

ORIGINAL

STATE OF FLORIDA
COMMISSION ON ETHICS
P. O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709

FLORIDA
COMMISSION ON ETHICS
MAY 27 2014
RECEIVED

COMPLAINT
14-097

1. PERSON BRINGING COMPLAINT:

Name: Linda Bolante Telephone Number: 904-794-2512 (h)
904-460-8283 (c)

Address: 739 Needle Grass Drive

City: St. Augustine County: St. Johns Zip Code: 32086

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Current or former public officer, public employee, candidate, or lobbyist - please use one complaint form for each person you wish to complain against:

Name: James L. Manfre Telephone Number: 386-437-4116

Address: 1001 Justice Lane

City: Bunnell County: Flagler Zip Code: 32110

Title of office or position held or sought: Sheriff

3. STATEMENT OF FACTS:

Please explain your complaint fully, either on the reverse side of this form or on additional sheets, providing a detailed description of the facts and the actions of the person named above. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. If you believe that a particular provision of Article II, Section 8, Florida Constitution (the Sunshine Amendment) or of Part III, Chapter 112, Florida Statutes (the Code of Ethics for Public Officers and Employees) has been violated, please state the specific section(s). Please do not attach copies of lengthy documents; if they are relevant, your description of them will suffice. Also, please do not submit video tapes or audio tapes.

4. OATH

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.

STATE OF FLORIDA
COUNTY OF ST. JOHN'S

Sworn to (or affirmed) and subscribed before me this 16 day of May

20 14, by Linda Bolante
(name of person making statement)

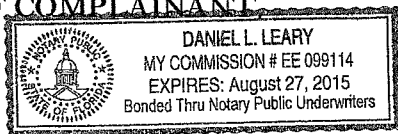
[Signature]
(Signature of Notary Public - State of Florida)

Daniel L. Leary
(Print, Type, or Stamp Commissioned Name of Notary Public)

Linda Bolante
SIGNATURE OF COMPLAINANT

Personally Known OR Produced Identification
Type of Identification Produced:

FL Drivers Lic. B 453535 63 8780



Jurisdiction of the Commission: The Commission on Ethics has the authority to review and investigate complaints concerning possible breaches of the public trust (violations of the State's ethics laws) by public officers, public employees, and similar persons involved with state and local government in Florida, including Executive Branch lobbyists. Complaints about the actions of Judges should be brought to the Judicial Qualifications Commission, and complaints against attorneys in private practice should be made to The Florida Bar.

Procedures followed by the Commission: The Commission follows a three-stage process when it considers complaints.

The first stage is a determination of whether the allegations of the complaint are legally sufficient, that is, whether the complaint indicates a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation and all records relating to the complaint will become public at that time.

If the complaint is found to be legally sufficient, the investigative staff of the Commission will begin an investigation. The second stage of the Commission's proceedings involves this investigation of the complaint and a decision by the Commission of whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds that there is no probable cause to believe that there has been a violation of the ethics laws, the complaint will be dismissed and will become public at that time.

If the Commission finds that there is probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and enters the third stage of proceedings. The third stage requires that the Commission decide whether the law actually was violated and, if so, what penalty should be recommended. This stage requires a public hearing (trial) at which evidence would be presented.

Attorney's Fees: If the complaint is dismissed, the person against whom the complaint is filed can file a petition to have the complainant pay his or her attorney's fees, which will be awarded after a hearing if the Commission finds that the complaint was made with a malicious intent to injure the official's reputation, the complainant knew that the statements made about the official were false or made the statements about the official with reckless disregard for the truth, and the statements were material.

Confidentiality: The Commission cannot accept anonymous complaints and cannot keep the identity of the complainant or any witness confidential. A complaint, as well as all of the Commission's proceedings and records relating to the complaint, is confidential and exempt from the public records law either until the person against whom the complaint is made waives confidentiality, or until the complaint reaches a stage in the Commission's proceedings where it becomes public. The Commission's procedures on confidentiality do not govern the actions of the complainant or the person against whom the complaint is made.

