



City of Tampa  
Ethics Commission  
2008 Annual Report

City of Tampa  
Ethics Commission  
2007-2008

Commission Members

Ronald K. Cacciatore, Chairman

Lynn H. Cole, Vice-Chairman

Dr. John Belohlavek

Charles Scruggs, III

Carolyn Brickleyer

## The Ethics Commission

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The City of Tampa Code of Ethics (Section 2-650), effective January 1, 2004, “created and established the City of Tampa Ethics Commission to administer the code of ethics for City officials and employees.”

The Ethics Commission is composed of five volunteer members who serve staggered terms. For the initial commission composition, the code provides that two members will serve two-year terms and three members will serve four-year terms, after which the cycle of appointment continues, with four-year terms for all future appointees. Members are appointed by the following individuals or institutions:

- ◆ **Chief Judge of the Thirteenth Judicial Circuit** – Two appointments with the following qualifications:
  - (1) Former Federal Judge, or former U.S. Magistrate, or former State Court Judge;
  - (2) Former U.S. Attorney or Assistant U.S. Attorney, former State Attorney or Assistant State Attorney, former County Attorney or Assistant County Attorney, or former City Attorney or Assistant City Attorney.
  
- ◆ **Dean of the Stetson University School of Law** – One appointment with the following qualifications:

Full time or adjunct faculty member who is knowledgeable in legal ethics.
  
- ◆ **President of the University of South Florida or University of Tampa** – One shared appointment with the following qualifications:

Full time or adjunct faculty member who is knowledgeable in ethics.
  
- ◆ **Mayor** – one appointment with the following qualifications:

Has held elective office at the local level prior to appointment.

Each member must be a resident of the City of Tampa. Additionally, while serving on the Commission, each member cannot hold or campaign for elective office or hold office in any political party or political committee, actively participate in or contribute to any political campaign for City office, be employed by the City of Tampa, or allow his or her name to be used by a campaign in support of or against any candidate for city office or any city referendum or other city ballot question.

## Meetings

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For the 2007-2008 term, the Commissioners re-elected Frederick B. Karl to serve as their Chairman and Ronald Cacciatore as Vice-chairman. Due to the resignation of Fred Karl from the Ethics Commission, Ronald Cacciatore became the Chairman per the Commission's Rules and Regulations. On March 4, 2008, Lynn H. Cole was elected as Vice-chairman.

As Chief Judge of the Thirteenth Judicial Court, Judge Menendez appointed Charles Scruggs, III to the commission's position vacated by Fred Karl, meeting the Ethics Code's requirements as a former federal judge, former U.S. Magistrate, or former state court judge. Mr. Scruggs was duly sworn in as a member of the commission at its meeting on April 17, 2008. Mr. Scruggs was appointed to complete the term vacated by Mr. Karl through July 2008 and reappointed to a new four-year term through July 2012.

Based on the implementation of the Ethics Ordinance that establishes the Commission with staggered terms of office, two of the initial commissioners, Dr. John Belohlavek and Ms. Lynn Cole completed their four-year terms of office as of July 2008. Both of these commissioners were reappointed by the appointing authorities, President of the University of South Florida and Dean of the Stetson University College of Law, respectively. They will serve four-year terms through July 2012. Mr. Cacciatore and Ms. Bricklemeyer continue with their prior appointments, serving until June 2010.

During the annual period, the Commission held six meetings. All meetings of the Commission were duly posted for public notice and the minutes were transcribed and approved by the Commission. The Commission's Rules and Regulations (see Appendix A of this report) provide further information regarding the conduct of meetings and its process.

Meetings of the Ethics Commission were held on the following dates:

- July 12, 2007
- November 8, 2007
- January 17, 2008
- March 4, 2008
- April 17, 2008
- June 3, 2008

## Accomplishments

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During the course of its meetings and work, the Ethics Commission accomplished the following:

- ◆ Ethics Complaints – No Ethics Complaints were received during this reporting period.
- ◆ Advisory Opinions – One advisory opinion was rendered by the Commission (Appendix C).
- ◆ Ethics Code Amendments – The Commission continued to review proposed amendments to the Ethics Code throughout the reporting period. During meetings of May and June 2007, the Commission had reviewed amendments as a result of the Internal Audit and requested additional research and revisions. During the 2007-2008 reporting period, the amendments received further review by the Commission culminating in approval for further submission for the legislative process.
- ◆ Lobbyist Financial Disclosure Enforcement – The Commission reviewed the Ethics Office's reports regarding the annual tracking of Lobbyist Disclosure Forms and the subsequent annual Financial Disclosure Report. The Commission directed the issuance of follow-up correspondence with delinquent reports and provided additional direction throughout the reporting period.
- ◆ Elected and Appointed Employee Financial Disclosure Enforcement – The Commission reviewed the Ethic Office's reports regarding the annual receive of financial disclosure reports. All active elected officials and employee reports were received. The Commission directed the issuance of follow-up correspondence with delinquent reports and provided additional direction throughout the reporting period.
- ◆ Appeal of Disapproval of Non-city Employment/Private Business Enterprise – No appeal hearings for employees were required during this reporting period.
- ◆ Ethics Training – The Ethics Commission approved draft correspondence for appointed officials (persons appointed to applicable boards and commissions) which reviews the features of the Ethics Code, in particular conflicts of interest. This correspondence from the Commission to the appointed members of boards and commissions will be combined with other materials to communicate training and information. Implementation is anticipated for fall of 2008.
- ◆ Recognition of Fred Karl's Service to the Ethics Commission - The Ethics Commission recognized Fred Karl's service to the Commission as one of its original members and its first Chairman.
- ◆ Nomination, Fred Karl, University of Tampa Center for Ethics Award – In May 2008, the Ethics Commission was proud to nominate Fred Karl for the University of Tampa's Center for Ethics Award and pleased that the Center for Ethics selected him for the 2008 award. The award was presented at a breakfast and ceremony on Friday, September 26,

2008. The presentation honored Mr. Karl for his more than 50 years of service to the public through his law career and public service, including service in all three branches of Florida government and as the first Chairman of the City of Tampa Ethics Commission.

