

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re GILBERTO NEVES,)	Financial Disclosure Appeal No. FD 16-034
)	
Appellant.)	Final Order No.
_____)	

FINAL ORDER

This matter came before the Commission on Ethics, meeting in public session on April 21, 2017, on the timely appeal of Gilberto Neves, pursuant to Section 112.3145(7)(f), Florida Statutes, which assesses an automatic fine of \$25 per day on a person who fails to timely file a required CE Form 1, Statement of Financial Interests. The Commission may waive the fine in whole or in part for good cause shown, based on "unusual circumstances" surrounding the failure to file by the designated date. There are no matters in dispute. Appellant did not request a hearing before the Commission.

Findings of Fact

1. According to information provided to the Commission, Appellant was a member of the Board of Directors of Enterprise Florida, Inc., a position requiring the filing of a CE Form 1, Statement of Financial Interests, for the year 2015. In 2016, the designated due date for submitting a 2015 CE Form 1 annual filing was July 1, 2016, with a grace period ending on September 1, 2016.

2. On May 10, 2016, the Commission on Ethics sent Appellant a 2015 CE Form 1. This mailing was sent to 8488 SW 94th Street, Miami, FL 33186.

3. On July 28, 2016, the Commission sent Appellant a Notice of Delinquency by certified mail. This notice was also sent to the 8488 SW 94th Street address.

4. On August 16, 2016, the Commission mailed Appellant a postcard intended to remind him of his obligation to file a 2015 CE Form 1. The Commission mailed the postcard to the 8488 SW 94th Street address.

5. On September 7, 2016, six days after the grace period expired, the Commission mailed Appellant a courtesy notice informing him that an automatic fine had begun to accrue. The Commission mailed this notice to the 8488 SW 94th Street address.

6. On September 28, 2016, Commission staff emailed Appellant regarding his financial disclosure obligation and advised him that an automatic fine was being assessed against him. Commission staff also advised Appellant of his right to appeal the fine, and emailed him the 2015 CE Form 1 to complete.

7. On September 28, 2016, Appellant called the Commission and informed Commission staff that he would mail the 2015 CE Form 1 the next day.

8. On September 29, 2016, Appellant submitted his 2015 CE Form 1 to the Commission.

9. The amount of fine automatically assessed against Appellant was \$700.

10. On September 23, 2016, Appellant submitted his appeal to the Commission. In his appeal, Appellant claims that he timely filed his disclosure form. Appellant alleges that he mailed his signed 2015 CE Form 1 to the Commission in March 2016. In support of his claim, Appellant submitted a sworn statement, which states that the 2015 financial disclosure form was mailed to the Commission in March 2016. In further support of his claim, Appellant submitted a sworn statement by his office manager stating that the 2015 financial disclosure form was mailed to the Commission in March 2016.

11. On January 31, 2017, the Commission mailed a Notice of Assessment of Automatic Fine to the 8488 SW 94th Street address. This mailing indicated the total of Appellant's accrued automatic fine. The mailing also included a notice of his right to appeal the fine.

12. On March 13, 2017, a Commission attorney spoke with Appellant's office manager who stated that she personally placed Appellant's 2015 CE Form 1 in an office envelope and mailed it to the Commission.

Conclusions of Law

13. The Commission has jurisdiction over the subject matter of this proceeding pursuant to Section 112.3145, Florida Statutes.

14. Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government. In order to increase compliance, beginning in 2001 the Legislature provided for an automatic fine of \$25 per day, up to a cap of \$1,500, on persons who do not timely file their financial disclosure statements. Under the law, the Legislature permitted the Commission to waive a fine only "based upon unusual circumstances surrounding the failure to file on the designated due date"

15. Commission Rule 34-8.215, F.A.C., defines "unusual circumstances" as follows:

uncommon, rare or sudden events over which the reporting individual has no control and which directly result in the failure to act in accordance with the filing requirement. Circumstances which allow for time in which to take those steps necessary to assure compliance with the filing requirement shall be deemed not to constitute unusual circumstances.

16. Appellant's basis for the appeal of his fine is that he timely submitted his 2015 CE Form 1 when his office manager mailed it to the Commission in March 2016. Based on the

sworn representations in this appeal, the Appellant timely completed and mailed his 2015 CE Form 1 to the Commission, but its non-receipt was an "unusual circumstance" that justifies waiving the \$700 fine.