Legal Counsel: Both the complainant and the person complained against can be represented by legal counsel during the Commission's proceedings.

Other Information: More information about the ethics laws and the Commission's responsibilities is available at the Commission's website, www.ethics.state.fl.us, which contains publications, rules, and other information.

16 May 2014

To: The Florida Commission on Ethics
P. O. Drawer 15709 Tallahassee, Florida 32317

Subject: Ethics Complaint – Flagler County Sheriff James Manfre

To Whom It May Concern;

Please accept the attached narrative as an official ethics complaint against Flagler County Sheriff James Manfre. Sheriff Manfre has consistently engaged in conduct that I believe amounts to misfeasance in public office. He has used and continues to use public property and public funds for personal gain. He has been advised about the inappropriate and improper use of public property/funds but continues with his inadvisable conduct. Furthermore, Sheriff Manfre has previously served as an elected constitutional officer (Sheriff) in Flagler County from 2001 through 2005. He has received training during that time and during his most recent election on the proper use of public property/funds.

Your consideration in reviewing this matter will be greatly appreciated by the citizens of Flagler County. All backup documentation for the credit card expenditures and reimbursements are on file with the Flagler County Sheriff's Office Finance Unit as well as I have a copy.

Should you need to contact me for further discussion I can be reached by utilizing any of the following methods:

Linda Bolante
739 Needle Grass Drive
St Augustine, Florida 32086
lbolante@bellsouth.net
904-794-2512 (Home)
904-460-8283 (Mobile)

Respectfully,


Linda Bolante

Ethical Issues Involving Flagler County Sheriff James L Manfre

1. Upon assuming office, during the first two weeks as Sheriff, Sheriff Manfre asked Linda Bolante, Business Services Director, to issue his paycheck early so that he could purchase a new refrigerator as his had gone out and he didn't want to take any further funds from his savings. His request was complied with. When a public records request was made in late 2013 for a copy of all pay checks/direct deposits made to the Sheriff during his tenure thus far, attorney Sid Nowell asked me if there was anything to be concerned about. I told him about this one check that was issued premature of the actual work period and he asked me why that had occurred. When I told him what the Sheriff directed me to do, attorney Nowell told me, "You need to forget he told you that" and I responded "okay, as long as I am not put under oath" and he said, "well that is a different story."
2. Sheriff Manfre accompanied by his wife Cornelia drove a Flagler County Sheriff's Office Black Crown Vic FL/613IBV to the Florida Sheriff's Association Midwinter Conference in January 2013 in Destin, Florida the weekend of January 26th. At the conclusion of his stay, he went on vacation with his wife to New Orleans, Louisiana on January 30, 2013 still driving the Sheriff's Office vehicle at which time there was no longer a public purpose for use of the vehicle. During this trip, he was stopped by State Police for unknown reason(s). Manfre had a difficult time explaining to the law enforcement agency why the vehicle was registered to a business in New Smyrna Beach Florida (This is an undercover vehicle with a confidential tag). There has been no compensation to Flagler County Sheriff's Office for the personal use of this public vehicle.

I believe Sheriff Manfre's actions were in violation of §112.313(6) of the Florida Statutes – Misuse of public position or resources thereof for personal gain.

3. Sheriff Manfre accompanied by his wife Cornelia drove a Flagler County Sheriff's Office 2013 white Dodge Charger issued to the Sheriff on personal vacation to Pigeon Forge Tennessee, May 03-07, 2013 (to a cabin owned by Undersheriff Rick Staly). There was no public purpose to this trip. It was merely a vacation for he and his wife. Sheriff Manfre used the cabin for cleaning charges only when during this period of time the cabin would have rented for \$430 per night. This cabin is owned by the Undersheriff and is used as rental property. It is not known if it has been reported on the Sheriff's quarterly financial/gift disclosure (form 9). There has been no compensation to Flagler County Sheriff's Office for the personal use of this vehicle.

I believe Sheriff Manfre's actions were in violation of the following Florida Statutes:

- a. §112.313(6) – Misuse of public position or resources thereof for personal gain.