## Appendix A – Rules & Regulations

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**City of Tampa  
Ethics Commission**

**Rules**

**And**

**Regulations**

*Effective 1/20/05*

*As Amended Through 05/24/07*

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## **ARTICLE A: General Provisions**

### **Section 1. Purpose of Rules**

- a. It is the purpose of these Rules and Regulations (hereinafter referred to as Rules) to establish general policy and procedures for managing the responsibilities of the City of Tampa Ethics Commission (hereinafter referred to as Commission).
- b. Amendments to the Rules shall be proposed at a regular meeting of the Commission and voted upon at the next regular meeting; however, upon the unanimous consent of the members present at a regular meeting, amendments to the Rules may be proposed and the Rules may be changed during the same regular meeting.

### **Section 2. Meetings**

- a. The regular meeting of the Commission shall be held the first Thursday of each month at 3 p.m. The Commission may vary its meeting site to accommodate its needs and to accomplish its purposes. Notice of all meetings shall include the notice of the location of the meeting.
- b. Additional or special meetings as determined by the Commission or when called by the Commission Chairman, including those required for holding hearings or conducting other business under the responsibility and authority of the Commission, shall be scheduled as necessary with due notice and public notice of the meeting.
- c. If there is insufficient business or the Commission Chairman determines that it is not possible to obtain a quorum, a meeting may be canceled by the Chairman and notice given to all Commission members with public notice of the cancellation of the meeting.
- d. The City of Tampa Ethics Officer shall be responsible for posting proper public notice of all Commission meetings.
- e. No later than 7 calendar days prior to the Commission meeting, an agenda together with all written materials to be considered by the Commission shall be provided to the Commission.
- f. Only matters that have been placed on the agenda may be considered by the Commission provided that if a matter has been submitted in writing to the Chairman within two days prior to the meeting, the matter may be considered upon approval of the Commission.
- g. The board shall keep accurate and complete minutes of its business. The Ethics Officer shall be responsible for the compilation of the minutes for the Commission's approval and shall be the official custodian of the Commission's meeting minutes.

### **Section 3. Quorum**

- a. Three members physically present at the public meeting place shall constitute a quorum. In the event that a member is physically unable to attend a meeting due to medical treatment or physical infirmity yet is available telephonically, his/her attendance shall be noted at roll call and the minutes will reflect his/her participation via telephone. Telephonic participation as indicated in this section shall include any interactive communication by electronic or other qualified means verified by the City Attorney's office.
- b. The Commission shall keep records of the attendance of all members. In the event a member of the Commission is unable to attend a meeting, he or she shall advise Ethics Officer or Commission Chairman in advance of the Commission meeting.
- c. Three majority votes shall be required for all complaints and matters before the Commission. The Commission will consider a petition to be heard by the full Commission rather than a majority, but shall retain the discretion to hold the hearing with a quorum or continue the hearing for the full Commission.

### **Section 4. Assistance to the Commission**

- a. The Commission is authorized to call upon appropriate agencies of City government for such professional assistance as may be needed in the discharge of its duties.
- b. The City Attorney's Office shall provide legal assistance to the Commission. In the event the City Attorney determines that he or any attorney in his Office has a conflict of interest which prevents the City Attorney's Office from providing impartial representation to the Commission, the City shall engage outside legal counsel to provide the necessary legal assistance to the Commission.
- c. The services of other departments, boards and agencies of the City may be made available to the Commission at its request, subject to their ability and capacity to provide them. All City agencies shall cooperate with the Commission in the exercise of the Commission's responsibilities.

### **Section 5. Appeals**

- a. Appeals from any decision of the Commission shall be to the 13<sup>th</sup> Judicial Circuit Court as provided by law.

## **ARTICLE B: Organization, Selection of Chairman and Vice Chairman**

### **Section 1. Commission Membership and Term of Office.**

- a. The members of the Commission shall be appointed as provided in the Code of Ethics, Division 8, Section 2-651.
- b. The members of the Commission shall serve staggered terms of four (4) years each, provided that of the original members, two (2) members shall be appointed for a term of two (2) years and three (3) shall be appointed for a term of four (4) years, and each member shall continue to serve until their successor has been appointed.
- c. A vacancy occurring during or at the expiration of a member's term on the Commission shall be filled as provided in the Code of Ethics.

### **Section 2. Oath of Office; Campaign Restrictions.**

- a. Before entering upon the duties of office, each appointee to the Commission shall take the prescribed oath of office.
- b. No individual, while a member of the Commission shall hold or campaign for any elective political office, hold office in any political party or political committee, actively participate in or contribute to any political campaign for City office, be employed by the City, or allow his or her name to be used by a campaign in support of or against any candidate for City office or any City referendum or other City ballot question. Nothing herein shall preclude a member from signing a petition in support of or against any referendum or other ballot question.

### **Section 3. Selection of Chairman and Vice Chairman.**

- a. Members of the Commission shall elect a Chairman and Vice-chairman annually at the first regular meeting in June, and shall assume the offices thereupon.
- b. The Vice-chairman shall serve as Chairman in the absence, disqualification, or disability of the Chairman.
- c. In the event that the Vice-chairman can no longer serve as the Vice-chairman or ceases to be a member of the Commission, the members of the Commission shall elect a new Vice-chairman to serve the remainder of the term of office.
- d. In the event that both the Chairman and the Vice-chairman are not present at a meeting, the Ethics Officer shall open the meeting and request that the Commission members present nominate and elect an ad hoc chairman for the meeting at which time the elected member shall serve as Chairman for the remainder of the meeting.