Order

Based on the foregoing facts and conclusions of law, the Commission hereby waives the assessed fine of \$700.

ORDERED by the State of Florida Commission on Ethics meeting in public session on Friday, April 21, 2017.

Date Rendered

Matthew F. Carlucci
Chair, Florida Commission on Ethics

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, AND SECTION 112.3241, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110 FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, AT EITHER 325 JOHN KNOX ROAD, BUILDING E, SUITE 200, TALLAHASSEE, FLORIDA 32303 OR P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709; AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF

APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

MFC:jmk

Copy furnished to:

Mr. Gilberto Neves
8488 SW 94th Street
Miami, FL 33156

FORM 1

STATEMENT OF FINANCIAL INTERESTS

2015

Please print or type your name, mailing address, agency name, and position below:

FOR OFFICE USE ONLY:

LAST NAME -- FIRST NAME -- MIDDLE NAME :

NEVES, GILBERTO

238146

MAILING ADDRESS :

8488 SW 94 STREET

FLORIDA COMMISSION ON ETHICS

OCT 03 2016

RECEIVED

CITY :

MIAMI

ZIP :

FL

COUNTY :

MIAMI DADE COUNTY

NAME OF AGENCY :

NAME OF OFFICE OR POSITION HELD OR SOUGHT :

PROCESSED

You are not limited to the space on the lines on this form. Attach additional sheets, if necessary.

CHECK ONLY IF CANDIDATE OR NEW EMPLOYEE OR APPOINTEE

**** **BOTH PARTS OF THIS SECTION MUST BE COMPLETED** ****

DISCLOSURE PERIOD:

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR THE PRECEDING TAX YEAR, WHETHER BASED ON A CALENDAR YEAR OR ON A FISCAL YEAR. PLEASE STATE BELOW WHETHER THIS STATEMENT IS FOR THE PRECEDING TAX YEAR ENDING EITHER (must check one):

DECEMBER 31, 2015 OR SPECIFY TAX YEAR IF OTHER THAN THE CALENDAR YEAR: _____

MANNER OF CALCULATING REPORTABLE INTERESTS:

FILERS HAVE THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING (must check one):

COMPARATIVE (PERCENTAGE) THRESHOLDS OR DOLLAR VALUE THRESHOLDS

PART A -- PRIMARY SOURCES OF INCOME [Major sources of income to the reporting person - See instructions]

(If you have nothing to report, write "none" or "n/a")

NAME OF SOURCE OF INCOME	SOURCE'S ADDRESS	DESCRIPTION OF THE SOURCE'S PRINCIPAL BUSINESS ACTIVITY
ODEBACHT CONSTRUCTION	201 ALHAMBRA CIRCLE S/1000	CONSTRUCTION MANAGEMENT

PART B -- SECONDARY SOURCES OF INCOME

[Major customers, clients, and other sources of income to businesses owned by the reporting person - See instructions]

(If you have nothing to report, write "none" or "n/a")

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART C -- REAL PROPERTY [Land, buildings owned by the reporting person - See instructions]

(If you have nothing to report, write "none" or "n/a")

8488 SW 94 STREET, MIAMI . FL 33156
 3470 E COAST AVE. UNIT H501, MIAMI. FL 33137

FILING INSTRUCTIONS for when and where to file this form are located at the bottom of page 2.

INSTRUCTIONS on who must file this form and how to fill it out begin on page 3.

PART D — INTANGIBLE PERSONAL PROPERTY [Stocks, bonds, certificates of deposit, etc. - See instructions]
 (If you have nothing to report, write "none" or "n/a")

TYPE OF INTANGIBLE	BUSINESS ENTITY TO WHICH THE PROPERTY RELATES
N/A	

PART E — LIABILITIES [Major debts - See instructions]
 (If you have nothing to report, write "none" or "n/a")

NAME OF CREDITOR	ADDRESS OF CREDITOR
N/A	

PART F — INTERESTS IN SPECIFIED BUSINESSES [Ownership or positions in certain types of businesses - See instructions]
 (If you have nothing to report, write "none" or "n/a")

	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2
NAME OF BUSINESS ENTITY		
ADDRESS OF BUSINESS ENTITY		
PRINCIPAL BUSINESS ACTIVITY		
POSITION HELD WITH ENTITY		
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS		
NATURE OF MY OWNERSHIP INTEREST		

PART G — TRAINING
 For **elected municipal officers** required to complete annual ethics training pursuant to section 112.3142, F.S.

