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## **PRESS RELEASE**

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TALLAHASSEE—April 6, 2011 — Meeting in Tallahassee on April 1<sup>st</sup> in closed session, the Florida Commission on Ethics took action on twenty-five complaints, Chairman Roy Rogers announced today. The Commission found probable cause to believe that the ethics laws had been violated in one complaint, voted to dismiss eleven complaints with a finding of "no probable cause," and voted to dismiss thirteen complaints without an investigation.

The Commission found probable cause to believe that one candidate for local office may have violated the Code of Ethics. 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 considered a complaint filed against REGINALD JAMES, Gadsden County School Superintendent. James was cleared of seven allegations of misuse of position concerning his conduct during the time he was running for re-

election. No probable cause was also found to believe that he solicited political support from an individual in exchange for giving him a position in the school system. Also dismissed with a finding of no probable cause was another allegation that he offered a political supporter the Complainant's position in exchange for assisting with his campaign.

No probable cause was found to believe that JOHN MOORE, Venice City Councilman, misused his position to conspire with other members of the Council to agree to the settlement of a lawsuit for the purpose of orchestrating a situation in which legal fees incurred in his personal defense were paid by the City. Moore was also cleared of an allegation that he violated the voting conflict law when he voted on a motion to accept the settlement agreement because, at the time of the vote, he was no longer a party to the proceeding.

SUE LANG, Venice City Councilwoman, was also cleared of allegations that she violated ethics laws. The Commission found no probable cause to believe that she misused her position to conspire with other members of the Council to agree to the settlement of a lawsuit for the purpose of orchestrating a situation where legal fees incurred by other Council members would be paid by the City. The Commission also found no probable cause to believe that Lang had a voting conflict when she voted on a motion to pay the personal attorney's fees incurred by other members of the Council.

COREY L. ALSTON, South Bay City Manager, was cleared of allegations that he violated ethics laws. The Commission found no probable cause to believe that his business relationship with a local businessman created a frequently recurring conflict between his private interests and his public duties.

The Commission found no probable cause to believe that MICHAEL NEVARD, Chair of the Land Planning Agency of the Town of South Palm Beach, had a voting conflict in June 2009 on a measure concerning a request to seek an amendment to the Town's comprehensive plan. The Commission also found no probable cause on a voting conflict allegation regarding his participation in discussion on a measure, his writing a letter to the Town Council, e-mailing Council members, and writing an article for the local paper. Also dismissed with a finding of no probable cause was an allegation that he misused his position to perform an official duty related to a hotel development which secured a special benefit to him.

The Commission also considered complaints filed against four other officials in South Palm Beach and dismissed all charges with a finding of no probable cause. DEBORAH J. ROBINSON and PATRICIA H. FESTINO, members of the Land Planning Agency of the Town of South Palm Beach, were each cleared of two allegations that they had a voting conflict concerning a measure involving a hotel and that they participated in discussion on matters related to the hotel property. The Commission also found no probable cause to believe that they had a conflicting contractual relationship because of their relationship with an entity that was concerned with the hotel property issues. Allegations that they misused their positions to participate and vote on the hotel matter in order to secure a special benefit for themselves were also dismissed with a finding of no probable cause.

The Commission also found no probable cause to believe that STELLA G. JORDAN, and SUSAN L. LILLYBECK, members of the South Palm Beach Town Council, violated the ethics laws. Both were alleged to have voting conflicts when they voted on a measure regarding amendments to the Town charter in June 2010. Also

alleged was that they had a conflict of interest because they had a membership or other relationship with SPB Preservation, Inc., which was concerned with matters related to a particular hotel property. Allegations that Jordan and Lillybeck misused their positions to participate and vote on a matter related to the hotel development in order to secure a special benefit for themselves were also dismissed with a finding of no probable cause.

In a complaint against JORDAN GRALNIK, member of the Board of Supervisors for the Sunrise Lakes Phase IV Recreation District, the Commission found no probable cause to believe that he violated ethics laws by simultaneously holding employment with the District while serving as a member of its Board.

Probable cause was found to believe that NATHAN A. McLAUGHLIN, as candidate for the Flagler County Commission, filed an incomplete Form 6 when he qualified to run for office.