## **ARTICLE C: Complaints of Violations**

### **Section 1. Filing of Complaint**

- a. In no event shall a complaint under this section against a candidate in any City election be filed or the filing of or intention of filing such a complaint be disclosed on the day of any such election or within the five (5) days immediately preceding the date of the election.
- b. Any person who willfully discloses or permits to be disclosed his intention to file a complaint, the existence or contents of a complaint which has been filed with the Commission, or any document, action or proceeding in connection with a confidential preliminary investigation of the Commission before the same becomes a public record shall, any provision of this article to the contrary notwithstanding, be guilty of an offense against the City, punishable as provided in section 1-6 of the Code.
- c. All complaints must be filed on the form adopted by the Commission which shall require the identity of the complainant(s), the identification of the section(s) of the Code of Ethics alleged to have been violated, the name(s) of the alleged violator, and such other information as the Commission determines necessary for the proper filing of a complaint.
  - 1) Said form shall indicate the date received by the Ethics Officer and shall be assigned a sequential complaint file number, which shall be entered on the complaint form.
  - 2) All documents received with the complaint form shall be entered into the complaint file.
  - 3) In the event that a complaint is received that has not been filed on the form adopted by the Commission, the Ethics Officer shall notify the complainant of the requirement of the form and shall provide a copy of the form for the complainant to resubmit the complaint in proper form.
  - 4) Complaints need not be as precise as would be required by the rules of civil procedure and shall be deemed sufficient if the complaint under oath upon knowledge or belief alleges matters which, if true, would constitute a violation of the Code.
- d. After a complaint has been filed, the Commission may permit the complainant to withdraw the complaint.

### **Section 2. Complaint Processing**

- a. Within five (5) working days after receipt of a complaint by the Ethics Officer, a copy shall be transmitted to the alleged violator by the Ethics Officer. Said transmittal shall be of a form approved by the Commission and shall include

information to the alleged violator that the complaint is confidential and that no action or response is required until further contact from the Ethics Office.

- 1) A copy of the transmittal letter to the alleged violator, with a copy of the complaint, shall be forwarded to the members of the Commission on the same date as the notification is provided to the alleged violator.
- b. Within five (5) working days after receipt of a complaint by the Ethics Officer and on the same date as the notification provided in “a” (above), the complainant shall receive notice acknowledging the receipt of the complaint and notification of its transmittal to the alleged violator. Said transmittal shall be of a form approved by the Commission and shall include information to the complainant that the complaint is confidential and that no action or response is required until further contact from the Ethics Office.
- c. A preliminary investigation shall first be undertaken by the Commission to determine if the facts alleged in the complaint constitute probable cause to believe that a violation has occurred.
- 1) The Ethics Officer, with the assistance of the City Legal Department, shall prepare information for the Commission for its preliminary investigation and shall present a recommendation to the Commission regarding findings which shall include the following:
    - a) Determination that the complaint is in proper form.
    - b) Determination that the Commission has jurisdiction over the matter; that is whether it concerns the ordinance under the Commission’s jurisdiction.
    - c) Determination that the alleged violation occurred on or after January 1, 2004.
    - d) Determination that the alleged violation occurred or could have been reasonably known to occur within two years of the date the sworn complaint is filed.
    - e) Determination that probable cause exists to believe a violation of criminal law has been committed by an alleged violator in which case the Commission shall refer such evidence to the appropriate law enforcement agency for prosecution.
    - f) In the event that the Ethics Officer determines, with the concurrence of the Legal Department, that the complaint is not sufficient regarding items “a” through “e” above, a recommendation to dismiss the complaint must be presented to the Commission. The Commission shall meet in executive session and may find the complaint to be insufficient; dismiss it, and notify the complainant that no investigation will be made or may take such

other action as may be appropriate. In any case where a complaint is found insufficient and dismissed, the public report and order dismissing the complaint together with the complaint itself and all documents related thereto shall become a public record and constitute a public record.

g) In the event that the Ethics Officer determines, with the concurrence of the Legal Department, that the complaint is sufficient regarding items “a” through “e” above, the preliminary investigation shall commence.

(1) The preliminary investigation shall be limited to the allegations in the complaint, but shall include an investigation of all facts and persons materially related to the complaint at issue.

(2) The Ethics Officer (or designee) shall meet with the complainant to gather any additional information including clarification of dates, names of witnesses, copies or identification of related documents, etc. that would aid in the further investigation of the complaint.

(3) The Ethics Officer (or designee) shall meet with the alleged violator and any other witnesses to gather any information and to collect all evidence materially related to the allegation.

(4) The Ethics Officer shall prepare a report for presentation to the Commission which shall contain a synopsis of all pertinent information obtained through interview of witnesses, documentary evidence or other sources that supports the investigator’s findings and recommendations.

d. The Ethics Officer shall present the report of the preliminary investigation to the Commission in executive session.

1) If the Commission finds no probable cause to believe that a violation has occurred, the Commission shall dismiss the complaint. The complaint shall then become a matter of public record, together with a written statement of the findings of the preliminary investigation and a summary of the facts, all of which the Commission shall transmit to the complainant and the alleged violator.

2) If the Commission finds probable cause to believe that a violation has occurred, it shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint shall then become public records.

### **Section 3. Public Hearings - Eligibility**

- a. Any person who the Commission finds probable cause to believe has violated the Code shall be entitled to a public hearing provided that the person notifies the Commission by written request within thirty (30) days following the receipt of the probable cause notification by certified mail.
- b. Persons who fail to file the written request within the time limit shall have waived the right to a public hearing.
- c. The Commission may on its own motion require a public hearing and may conduct such further investigation, as it deems necessary.

