

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

COMPLAINT

1. PERSON BRINGING COMPLAINT:

Name: Robert Bello Telephone Number: 386-860-4473

Address: 1932 Peoria Street

City: Deltona County: Volusia Zip Code: 32738

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: Herbert Zischkau Telephone Number: 407-496-7561

Address: 2760 Pinegrove Avenue

City: Deltona County: Volusia Zip Code: 32725

Title of office or position held or sought: Commissioner - City of Deltona

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 _____

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: _____

SIGNATURE OF COMPLAINANT

Statement of Facts

That on or about October 4, 2010, Deltona City Commissioner Herbert Zischkau did violate Florida Statute 112.313(6)-MISUSE OF PUBLIC POSITION. Commissioner Zischkau on that date, did, during certifying or affirming, apply for payment of travel expenses, (\$430.00) outside of his official duties as City Commissioner. These funds were then paid directly from the City of Deltona, to the Florida Bar Association, the requester. Deltona City Attorney Gary Cooney could have witnessed this legal forum as he may have attended. Commissioner Zischkau's travel/expense report of 10-4-10, and the Forum advertising e-mail of 9-13-10 to Mr. Cooney from the Florida Bar, can be easily obtained from: The City of Deltona, 2345 Providence Blvd. Deltona, F.I. 386-878-8505. Commissioner Zischkau, is an attorney in an active private practice who clearly benefited financially from this legal forum that was held on 9-23/24, 2010 in Orlando. As a commissioner, he would also have no practical or legal use for employment information offered at the forum that taxpayers were forced to pay for him to attend. The City Manager is the only officer of the city authorized under the Deltona City Charter to deal with employee related matters.

Commissioner Zischkau also benefited privately from this conference by acquiring without his private payment for the event, normal "in service" training hours required for him to maintain his law license. The city instead paid for this private practice expense.

Robert Bello 4-15-11

DeltonaBonaFide.com
CITY OF DELTONA, FLORIDA
TRAVEL EXPENSE REQUEST

GENERAL INFORMATION

TRAVELER'S NAME <u>Herb Zischkau</u>	DEPARTMENT/DIVISION <u>Commission #110</u>	DESTINATION <u>Orlando</u>	TRAVEL METHOD <u>Personal Vehicle</u>
PURPOSE OF TRIP <u>30th Annual Public Employment Labor Relations Forum</u>		ACCOUNT NUMBER REGISTRATION <u>110 -- 525400-0000</u> OTHER EXPENSES _____	
<u>ESTIMATE OF ALLOWABLE TRAVEL EXPENSES</u>		<u>ACTUAL ALLOWABLE TRAVEL EXPENSES</u>	
DATES AND TIMES OF TRIP: Departure <u>9/23 & 9/24/10</u> Return _____ Meal Allowance: Breakfast _____ Meals @ \$ _____ /Meal \$ _____ Lunch _____ Meals @ \$ _____ /Meal \$ _____ Dinner _____ Meals @ \$ _____ /Meal \$ _____ Lodging _____ \$ _____ Telephone _____ \$ _____ Transportation: Airline _____ \$ _____ Private Vehicle: Destination Miles _____ Miles @ _____ \$ _____ Vicinity Miles _____ Miles @ _____ \$ _____ City Vehicle (gas, oil, etc) _____ \$ _____ Parking Fees/Tolls _____ \$ _____ Taxi/Public Transportation _____ \$ _____ Vehicle Rental _____ \$ _____ Registration Fee _____ \$ <u>430.00</u> Baggage Handling/Tips _____ \$ _____ TOTAL ALL EXPENSES \$ _____		DATES AND TIMES OF TRIP: Departure <u>9/23 & 9/24/10</u> Return _____ Meal Allowance: Breakfast _____ Meals @ \$ _____ /Meal \$ _____ Lunch _____ Meals @ \$ _____ /Meal \$ _____ Dinner _____ Meals @ \$ _____ /Meal \$ _____ Lodging _____ \$ _____ Telephone _____ \$ _____ Transportation: Airline _____ \$ _____ Private Vehicle: Destination Miles _____ Miles @ _____ \$ _____ Vicinity Miles _____ Miles @ _____ \$ _____ City Vehicle (gas, oil, etc) _____ \$ _____ Parking Fees/Tolls _____ \$ _____ Taxi/Public Transportation _____ \$ _____ Vehicle Rental _____ \$ _____ Registration Fee _____ \$ _____ Baggage Handling/Tips _____ \$ _____ TOTAL ALL EXPENSES \$ _____	
PREPAYMENTS AND ADVANCES		Less: Prepayments \$ _____	
Payee Registration Fee _____ \$ <u>430.00</u> Lodging _____ \$ _____ Other _____ \$ _____ TOTAL PREPAYMENT \$ _____		Visa Card Charges \$ <u>430.00</u> Travel Agent Billings \$ _____ Amount Due Requester (Due City) \$ _____	
TRAVELER: <u>[Signature]</u> DATE <u>OCT. 4, 2010</u> Signature DEPT/DIV HEAD _____ DATE _____ Signature		CERTIFICATION AND AUTHORIZATION	
		I hereby certify or affirm that this travel claim is true and correct in every material matter, that the expenses were actually incurred by the undersigned as necessary travel expenses in the performance of my official duties; and that same conforms in every respect with the requirements of the City of Deltona travel regulations.	
		TRAVELER: <u>[Signature]</u> DATE <u>OCT. 4, 2010</u> Signature DEPT/DIV HEAD <u>[Signature]</u> DATE <u>10-12-10</u> Signature	
REVIEWED BY _____ FINANCE DEPARTMENT		REVIEWED BY <u>[Signature]</u> FINANCE DEPARTMENT	

Grace Buckner

DeltonaBonaFide.com

SmartZone Communications Center

garyjcooneypa@comcast.net

± Font size ±

36th Annual Public Employment Labor Relations Forum (1117R) on September 23-24, 2010

From : FloridaBarCLE <mailings@flabar.org>

Mon Sep 13 2010 6:01:10 PM

Subject : 36th Annual Public Employment Labor Relations Forum (1117R) on September 23-24, 2010

To : garyjcooneypa@comcast.net

Dear City, County and Local Government Law Section and Labor and Employment Law Section Members,

Please make plans to attend the **36th Annual Public Employment Labor Relations Forum (1117R)** on September 23-24, 2010. This seminar will take place during The Florida Bar's Midyear Meeting at the Hilton Orlando, 6001 Destination Parkway, Orlando, FL 32819, (407) 313-4300, www.hiltonorlando.com.

The two-day course on public employment labor relations will discuss the PERC update; federal eleventh circuit and Florida's public sector law update; collective bargaining strategies in troubling times; FCRA/FCHR update, GIMA and the Ledbetter act; implementing pension reform; public records/privileges and exemptions in public employment issues; first amendment and political patronage claims; e-mails, facebook and other electronic intercepts; ethics/professionalism/mediation - who's the client?; and a mock arbitration.

Click on the link above for a pdf of the brochure. Please call 850-561-5831 to register over the phone, fax your registration to 850-561-5816 or register on-line at www.floridabar.org/CLE.

- 205609 confirmation \$430.00
sign in @ certification sheet
(name not on roster)

(Charlene) e green@flabar.org
bar# 911178

rec. request.

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(5) SALARY AND EXPENSES.—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) MISUSE OF PUBLIC POSITION.—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.