DEAN DAVIS, High Springs City Commissioner, was cleared of allegations that he misused his position to confront City staff regarding permits and inspections of properties within the City, in violation of the City's charter.

The Commission dismissed the following complaints for lack of legal sufficiency: WILLIAM DEILE, Cape Coral City Councilman; JOHN SULLIVAN, Cape Coral City Councilman; CYNTHIA MOORE-CHESTNUT, Alachua County Commissioner; ROBERT BENTON, III, Mayor of Ft. Pierce; CHARLES WILLIS, Midway Mayor/Councilman; ELLA BARBER, Midway Mayor Pro Tem; DELORES MADISON, Midway City Councilwoman; DAVID KNIGHT, Midway City Councilman; W.D. HIGGINBOTHAM, City Manager of Madeira Beach; PAT SHONTZ, Mayor of Madeira Beach; TERRY LISTER, Vice Mayor and Madeira Beach Commissioner; DENISE

SCHLEGEL, Madeira Beach City Clerk; and STEPHEN KOCHICK, Madeira Beach City Commissioner.

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.

### **PUBLIC SESSION**

The Commission adopted the Recommended Order of an Administrative Law Judge finding that FRANK MOORE, former Chief of Police of Coleman, did not misuse his position or resources to help Lonnie Evans in his 2008 re-election campaign for Mayor of Coleman. The Judge found that Moore did not misuse resources to campaign for Evans in his police vehicle or otherwise engage in campaign activities while on duty, and did not misuse his position to engage in a traffic stop of a citizen for the sole purpose of discussing a pending ethics complaint.

In a related matter, the Commission adopted the Recommended Order of the Administrative Law Judge finding that LONNIE EVANS, former Mayor of Coleman, did not misuse official resources by utilizing the Chief of Police's vehicle to campaign for re-election.

BARRINGTON A. RUSSELL, SR., Mayor of Lauderdale Lakes, entered into a Joint Stipulation with the Commission Advocate which was adopted by the Commission. The agreement finds that Russell violated the voting conflict statute when he voted on a measure to release a Letter of Credit to a developer. He was also found to have violated ethics laws by having a contractual relationship or employment with a business

entity that was subject to the regulation of the City. The Commission adopted the settlement, recommending a civil penalty of \$1,500 to the Governor.

In another settlement agreement adopted by the Commission, WILLIAM PLAZEWSKI, San Antonio City Commissioner, was found to have violated the financial disclosure laws by filing an inaccurate Form 1 Statement of Financial Interests regarding his secondary sources of income for 2007. The Commission recommended a civil penalty of \$250 to the Governor.

JOHN TOBIA, Representative District 31, Florida House of Representatives, also entered a settlement that was adopted by the Commission. The result is a finding that he violated Article II, Section 8(a) and (i) of the Florida Constitution by filing an incomplete CE Form 6 for the calendar years 2007, 2008, and 2009. In accordance with statute, the matter will be referred to the Speaker of the Florida House of Representatives for consideration of an appropriate penalty.

The Commission considered a complaint filed against DONALD F. ESLINGER, Sheriff of Seminole County. The complaint was reviewed during the public session meeting because the Sheriff waived confidentiality in his complaint. No probable cause was found to believe that Eslinger had a conflicting employment or contractual relationship by his service on the Board of Star and Shield Insurance Exchange because the company was not doing business with the Sheriff's office and because the company was provided access to the Sheriff's Department employees similar to the access granted to other insurance groups.

The Commission adopted a formal opinion concerning a conflict of interest. The Commission determined that no prohibited conflict of interest would be created were a Member of the House of Representatives to continue to be engaged as an expert

witness for a law firm that is representing the Department of Financial Services in an insurance insolvency litigation matter. Neither the law firm nor the member's LLC would be doing business with or subject to the regulation of the Legislature, and no continuing or frequently recurring conflict of interest would be created. The member would not be personally representing another person or entity for compensation before a state agency when negotiating with the law firm to extend the contract for expert witness services or when acting in the capacity as an expert witness in fulfillment of that contract and testifying in court, consulting with counsel, or communicating with other agents and employees of DFS.

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 extension requests and appeals of automatic fines imposed for late submission of financial disclosure reports submitted by public officers and employees. (See Items VIII., IX, and X. on the April 1<sup>st</sup> 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 per violation.