### **Section 4. Proceedings for Hearings**

- a. The hearing shall be conducted in a manner that affords procedural and substantive due process rights. These include notice of the appeals hearing; the opportunity to be heard; the opportunity to be represented by counsel; the opportunity to present oral and written testimony; the opportunity to make legal arguments in his or her defense. The Commission shall then make formal findings of fact and conclusions of law to support its decision.
- b. The proceedings shall be recorded by recording instruments or by a court reporter. The person requesting the hearing may, at his or her own expense, provide a court reporter or recording instruments. The Commission may provide a court reporter. No transcript of the proceedings shall be prepared unless requested by the Commission. If a transcript is requested to be prepared by a court reporter, the requestor shall pay the expense of the transcription. If the Commission is requested to prepare a transcript from recording instruments and the Commission grants such a request, the requestor shall pay the Commission the actual cost of the transcription. If a court reporter records the proceedings, the court reporter's transcript shall be the official transcript and shall become a part of the official file of the Ethics Officer. The Commission shall swear witnesses and their testimony shall be taken under oath.
- c. The decision of the Commission shall be final. Should the requestor wish to pursue his or her appeal further, he or she can appeal to the 13<sup>th</sup> judicial circuit court of the State of Florida.

### **Section 5. Public Hearings – Notification and Conduct**

- a. The complainant and the alleged violator shall be given notice in writing of the date and time set for such public hearing at least ten (10) days before the public hearing is held.
- b. The hearing shall be conducted in accordance with all requirements of due process of law and in accordance with Section 4.

- c. Any person filing such a sworn complaint and any alleged violator may appear before the Commission in person or by counsel and shall be entitled to question witnesses and present evidence in accordance with these rules.
- d. The Commission shall swear witnesses.
- e. The Ethics Office, with the assistance or by representation of the Legal Department, shall present the findings of probable cause. The alleged violator may then present his or her case. The proceedings shall be guided by the rules of civil procedure.
- f. Within ten (10) days after the public hearing unless the Commission determines additional time is needed, the Commission shall make and promulgate written findings of fact and conclusions based thereon, including a determination as to the propriety of the conduct of the alleged violator all of which shall be transmitted to the complainant, the alleged violator and, in the event that it is found and determined that a violation has occurred, to the official, the City Council or other appropriate body for appropriate action.
- g. In any case in which the Commission finds probable cause to believe a violation of criminal law has been committed by an alleged violator or where the Commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with or any testimony given before the Commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution.

#### **Section 6. Recommendation**

- a. If the Commission determines that a violation to the Code has occurred, the Commission shall make a recommendation to the official, City Council, or other appropriate body or person to institute appropriate action for correction or rectification of that conduct or for the censure, suspension or removal from office of the official or employee, and may recommend appropriate action to void any transaction with a public body or any determination made by a public body.
- b. The official, City Council, or other appropriate public body or person taking such action may base any action it takes upon the written findings of fact, conclusions and determination of the Commission and shall institute such action as it deems appropriate within sixty (60) days of the promulgation of the Commission's findings, conclusions, and determination.

## ARTICLE D: Advisory Opinions

- a. Every elected officer, appointed officer, candidate for City office, or City employee, when in doubt about the applicability and interpretation of any City ethics law to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission with a request for an advisory opinion to establish the standard of public duty.
- b. Any officer or employee who has the power to hire or terminate employees may seek an advisory opinion from the Commission as to the application of the provisions of the ethics laws to any such employee or applicant for employment.
- c. Any affected city officer or employee who is required to seek a conflict of interest opinion from the commission prior to the submittal of a bid, response, or application of any type to contract with the city by the employee or his immediate family as provided by Section 2-514(b) of the Code of Ethics, shall seek such conflict of interest opinion through use of these advisory opinion rules.
- d. A request for an advisory opinion shall be in writing in the form of a letter to the Commission. The request may be mailed, hand-delivered, or faxed to the Ethics Office for processing.
- e. The request for an advisory opinion shall describe a specific factual situation. The facts may be real or hypothetical. The request must provide sufficient detail to permit the Commission to provide a response to the request.
- f. Upon receipt of a request for an advisory opinion, the Ethics Officer, with the assistance of the Legal Department, will determine whether the request concerns a matter under the Commission's jurisdiction and is made by a person eligible to receive an advisory opinion.
- g. Requests shall be considered at the next scheduled Commission meeting if received at least five days prior to the meeting. Items received after that date will be considered on the next agenda.
- h. If the commission determines that it will answer the request, the Ethics Office will assist the Legal Department in the preparation of a recommended opinion. If the request is one the Commission cannot answer, the Ethics Officer shall notify the person making the request that the request cannot be answered.
- i. When an advisory opinion is rendered by the Commission each opinion shall be numbered, dated and published; filed opinions shall be available for public access at the Ethics Office.
- j. Such opinion, unless amended or revoked, shall be binding on the conduct of the officer, employee, or candidate who sought the opinion or with references to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

**ARTICLE E: Appeals of Denied Employee Requests for Approval of Non-City  
Employment/Private Business Entity**

- a. Within five (5) working days after receipt by the Ethics Office of a denial by a department director (or the Mayor for department directors) of an employee's request for approval of non-city employment/active participation private business entity, the Ethics Officer shall transmit notification to the employee and the department director (or Mayor as applicable) acknowledging the receipt of the denial. Said notification shall be of a form approved by the Commission.
- b. The Ethics Officer shall gather preliminary information such as the job description, the department organizational chart, and statements from the department director and the employee regarding the reasons that they believe the request should be approved or denied.
- c. The Ethics Officer shall notify the Legal Department of the information so that additional research or advice regarding conflicts of non-city employment/private business entity can be completed as needed.
- d. Appeals shall be considered at the next scheduled Commission meeting if received at least five days prior to the meeting. Items received after that date will be considered on the next agenda. The department director and the employee shall be notified of the date of the Commission meeting.
- e. The Ethics Office, with the assistance of the Legal Department, shall present the information to the Ethics Commission. The employee may present information in support of their appeal.
- f. The decision of the Commission to confirm or to overrule the denial shall be indicated on the Request form with the signature and date of the Chairman.