- b. §112.3148 - Failing to file a Quarterly Gift Disclosure worth more than \$100.00, i.e. cabin stays valued at \$430.00 per night.
4. Sheriff Manfre accompanied by his wife Cornelia drove the Flagler County Sheriff's Office 2013 white Dodge Charger issued to the Sheriff on personal vacation to Virginia in August 2013 to visit relatives and view colleges for his son. There was no public purpose for this trip. It was merely a vacation for he and his wife to visit with his daughter and son-in-law who were in the country for a short period of time, and to visit colleges (See article that appeared on FlaglerLive.com dated October 08, 2014 "Sheriff Defends Not Filing Report After His Department Car is Scraped in Out-of-State Personal Trip"). While on this trip, the Sheriff's Office vehicle was damaged by another party backing into it. There was no report filed on the accident either in Virginia or in Flagler County upon return. However, the vehicle was repaired for free by a vendor who is the father of one of the deputies employed by the Flagler County Sheriff's Office (damage was estimated at \$255.00). When questioned about why he drove his agency issued vehicle on vacation his response was that his personal vehicle was down and the trip needed to be arranged speedily so he decided to utilize his agency vehicle. He conceded that taking the vehicle to Virginia was an error and a poor choice and ultimately reimbursed the Sheriff's Office for the mileage driven in total \$667.50.

I believe Sheriff Manfre's actions were in violation of the following Florida Statutes:

- a. §112.313(6) - Misuse of public position or the resources thereof for personal gain.
 - b. If the crash were to have occurred Florida, there would have been a violation of §316.066(1)(e) – Failure to make a written report of a crash resulting in damage of a Flagler County Sheriff's Office vehicle.
5. The charges itemized below were made on the Sheriff's Office credit card by Sheriff Manfre, however, no vendor itemized receipt was submitted to substantiate the charges. When the credit card statement/hotel folio was received the Sheriff wrote what the purchase was for and said that no credit card receipts were available. However, once a public records request was made for the backup documentation, the Business Services Division was advised by attorney Sid Nowell to request duplicate copies of the itemized receipts from the vendors for the charges. The following was noted:
 - a. May 14, 2013: a charge of \$235.76 was made to the Sheriff's Office credit card at "Madhatter". Sheriff Manfre's notes say lunch at Madhatter with deputies and families. This was while at the National Law Enforcement Memorial. When the receipt was received it was for 6 Sheriff's Office employees and 6 non-employees including the Sheriff's wife some of which the Sheriff claims to not know who they were and alcohol was also included.

5

b. July 16, 2013: a charge of \$86.50 was made to the Sheriff's Office credit card at Shingle Creek during the NASRO conference. It is not documented who the food was for and alcohol was also charged to this.

c. August 03, 2013: a charge of \$158.50 was made to the Sheriff's Office credit card at "Kurrents". Sheriff Manfre documented on the hotel folio that it was dinner with the Undersheriff. However, both spouses were also treated and alcohol was purchased. The Undersheriff did not know that the Agency credit card was utilized for the purchase of the dinner for he and his wife and he immediately reimbursed for the charge once he found out.

d. August 04, 2013: a charge of \$12.46 was made to the Sheriff's Office credit card at "Golf Grill". Sheriff Manfre originally documented that it was for breakfast. However, when the itemized receipt was received from the hotel it was **all** alcohol. The Sheriff had the finance unit contact the Golf Grill to supply the signed receipt or dispute the charge. The Golf Grill could not supply the receipt so they ultimately credited the card.

e. August 04, 2013: a charge of \$62.21 was made to the Sheriff's Office credit card at "Quinns". Sheriff Manfre documented on the folio that it was for dinner. When the receipt came in, it showed it was for the Sheriff and his wife and alcohol was also charged.

f. August 07, 2013: a charge of \$54.58 was made to the Sheriff's Office credit card at "Tropiks". Sheriff Manfre documented on the folio the purchase was for dinner and breakfast. However, when the receipt came in it was for the Sheriff and his wife for buffet at 10:15 a.m.

