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PRESS RELEASE

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TALLAHASSEE—January 27, 2007—The Florida Commission on Ethics, meeting in Tallahassee on January 26 in closed executive session, found probable cause to believe that a public officer, two public employees, and one candidate may have violated the Code of Ethics, Chairman Norman Ostrau announced today. A finding of probable cause is not a determination that a violation has occurred. Such a determination is made only after a full evidentiary hearing on the charges.

The Commission found probable cause to believe that KEVIN BEARY, Orange County Sheriff, had a conflict of interest when a corporation for which Beary served as President sold a domestic security product to the Florida Department of Law Enforcement (FDLE). At the time of the purchase, Beary also served as co-manager for an FDLE Regional Domestic Security Task Force. The Commission found probable cause that, because Beary was paid by the private corporation, he also had a prohibited

employment relationship with an entity that was doing business with his agency (FDLE) and that the employment may have created a conflict between his private interests and the performance of his public duties as Sheriff and co-manager for FDLE's Task Force.

The Commission also ruled that Beary may have misused his position and public resources by authorizing the use of Sheriff's Office personnel, facilities, office equipment, and funds to pay for travel and office expenses during the development of the product, for the benefit of himself or others. Additionally, the Commission determined that there was probable cause to believe that information gained by Beary in his capacity as Sheriff and Task Force member may have been used for his personal benefit or the benefit of others.

Allegations that Beary solicited or accepted payments from the private corporation or that he knew or should have known that those payments were given to influence his official action as Sheriff or Task Force member were dismissed.

The Commission found probable cause to believe that ALFONSO A. PINO, a Professor at Miami-Dade College, may have violated state law when he accepted a trip to San Francisco from a publisher of a text book which was under consideration by Pino's textbook selection committee. However, based upon the fact that the trip was of very short duration, that Pino declined a monetary honorarium for his participation in the focus groups and that he sought permission for the trip from supervisors, the Commission will take no further action on the complaint. Charges that the trip was solicited or accepted based on the understanding that it was given to influence Pino's official action as a textbook committee member were dismissed.

A complaint against JOSEPH SALEMA, Building Official for the City of Port St. Lucie, was dismissed with a finding of no probable cause. The complaint alleged that Salema had violated the nepotism law by hiring or promoting his step-daughter within the building department.

The Commission also found no probable cause that RON PRITCHARD, former Brevard County Commissioner, misused his position to retaliate against a perceived opponent by contacting the Property Appraisers office concerning his opponent's property.

In related complaints, the Commission cleared BUDDY HUMPHRIES, former County Manager for Taylor County, and MALCOM PAGE, Taylor County Commissioner, of charges that they misused their positions by allowing fraudulent veterinary bills to be submitted to the County Commission for payment.

Probable cause was found to believe that CHLOE CONEY, candidate for Hillsborough County Commission, may have violated Florida's financial disclosure laws by failing to disclose her relationship as a Director of the Neighborhood Lending Partners of West Florida on her financial disclosure form when she qualified for office. The Commission also found probable cause on allegations Coney failed to attach a copy of Forms W-2 and 1099 to her disclosure form when she qualified for office. Based upon evidence that she intended to attach the IRS forms when she qualified and that she immediately filed a copy of the forms upon learning that they had not previously been included, the Commission voted to take no further action on the allegation.

EVERETT RICE, former Pinellas County Sheriff, was cleared of charges he misused his position by allowing the use of a patrol vehicle and two Deputies to participate in the filming of a political advertisement for a judge while on duty.

The Commission also dismissed complaints against WILLIAM CUNNINGHAM and ALEK MELNICK, Deputies with the Pinellas County Sheriff's Office. The complaints alleged and that they misused their positions to falsify their personal payroll records and that Cunningham used his patrol vehicle without permission for the filming of the political ad.

In a related complaint, the Commission found no probable cause that PAULA SHEA, Assistant Public Defender for the Sixth Judicial Circuit in Pinellas County, misused her office to falsify her payroll records related to her appearance in the political advertisement.

The Commission found probable cause to believe the BRIANNE HOOVER, Taylor County Emergency Management Director, may have misused her position to have the County pay charges on invoices for services provided to her personal pets.

No probable cause was found to believe that CARRIE TUCKER, Taylor County Animal Control Officer, misused her position to have veterinary bills paid by the County for her personal pets.

The Commission voted to dismiss complaints against YVONNE SCARLETT-GOLDEN, former Mayor of Daytona Beach, due to her death in December 2006.

The Commission also dismissed a complaint against GARRET "PETE" ZEEGERS, Facility Administrator for the Avon Park Youth Academy. A preliminary investigation revealed that Zeegers was not a public officer or employee under the

jurisdiction of the Commission when the alleged conduct took place. He was employed by a private company contracting with the Department of Juvenile Justice (DJJ) rather than an employee of DJJ.