**ARTICLE F: Appeals by Lobbyists for Imposed Fines for Failure to File Lobbyist Annual Expenditure Report**

- a. Within five (5) working days after receipt by the Ethics Office of a request for a hearing and appeal of a fine by a lobbyist, the Ethics Officer shall transmit notification to the lobbyist acknowledging the receipt of the request and appeal. Said notification shall be of a form approved by the Commission.
- b. The Ethics Officer shall gather pertinent information such as the copies of the letter(s) notifying the lobbyist of due dates and fines, the original disclosure form or sign in sheet(s), and any other official correspondence.
- c. The Ethics Officer shall provide copies of the preliminary information to the lobbyist, the Ethics Commission, and the Legal Department in advance of the hearing date.
- d. Appeals shall be considered at the next scheduled Commission meeting if received at least fifteen (15) days prior to the meeting. Items received after that date shall be considered at the next agenda. The lobbyist shall be notified in writing of the date of the Ethics Commission meeting on a form approved by the Commission and shall be mailed certified, return receipt requested.
- e. If a lobbyist is geographically located outside of Hillsborough County, he or she may request to attend the appeal hearing telephonically. Notification of the ability to request to attend telephonically must be included in the original notification of the Commission meeting. This request must be in writing and must be received by the Commission at least five (5) days prior to the scheduled appeal hearing.
- f. The Ethics Office shall present all information in support of the issuance of fines to the Ethics Commission. The lobbyist, or his or her representative, may present information in support of his or her appeal.
- g. The decision of the Commission to confirm or to overrule the implementation of fines shall be issued at the conclusion of the hearing. The decision shall be included in the minutes and provided to the lobbyist in writing, dated no later than fifteen (15) days after the hearing. If the fines are upheld, the Commission will notify the appropriate City office for collection of said fines.

## **ARTICLE G: Other Commission Duties**

### **Section 1. Investigatory Powers**

- a. The Commission may, on its own initiative, seek information and gather facts for the purpose of investigating any circumstance or situation of which the Commission may become aware that appears to violate or may potentially violate an acceptable standard of conduct for City officers and employees. If, as a result of such investigation, the Commission determines the need for remedial or preventative legislation, the Commission may make such recommendations to the City Council as it deems appropriate.

### **Section 2. Annual Reports**

- a. The Commission shall submit to the City Council periodically a report of its work and recommendations for legislation deemed necessary to improve the ethics laws and their enforcement, which shall be dutifully considered by the City Council. Said report shall be filed annually by June 1.
- b. The Commission shall receive annual reports from the Ethics Officer regarding the compliance or non-compliance with financial reporting, gift reporting, lobbying registration and reporting, and ethics education and certification requirements of this Code. The annual report shall also be filed with the Mayor and City Council. Said report shall be filed annually by June 1.

### **Section 3. Periodic Reports**

- a. The Ethics Officer shall be responsible for documenting compliance with the financial disclosure, gift disclosure, lobbying registration and reporting, and ethics education and certification requirements of this Code for all officers and appointed employees.
- b. At the close of the reporting period, the Ethics Officer shall notify any individual who has failed to timely comply with financial disclosure, gift disclosure, lobbying registration and reporting, or ethics education and certification requirements of this Code. After expiration of any additional time to comply with said reporting requirement, the City Ethics Officer may request the Commission to institute action.

### **Section 4. Press Policy**

- a. All requests for information regarding actions of the Commission shall be submitted to the Chair. Individual members of the Commission do not offer public comments to the press or individuals seeking opinions from the Commission.

## **Section 5. Training**

- a. The Commission shall assist in the preparation of materials and programs designed to assist persons in complying with the ethics laws. The Commission shall work with the Ethics Officer in establishing, presenting, and expanding the City's Ethics Education Program.

## **ARTICLE H: Severability and Waiver**

- a. Each and every clause of these Rules shall be deemed separable from each other clause. In the event any clause or clauses shall be finally determined to be in violation of any law such clause or clauses shall be deemed of no force and effect and unenforceable. Any such determined violation shall not impair the validity and enforceability of the remaining Rules, including any and all provisions in the remainder of any clause, sentence, or paragraph in which the offending language might appear.

**Appendix B – City of Tampa Ethics Complaint Form**

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# City of Tampa Code of Ethics Complaint Form

City of Tampa Ethics Commission  
306 East Jackson St., 7N  
Tampa, FL 33602

For Office Use Only

Date Received: \_\_\_\_\_

File Number: \_\_\_\_\_

Name of Complainant:	Phone Number:
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Address:

City:	State:	Zip:
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**Alleged Violator** – Provide the name, title, department, address and telephone number for the person(s) you allege violated the City of Tampa Code of Ethics. If the person is not a City employee (for example, former public official or employee, candidate, or lobbyist) leave the department information blank.

Name:	Phone Number:
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Title:

Department:

Address:

City:	State:	Zip:
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**Statement of Facts/Type of Allegation** – Please explain your complaint fully in the space provided below or on additional sheets as needed. Identify any and all sections of the City of Tampa Ethics Code which you allege have been violated and which, if true, would constitute improper conduct under the provisions of the City of Tampa Ethics Code. Provide a detailed description of the facts and the actions of the person(s) named above. Include relevant dates and the names, addresses, and telephone numbers of the persons who you believe may be witnesses. Attach any copies of documents that may be relevant or describe any other sources of information that relate to the complaint. Continue this information on the next page and additional sheets if needed.