I believe Sheriff Manfre's actions described in item 5. a. through f. were in violation of Florida Statute §112.313(6) – Misuse of public position or resources thereof for personal gain.

Once all of these itemized receipts were received after the public records request was made, Sheriff Manfre was made aware of the inappropriate and improper purchases made on the Flagler County Sheriff's Office credit card. He reluctantly reimbursed the Sheriff's Office \$344.03 (the Sheriff did not attempt to reimburse for any meals or alcohol prior to the public records request) for meals that were not for Sheriff's Office employees and all alcohol. The Sheriff asked Attorney Sid Nowell what he should do when he went to dinner with his wife and Mr. Nowell replied use two separate cards: one for him and a personal one for his wife. Sheriff Manfre advised that he would not do that and turned in his agency credit card to Linda Bolante to be held in finance. It should be noted that Attorney Sid Nowell advised Sheriff Manfre that none of these charges were illegal and he could write a policy to allow for these type of purchases and that they would be appropriate even when they served no public purpose. Mr. Nowell advised Linda Bolante, Business Services Director of this as well. It should be noted that Sheriff

Manfre said to the Business Services Director, "I need you to take the hit for this" and when there was no immediate reply he responded, "Linda, I need to hear something from you, open your mouth." It should also be noted that Attorney Sid Nowell was in this meeting and remained silent during this portion of the conversation.

When the auditors completed the Sheriff's Office financial statement for 2013 there was one condition noted and it stated the following:

Condition: Certain expenditures charged to the Office's credit card were not in accordance with allowable travel costs under Section 112.061, Florida Statutes. Upon further review of the expenditures, the un-allowed charges had been reimbursed to the Office during the 2013 fiscal year.

Recommendation: Expenditures should be reviewed timely to ensure that there is an authorized public purpose to be served by the expenditure, and that the expenditure is necessary and reasonable in terms of the authorized public purpose.

Sheriff Manfre requested the agency credit card be returned back to him when he was going to the 2014 Sheriff's midwinter conference during the month of February as he was going to be taking his personal vehicle and would be using the agency card for fuel. I, Linda Bolante, told him that would not be appropriate and if he wanted to be reimbursed, he could submit receipts when he returned. He did not end up taking his personal vehicle to the conference.

It should be noted that Sheriff Jim Manfre served as Sheriff of Flagler County from 2001 through 2005 and I, Linda Bolante, served as his finance director. For Sheriff Manfre to claim that he is unaware as to whether expenditures through the use of an agency credit card is inappropriate or not is specious at best.



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State of Florida
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www.ethics.state.fl.us

"A Public Office is a Public Trust"

May 19, 2014

Linda Bolante
739 Needle Grass Drive\
St. Augustine, Florida 32086

Dear Ms. Bolante:

This is in response to your letter dated May 7 and received in this office May 12. By law, the Commission can only act upon receipt of a complaint on a form promulgated by the Commission and sworn before a notary public or other person authorized to administer oaths. I cannot encourage you to, nor discourage you from, filing a complaint. However, I may be able to provide you with some information that will help you make a decision.

The Commission's jurisdiction is limited to allegations of violation of Article II, Section 8, Florida Constitution; Part III, Chapter 112—the Code of Ethics for Public Officers and Employees, and various specific provisions in the enabling statutes of various entities. You can see more about the Commission's jurisdiction, and the laws it administers, on our website at: www.ethics.state.fl.us. I would particularly direct you to our Guide to the Sunshine Amendment and the Code of Ethics for Public Officers and Employees, a brochure that generally describes Florida's ethics laws as well as the processes of the Ethics Commission.

If you believe Sheriff Manfre, or any other public officer or employee, has violated a provision of the Code of Ethics, you may file a complaint against that official. Forms for doing so are available on our website. If you decide to file a complaint, it will be helpful if you tell us—in a brief, narrative form—what it is you think the official has done wrong and what facts exist that lead you to that conclusion.

I hope you will find this information useful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Virindia Doss".

Virindia Doss
Executive Director
Florida Commission on Ethics

VAD/mlb

A small, handwritten mark or signature in the bottom right corner of the page.