State football season (i.e., FSU vs. Charleston Southern football tickets; FSU vs. North Carolina football tickets; FSU vs. Wake Forest football tickets; and FSU vs. Boston College football tickets) from a vendor, lobbyist, and/or the partner, firm, employer, or principal of a lobbyist of the City of Tallahassee. Respondent maintains that he never took any official action as a public employee because of the receipt of such tickets.

14. Respondent enters into this Stipulation with the understanding of the seriousness of the allegations and gives his assurance that this proceeding has positively affected the manner in which he will conduct himself in the future if he assumes public office or employment.

#### **STIPULATED RECOMMENDED ORDER**

15. The Advocate accepts Respondent's admission in this proceeding.

16. The Advocate and Respondent have entered into this Joint Stipulation and urge



the Commission on Ethics to approve it in lieu of further hearings in this cause.

17. Therefore, the parties request and the Advocate recommends that:

(a) The Commission on Ethics dismiss Allegations I-III, V, X-XV, and XXI-XXIV.

(b) The Commission on Ethics approve this Joint Stipulation, embodying the stipulations, admissions, and recommendations of the parties;

(c) The Commission on Ethics enter a Final Order and Public Report finding that Respondent violated Sections 112.3148(3), 112.3148(4), and 112.3148(8), Florida Statutes, and recommending:

(1) Public censure and reprimand of Respondent; and

(2) A civil penalty of  
\$1,000 for Allegation VI,  
\$2,500 for Allegation XVI, and  
\$2,500 for Allegations XVII – XX  
For a total civil penalty of \$6,000.

#### **FURTHER STIPULATIONS**

18. Respondent and the Advocate stipulate and covenant that they have freely and voluntarily entered into this Joint Stipulation of Fact, Law, and Recommended Order with full knowledge and understanding of its contents. Respondent and the Advocate further stipulate and covenant that this Joint Stipulation constitutes the full agreement of the parties and that there are no oral or written understandings between the parties other than those contained in this Stipulation of Fact, Law, and Recommended Order.

19. Respondent and the Advocate stipulate and covenant that, in consideration of the provisions of this Joint Stipulation of Fact, Law, and Recommended Order, they accept and will comply with the above-referenced Final Order and Public Report of the Commission on Ethics.

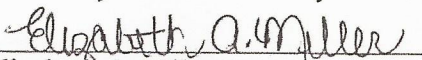
20. Respondent and the Advocate stipulate that this Joint Stipulation of Fact, Law, and Recommended Order is submitted to the Commission on Ethics for its consideration and ratification. In the event that it is not approved by the Commission on Ethics as written, this document shall be of no purpose and effect and shall not be deemed an admission by Respondent.

21. Respondent and the Advocate acknowledge and understand that the violations addressed in this Joint Stipulation of Fact, Law, and Recommended Order are civil in nature. Following approval of this Joint Stipulation of Fact, Law, and Recommended Order, the Commission will not refer this matter for investigation or prosecution by any state or local law

22. Effective upon approval of this Joint Stipulation of Fact, Law, and Recommended Order by the Commission on Ethics, Respondent waives all time, notice, hearing rights, requirements, and entitlements, as to all subsequent hearings in this proceeding.

Signed, dated and entered into:

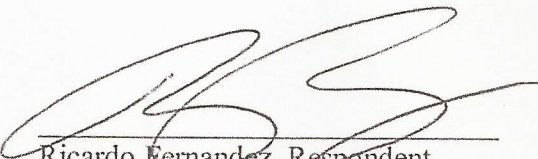
this 4th day of December, 2018.

  
Elizabeth A. Miller  
Advocate for the Florida  
Commission on Ethics  
Florida Bar No.: 578411  
Office of the Attorney General  
The Capitol, PL-01  
Tallahassee, Florida 32399-1050  
(850) 414-3300

Signed, dated and entered into:

this 13th day of November, 2018.

  
Emmett "Bucky" Mitchell, IV  
ATTORNEY FOR RESPONDENT  
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Ricardo Fernandez, Respondent