Check if continued on additional sheet(s). Total number of forms including this page \_\_\_\_\_.

**Statement of Facts/Type of Allegation** *continued*

**When filing this complaint, the complainant acknowledges that they understand the following:**

No complaint shall be filed, nor shall the filing of or intention to file such a complaint be disclosed, against a candidate in any city election on the day of any such election or within five (5) days immediately preceding the date of the election (Sec. 2-658(a)).

In any case in which the Commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with or any testimony given before the Commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution (Sec. 2-658(d)).

Individuals covered by this Code shall not use its provisions to further frivolous claims against another. Frivolous claims shall be those forwarded with knowledge that the claim contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this Code (Sec. 2-626(d)).

Any person who willfully discloses or permits to be disclosed his intention to file a complaint, the existence or contents of a complaint which has been filed with the Commission, or any document, action or proceeding in connection with a confidential preliminary investigation of the Commission before the same becomes a public record shall be guilty of an offense against the City, punishable as provided in section 1-6 of the Code (Sec. 2-658(c)).

**Notarized Affidavit**

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

Signature of Complainant \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

by \_\_\_\_\_  
(Name of person making statement)

\_\_\_\_\_  
(Signature of Notary Public - State of Florida)

\_\_\_\_\_  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known \_\_\_\_\_ OR produced identification \_\_\_\_\_ Type of identification produced: \_\_\_\_\_

## Appendix C – Ethics Commission Advisory Opinions

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# CITY OF TAMPA

Pam Iorio, Mayor

City of Tampa Ethics Commission

Ronald K. Cacciatore,  
Chairman  
Lynn Cole, Vice Chairman  
Dr. John Belohlavek  
Carolyn W. Bricklemeyer  
Charles Scrugg, III

April 29, 2008

Linda Saul-Sena  
Tampa City Council  
District 3 At-Large

Re: Board Members and Conflicts of Interest

Dear Ms. Saul-Sena:

The Ethics Commission has received your correspondence dated November 27, 2007. In your correspondence, you indicate that the Preservation Roundtable requests a revision to a city ordinance which precludes an individual from serving on a board if he or she or any member of his firm is doing business with the city. The issue was initially reviewed by the members of the Ethics Commission at its meeting on January 10, 2008, with Martin Shelby, City Council Attorney in attendance, and continued until its next meeting.

At its meeting of March 4, 2008, the Ethics Commission determined that no city ordinance absolutely precludes an individual from serving on a board if he or she or any member of his firm is doing business with the city. However, any opinion as to whether a conflict of interest exists is dependent upon the actual facts of a given case. Although the City's Ethics Commission cannot opine as to conflicts presented under the state ethics laws, it must be emphasized that as to any City board member, the state ethics laws also have application. In fact, certain local ethics provisions, specifically sections 2-515 and 2-516 of the City Ethics Code have incorporated sections 112.313(3) and 112.313(7), Florida Statutes from the state ethics code. In all cases, the nexus between public duties and the private interests of a board member are examined to determine if a conflict of interest exists. This also holds true for board positions designated to be held by certain occupations. Although both the local and state ethics codes provide for exemptions as to

Linda Saul-Sena  
Tampa City Council  
April 29, 2008  
Page Two

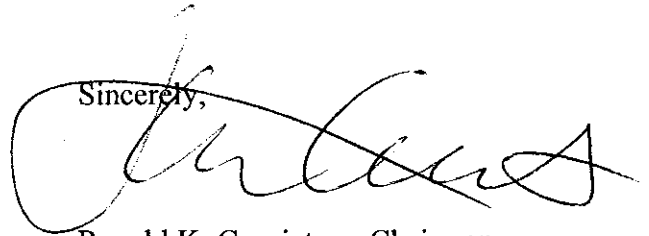
representation of clients before boards by those holding certain designated board positions, limitations still exist. Daniel Carlton, a staff attorney for the Florida Commission on Ethics, indicated that such conflicts are very fact specific, and cannot be determined on a hypothetical basis. Mr. Carlton also indicated that a formal state ethics opinion should most likely be sought for any scenario wherein a board member serving in a designated occupational capacity contracts with the city and additionally has to appear on behalf of the city in front of his/her board. This Commission concurs.

The Ethics Commission will be happy to address any current board members' concerns related to this issue. Moreover, the Ethics Commission recommends and welcomes the opportunity to timely review any potential City board appointment with presentation of factual information regarding a given situation. The Ethics Commission would not need to know the identity of the potential appointee as long as the facts are specified.

This opinion construes the City of Tampa Code of Ethics only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please contact the City Attorney's Office at (813) 274-8996.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronald K. Cacciatore', written over the word 'Sincerely,'.

Ronald K. Cacciatore, Chairman  
City of Tampa Ethics Commission

cc: David L. Smith, City Attorney  
Sarah Lang, Ethics Officer  
Martin Shelby, City Council Attorney

Appendix D – City of Tampa Code of Ethics. Division 8. Ethics  
Commission, Section 2-650 – 2-659

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## **DIVISION 8. ETHICS COMMISSION**

[City of Tampa Code]

### **Sec. 2-650. City of Tampa Ethics Commission; created; purpose.**

There is hereby created and established the City of Tampa Ethics Commission to administer the code of ethics for city officials and employees.

(Ord. No. 89-222, sec. 2(2-646), 9-28-89; Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[Dade County]

### **Sec. 2-651. Composition and appointment.**

(a) The ethics commission shall be composed of five (5) members. The members of the ethics commission shall be appointed as follows:

(1) The Chief Judge of the Thirteenth Judicial Circuit shall be requested to appoint one (1) former federal judge, or former United States Magistrate or former State court judge;

(2) The Chief Judge of the Thirteenth Judicial Circuit shall be requested to appoint one (1) former U.S. Attorney or Assistant U.S. Attorney, former State Attorney or Assistant State Attorney, former County Attorney or Assistant County Attorney or former City Attorney or Assistant City Attorney;

(3) The Dean of the Stetson University School of Law shall be requested to appoint one (1) full time or adjunct faculty member from his or her law school who is knowledgeable in legal ethics.