The Commission dismissed complaints against the following individuals due to a lack of legal sufficiency: JAMES HELLICKSON, Assistant Public Defender; EDWARD BECHT, Ft. Pierce City Commissioner; PETER R. BUCHWALD, Ft. Pierce Planning Director; ROBERT JANES, Lee County Commissioner and member of the Southwest Florida Regional Planning Counsel; ADAM CUMMINGS, Charlotte County Commissioner and member of the Southwest Florida Regional Planning Council; MAE CATO, Midway City Council Member; JAMES HINSON, Midway City Council Member; JOHN PEYTON, Mayor of Jacksonville; MIKE THOMPSON, Mayor of Oak Hill; CLAYTON WILCOX, Pinellas County School Superintendent; and DAVID YEAGER, Mayor of Minneola.

The Commission's reviews for legal sufficiency are limited to questions of jurisdiction and determinations as to whether the charges in the complaint are adequate to allege a violation of the Code of Ethics. As no factual investigation precedes the reviews, the Commission's conclusions do not reflect on the accuracy of the allegations made in these complaints.

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The Commission adopted a settlement agreement between its Advocate and MIKE HAMMOND, former Gulf County Sheriff. The stipulation sets forth that witnesses have become recalcitrant and that Hammond denies the allegation that he took the patrol vehicle or otherwise relieved the Complainant (a Gulf County Auxiliary Deputy

Sheriff) of his duties because of the Complainant's support of Hammond's political opponent. Under these unique circumstances, pursuant to the agreement, the Commission voted to dismiss the case because the public interest would not be served by further proceedings.

The Commission also dismissed a complaint against ARNOLD E. KEMPE, Mayor for the City of Cape Coral, on the basis that the public interest would not be served by further proceedings. Additional investigation of the complaint revealed that although Kempe used look-alike City stationery and his official title when he solicited a bid from a construction company to build a dock at his private residence, he did not commit a corrupt use of position because the recipient of the letter already knew that Kempe was the Mayor due to their previous work together on City issues.

KENNETH S. RIVARD, member of the Titusville-Cocoa Airport Authority, entered into a settlement agreement with the Commission Advocate which was adopted by the Commission. The Joint Stipulation finds that Rivard violated the law when he failed to indicate the manner of calculating his reportable interests on his 2004 Form 1 and failed to list all primary sources of income on the form. A civil penalty of \$400 was recommended.

The Commission adopted a Joint Stipulation between RON PRITCHARD, former Brevard County Commissioner and the Commission Advocate. The agreement finds that Pritchard violated Florida's gift law when he failed to disclose on a CE Form 9, round-trip airplane transportation valued at more than \$100 provided to him as a gift from a local real estate developer. A \$100 civil penalty was recommended.

The Commission also adopted a Joint Stipulation with JAMES THOMAS HUMPHREY, JR., Mayor of the City of Ft. Myers, which finds that Humphrey failed to adequately describe four parcels of property on his 2000 Form 1 Statement of Financial Interests, in violation of Florida's financial disclosure law. A civil penalty of \$300 was recommended.

In a formal advisory opinion requested by Eve A. Boutsis, General Counsel, Housing Authority of the City of Miami Beach, the Commission ruled that it is not a conflict of interest for a housing authority member to be a partner in a law firm providing legal services to the authority, where the firm was hired to provide the services prior to the member's joining the firm. However, the Commission determined that a conflict of interest would be created if the authority enters into a new agreement with the firm, unless a statutory exemption could be applied.

A conflict of interest opinion requested by Steven E. Rohan, Co-Ethics Officer, City of Jacksonville, the Commission found that under the specific circumstances presented, a conflict was not created by a CRA member becoming a sub-consultant to the prime consultant hired by an economic development commission to update the CRA's redevelopment plan. Because the member would not be purchasing services as a CRA member from his private company and he would not be selling his company's services to the CRA and because he would not hold any employment with the prime consultant, the ethics laws would not be violated.

In an opinion interpreting the state gifts law, the Commission found that employees of the Office of Financial Regulation have not received a "gift" or an "expenditure" when they attend a conference in their official capacity sponsored by an

organization that offers a discounted rate to employees of state and federal regulatory agencies. Although some of the organization's members may be regulated by the Office of Financial Regulation and the conference is underwritten by entities that may be Executive Branch lobbyists or principals, the discounted registration rate of \$250 per person is neither a gift nor an improper expenditure for purposes of Florida's ethics laws.

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself or to anyone whom he or she has the power to hire, terminate, or appoint, may seek an advisory opinion from the Commission about himself or herself or that employee. Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion.

Contact the Commission Office to obtain rulings on appeals of automatic fines imposed for late submission of financial disclosure reports submitted by public officers and employees. (See Items VI. on the January 26 Meeting Agenda posted on the Commission's website.)

The Florida Commission on Ethics is an independent nine-member commission formed in 1974 to review complaints filed under the statutory Code of Ethics and to answer questions from public officials about potential conflicts of interest through its issuance of advisory opinions.

If Ethics Commission members believe a violation of the law may have occurred, they may decide to hold a public hearing. If they conclude a violation has been committed, they may recommend civil penalties that include removal from office or employment and fines up to \$10,000.