I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.

IF ANY OF PARTS A THROUGH G ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

SIGNATURE OF FILER:

Signature: _____

Date Signed: _____

CPA or ATTORNEY SIGNATURE ONLY

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, _____, prepared the CE Form 1 in accordance with Section 112.3145, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

CPA/Attorney Signature: _____

Date Signed: _____

FILING INSTRUCTIONS:

<p>WHAT TO FILE:</p> <p>After completing all parts of this form, including signing and dating it, send back only the first sheet (pages 1 and 2) for filing.</p> <p>If you have nothing to report in a particular section, you must write "none" or "n/a" in that section(s).</p> <p>NOTE: MULTIPLE FILING UNNECESSARY: A candidate who previously filed Form 1 because of another public position must file a copy of his or her Form 1 when qualifying. A candidate who files a Form 1 with a qualifying officer is not required to file with the Commission or Supervisor of Elections.</p> <p><u>Facsimiles will not be accepted.</u></p>	<p>WHERE TO FILE:</p> <p>If you were mailed the form by the Commission on Ethics or a County Supervisor of Elections for your annual disclosure filing, return the form to that location.</p> <p>Local officers/employees file with the Supervisor of Elections of the county in which they permanently reside. (If you do not permanently reside in Florida, file with the Supervisor of the county where your agency has its headquarters.)</p> <p>State officers or specified state employees file with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303.</p> <p>Candidates file this form together with their qualifying papers.</p> <p>To determine what category your position falls under, see page 3 of instructions.</p>	<p>WHEN TO FILE:</p> <p>Initially, each local officer/employee, state officer, and specified state employee must file within 30 days of the date of his or her appointment or of the beginning of employment. Appointees who must be confirmed by the Senate must file prior to confirmation, even if that is less than 30 days from the date of their appointment.</p> <p>Candidates must file at the same time they file their qualifying papers.</p> <p>Thereafter, file by July 1 following each calendar year in which they hold their positions.</p> <p>Finally, file a final disclosure form (Form 1F) within 60 days of leaving office or employment. Filing a CE Form 1F (Final Statement of Financial Interests) does <u>not</u> relieve the filer of filing a CE Form 1 if the filer was in his or her position on December 31, 2015.</p>
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16-034



STATE OF FLORIDA
COMMISSION ON ETHICS

325 John Knox Road
Building E, Suite 200
Tallahassee, FL 32303
Telephone: (850) 488-7864
Fax: (850) 488-3077
Email: disclosure@leg.state.fl.us

FLORIDA
COMMISSION ON ETHICS

FEB 21 2017

RECEIVED

APPEAL OF AUTOMATIC FINE FOR FORM YEAR 2015

DIRECTIONS: The information you provide in this form is critical for processing your appeal in a timely manner.

In Part A, please provide current contact information. If your contact information changes while your appeal is being processed, please notify us.

In Part B, please check any boxes that specify the general reason(s) for your appeal.

In Part C, please explain in detail the reason(s) for your appeal. In addition to your written explanation in Part C, you may attach any documents that support your appeal.

IMPORTANT: TO PRESERVE YOUR RIGHT TO APPEAL, THIS FORM OR OTHER WRITTEN APPEAL (AND ANY ATTACHMENTS) MUST BE FILED WITH (RECEIVED BY) THE COMMISSION ON ETHICS WITHIN THIRTY (30) DAYS OF THE DATE THE NOTICE OF ASSESSMENT OF AUTOMATIC FINE WAS MAILED TO YOU.

PLEASE SEND YOUR COMPLETED FORM TO ONE OF THE FOLLOWING:

Mailing Address: Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709

Physical Address: Commission on Ethics
325 John Knox Road
Building E, Suite 200
Tallahassee, FL 32303

Fax: (850) 488-3077

Email: disclosure@leg.state.fl.us

PART A: YOUR INFORMATION

Name: GILBERTO NEVES

Address: 8488 SW 94 ST City: MIAMI State: FL Zip: 33156

Daytime Tel.: 305.469.7783 Cell: 305.469.7783

Email: gneves@nv2agroup.com Filer ID# (if known):

Public Employer:

Public Position:

CONTINUED ON REVERSE SIDE

PART B: GENERAL REASON(S) FOR YOUR APPEAL

Please choose any/all reasons that apply to your appeal.