(4) The President of the University of South Florida or University of Tampa shall be requested to appoint one (1) full time or adjunct faculty member who is knowledgeable in ethics; and

(5) The mayor shall be requested to appoint one (1) member who has held elective office at the local level prior to appointment.

In the event that a person empowered to appoint a member(s) is unable to identify a person who meets the qualifications for appointment, the appointing individual shall notify the mayor in writing including the reasons for the inability to appoint, in which case the mayor shall appoint a member to the ethics commission who substantially meets the qualifications hereof. Said appointment shall be subject to confirmation by city council.

(b) *Additional qualifications.* Each member of the ethics commission shall be a United States citizen, resident of the City of Tampa and shall be of outstanding reputation for integrity, responsibility and commitment to serving the community. The members of the ethics commission should be representative of the community-at-large and should reflect the racial, gender and ethnic make-up of the community. Prior to final selection of each member of the ethics commission, those persons empowered herein to appoint members shall meet and evaluate the qualifications of each person(s) under consideration to ensure that (a) that said person(s) is qualified to serve on the ethics commission and (b) that the membership of the ethics commission will be representative of the community-at-large and reflect the racial, gender and ethnic make-up of the community. Before entering upon the duties of office, each appointee on the ethics commission shall take the prescribed oath of office.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03; Ord. No. 2004-110, § 5, 4-29-04)

**Sec. 2-652. Term.**

The members of the ethics commission shall serve staggered terms of four (4) years each, provided that of the original members, two (2) members shall be appointed for a term of two (2) years and three (3) shall be appointed for a term of four (4) years, and each member shall continue to serve until their successor has been appointed.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

**Sec. 2-653. Vacancies.**

A vacancy occurring during or at the expiration of a member's term on the ethics commission shall be filled as provided in subsections (a) and (b).

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

**Sec. 2-654. Additional requirements.**

No individual, while a member of the ethics commission shall:

- Hold or campaign for any elective political office;
- Hold office in any political party or political committee;
- Actively participate in or contribute to any political campaign for city office;
- Be employed by the City of Tampa; or

- Allow his or her name to be used by a campaign in support of or against any candidate for city office or any city referendum or other city ballot question.

Nothing herein shall preclude a member of the ethics commission from signing petition in support of or against any referendum or other ballot question.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[City of Tampa Code]

**Sec. 2-655. Organization; rules and regulations; swearing witnesses; keeping minutes.**

The members of the ethics commission shall elect a chairman annually. The board may promulgate written rules and regulations to govern its proceedings and all hearings held before it. The board may conduct investigations upon complaints or information received by it and may swear witnesses. The board shall keep accurate and complete minutes of its business.

(Ord. No. 89-222, sec. 2(2-651), 9-28-89; Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[City of Tampa Code]

**Sec. 2-656. Compensation.**

Members of the ethics commission shall not be entitled to compensation; however, all members shall receive reimbursement for parking in city garages and for mileage for any board-related business except travel to and from regularly scheduled and specially called board meetings. Such reimbursement shall be consistent with city policy.

(Ord. No. 89-222, sec. 2(2-652), 9-28-89; Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[Dade County]

**Sec. 2-657. Powers, duties and jurisdiction of ethics commission.**

The ethics commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce this ethics code. Jurisdiction of the ethics commission shall automatically extend to elected officers, appointed officers, and employees and lobbyists, as defined herein, who are required to comply with this code of ethics ordinance.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[City of Tampa Code]

## **Sec. 2-658. Procedure on complaints of violations.**

(a) Upon the filing with the city ethics officer of a written, sworn complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this article, the city ethics officer shall present the complaint to the ethics commission. Within five (5) days after receipt of a complaint by the ethics officer, a copy shall be transmitted to the alleged violator. The ethics commission shall investigate any alleged violation of this article in accordance with procedures set forth in this section.

In no event shall a complaint under this section against a candidate in any city election be filed or the filing of or intention of filing such a complaint be disclosed on the day of any such election or within the five (5) days immediately preceding the date of the election.

(b) A preliminary investigation shall first be undertaken by the ethics commission to determine if the facts alleged in the complaint constitute probable cause to believe that a violation has occurred.

If, upon completion of the preliminary investigation, the ethics commission finds no probable cause to believe that this article has been violated, the ethics commission shall dismiss the complaint; and the complaint shall then become a matter of public record, together with a written statement of the findings of the preliminary investigation and a summary of the facts, all of which the ethics commission shall transmit to the complainant and the alleged violator.

If the ethics commission finds from the preliminary investigation probable cause to believe that this article has been violated, it shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint shall then become public records. Upon request submitted to the ethics commission in writing, any person who the ethics commission finds probable cause to believe has violated any provision of this article shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if a request therefor is not received by the ethics commission within thirty (30) days following the receipt of the probable cause notification required by this section; however, the ethics commission may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

The complainant and alleged violator shall be given notice in writing of the date and time set for such public hearing at least ten (10) days before the public hearing is held. The hearing shall be conducted in accordance with all requirements of due process of law and in accordance with any written rules and regulations that have been promulgated by the ethics commission. Any person filing such a sworn complaint and any alleged violator may appear before the ethics commission in person or by counsel and shall be entitled to question witnesses and present evidence in accordance with any rules that have been adopted by the ethics commission.