I hereby appeal the Notice of Assessment of Automatic Fine on the following basis:

- a. **Sickness or injury** (Explain in Part C and attach a statement from attending physician, including dates and nature of illness or injury)
- b. **Lack of notification – Failure to receive notice** (Explain in Part C and provide documentation that supports your assertion that you never received certified mail delinquency notice: for example, incorrect address; misdelivered mail; change in employment; extended absence from home, etc.)
- c. **Claim of timely filing of financial disclosure** (Explain in Part C and provide copy of certified mail receipt and/or copy of completed form which had been previously filed, along with a sworn notarized statement that you filed prior to the deadline)
- d. **Left public position prior to December 31, 2015** (Explain in Part C and provide confirmation from agency that your office-holding/employment ended before 12/31/2015)
- e. **Other unusual circumstance** (Explain in Part C and provide documentation explaining uncommon, rare, or sudden occurrence that prevented timely filing prior to deadline)

PART C: DETAILED EXPLANATION OF YOUR APPEAL

Please provide a detailed explanation of your appeal, including why each option you selected in Part B is applicable to you. You may use the space provided and/or attach additional pages.

OPTIONAL REQUEST FOR HEARING

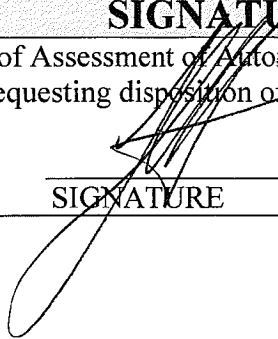
In addition to this written appeal, I specifically request to appear before the Commission in a hearing pursuant to Section 112.3144(5)(e)3 or Section 112.3145(7)(f)3, Florida Statutes. Commission meetings occur in Tallahassee.

SIGNATURE

I have received and read the Notice of Assessment of Automatic Fine and its instructions on How to Appeal and I understand my options. I am requesting disposition of this matter as indicated.

DATE

SIGNATURE



February 10, 2017

FLORIDA
COMMISSION ON ETHICS

FEB 21 2017


RECEIVED

Florida Commission on Ethics
325 John Knox Road
Building E
Suite 200
Tallahassee, Florida 32303

AFFIDAVIT

CLAIM OF TIMELY FILING OF FINANCIAL DISCLOSURE

I, Ilú Rivera, declare that the 2015 Financial Disclosure Form, for Mr. Gilberto Neves was submitted by mail to the Florida Commission on Ethics in March 2016.



Ilú Rivera


FOR AN OATH OR AFFIRMATION:

STATE OF FLORIDA
COUNTY OF Miami-Dade

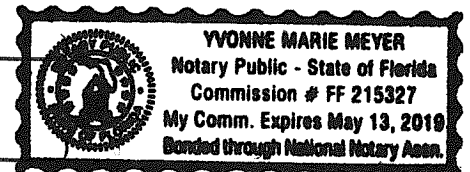
Sworn to (or affirmed) and subscribed before me this 10 day of February, 2017, by

Ms. Ilú Rivera.

(NOTARY SEAL)



Yvonne M. Meyer



Personally Known OR Produced Identification _____
Type of Identification Produced _____

February 10, 2017

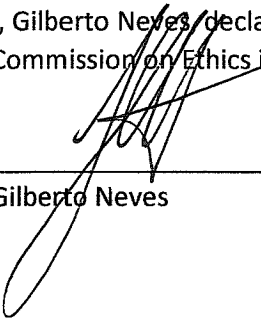
FLORIDA
COMMISSION ON ETHICS
FEB 21 2017
RECEIVED

Florida Commission on Ethics
325 John Knox Road
Building E
Suite 200
Tallahassee, Florida 32303

AFFIDAVIT

CLAIM OF TIMELY FILING OF FINANCIAL DISCLOSURE

I, Gilberto Neves, declare that the 2015 Financial Disclosure Form was submitted by mail to the Florida Commission on Ethics in March 2016.

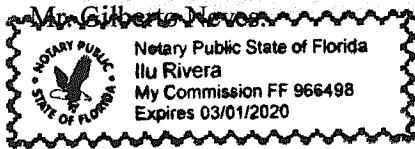


Gilberto Neves


FOR AN OATH OR AFFIRMATION:

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

Sworn to (or affirmed) and subscribed before me this 10 day of FEBRUARY, 2017, by



(NOTARY SEAL)



ILU RIVERA

Personally Known OR Produced Identification _____
Type of Identification Produced _____