Within ten (10) days after the public hearing, unless the commission determines additional time is needed the ethics commission shall make and promulgate written findings of

fact and conclusions based thereon, including a determination as to the propriety of the conduct of the alleged violator, all of which shall be transmitted to the complainant, the alleged violator and, in the event that it is found and determined that a violation has occurred, to the official, the city council or other appropriate body for appropriate action.

(c) Any person who willfully discloses or permits to be disclosed his intention to file a complaint, the existence or contents of a complaint which has been filed with the ethics commission, or any document, action or proceeding in connection with a confidential preliminary investigation of the ethics commission before the same becomes a public record shall, any provision of this article to the contrary notwithstanding, be guilty of an offense against the city, punishable as provided in section 1-6 of this Code.

(d) In any case in which the ethics commission finds probable cause to believe a violation of criminal law has been committed by an alleged violator or where the ethics commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with or any testimony given before the ethics commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution.

(Ord. No. 89-222, sec. 2(2-668), 9-28-89; Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[City of Tampa Code]

### **Sec. 2-659. Recommended**

If the ethics commission, pursuant to the provisions hereof, shall make a determination that the conduct of any official or employee is or was a violation of this ethics code, the ethics commission shall make a recommendation to the official, city council, or other appropriate body or person to institute appropriate action for correction or rectification of that conduct or for the censure, suspension or removal from office of the official or employee, and may recommend appropriate action to void any transaction with a public body or any determination made by a public body.

The official, city council, or other public body or person taking such action may base any action it takes upon the written findings of fact, conclusions and determination of the ethics commission and shall institute such action they deem appropriate within sixty (60) days of the promulgation of the ethics commission's findings, conclusions, and determination.

(Ord. No. 89-222, sec. 2(2-669), 9-28-89; Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[Jacksonville]

### **Sec. 2-660. Advisory opinions.**

(a) Every elected officer, appointed officer, candidate for city office, or city employee, when in doubt about the applicability and interpretation of any city ethics law to himself or herself in a particular context, may submit in writing the facts of the situation to the ethics commission with a request for an advisory opinion to establish the standard of public duty. Any officer or employee who has the power to hire or terminate employees may likewise seek an advisory opinion from the ethics commission as to the application of the provisions of the ethics laws to any such employee or applicant for employment. An advisory opinion shall be rendered by the ethics commission, and each such opinion shall be numbered, dated and published.

Such opinion, until amended or revoked, shall be binding on the conduct of the officer, employee, or candidate who sought the opinion or with references to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

(b) The ethics commission is authorized to call upon appropriate agencies of city government for such professional assistance as may be needed in the discharge of its duties. The city attorney's office shall provide legal assistance to the ethics commission; provided however, in the event the city attorney determines that he or any attorney in his office has a conflict of interest which prevents the city attorney's office from providing impartial representation to the ethics commission, the city shall engage outside legal counsel to provide the necessary legal assistance to the ethics commission.

(c) The ethics commission shall assist in the preparation of materials and programs designed to assist persons in complying with the ethics laws. The ethics commission shall work with the city ethics officer in establishing, presenting, and expanding the city's ethics education program.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[Jacksonville]

**Sec 2-661. Additional duties of the ethics commission; reporting.**

(a) It shall be the further duty of the ethics commission to submit to the city council periodically a report of its work and recommendations for legislation deemed necessary to improve the ethics laws and their enforcement which shall be dutifully considered by the city council.

(b) The city ethics officer shall be responsible for documenting compliance with the financial disclosure, gift disclosure, lobbying registration and reporting, and ethics education and certification requirements of this Code for all officers and appointed employees.

The ethics commission shall receive annual reports from the city ethics officer regarding the compliance or non-compliance with financial reporting, gift reporting, lobbying

registration and reporting, and ethics education and certification requirements of this Code. The annual report shall also be filed with the mayor and city council.

At the close of the reporting period, the city ethics officer shall notify any individual who has failed to timely comply with financial disclosure, gift disclosure, lobbying registration and reporting, or ethics education and certification requirements of this Code. After expiration of any additional time to comply with said reporting requirement, the city ethics officer may request the ethics commission to institute action.

(c) It shall be further be the duty of the ethics commission to review and make recommendations to the mayor relative to the removal from office those appointed officers or officials who disclosed a conflict of interest, pursuant to Section 2-519(c), in 10% or more of the applications filed with the public board to which that officer or official is appointed. For purposes of this sub-section, the 10% threshold shall be based on the number of applications filed on an annual basis. Factors for consideration by the ethics commission in determining whether to recommend removal from office include but are not limited to the following: (1) whether the conflicts of interest necessarily interfered with the full and faithful discharge of the appointed officer's public duties; (2) whether the conflicts of interest jeopardized the appointed officer's independence and impartiality; (3) whether the conflicts of interest caused the appointed officer to be unable to perform his public duties efficiently and faithfully; or (4) whether the conflicts of interest caused the appearance of public office being used for private gain.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

[Jacksonville]

### **Sec. 2-662. Investigatory powers.**

The ethics commission may, on its own initiative, seek information and gather facts for the purpose of investigating any circumstance or situation of which the ethics commission may become aware that appears to violate or may potentially violate an acceptable standard of conduct for city officers and employees. If, as a result of such investigation, the ethics commission determines the need for remedial or preventative legislation, the ethics commission may make such recommendations to the city council as it deems appropriate.

The services of other departments, boards and agencies of the city may be made available to the ethics commission at its request, subject to their ability and capacity to provide them. All city agencies shall cooperate with the ethics commission in the exercise of the ethics commission's responsibilities.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)

### **Sec. 2-663. Appeals.**

Appeals from any decision of the ethics commission, with the exception of recommendations made pursuant to Section 2-661(c), shall be to circuit court as provided by law.

(Ord. No. 2003-255, §§ 2, 3, 10-2-03)