

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re RICHARD FIMBEL)

) Financial Disclosure Appeal No. FD 15-105

)
Appellant.)

)
Final Order No.)

FINAL ORDER
RESCINDING FINE

This matter came before the Commission on Ethics on its own motion, meeting in public session on January 27, 2017, in the matter of Richard Fimbel and his failure to timely file a 2014 CE Form 1. Section 112.3145(7)(f), Florida Statutes, 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.

Findings of Fact

1. According to information provided to the Commission, Appellant served as a member of the Fort Myers, Firemen's Pension Fund Board, a position requiring the filing of a CE Form 1, Statement of Financial Interests, for the year 2014. In 2015, the designated due date for submitting a 2014 CE Form 1 annual filing was July 1, 2015, with a grace period ending on September 1, 2015.

2. No later than June 1, 2015, the Lee County Supervisor of Elections sent Appellant a 2014 CE Form 1. This mailing was sent to 3203 Antica Street, Fort Myers, FL 33905.

3. No later than July 31, 2015, the Lee County Supervisor of Elections sent Appellant a Notice of Delinquency by certified mail. This notice was also sent to 3203 Antica Street, Fort Myers, FL 33905. The notice was returned by the Post Office as unclaimed.

4. On August 21, 2015, the Commission mailed Appellant a postcard intended to remind her of her obligation to file a 2014 CE Form 1. The Commission mailed the postcard to 3203 Antica Street, Fort Myers, FL 33905.

5. On September 4, 2015, three days after the grace period expired, the Commission mailed Appellant a courtesy notice informing her that an automatic fine had begun to accrue. The Commission mailed this notice to 3203 Antica Street, Fort Myers, FL 33905.

6. On February 10, 2016, the Commission mailed a Notice of Assessment of Automatic Fine to 3203 Antica Street, Fort Myers, FL 33905. This mailing indicated the total of Appellant's accrued automatic fine. The mailing also included a notice of his right to appeal the fine. The Post Office was unable to deliver the notice because there was no authorized recipient available.

7. The amount of fine automatically assessed against Appellant was \$1,500.

8. On March 29, 2016, the Commission sent Appellant a Final Notice of Assessment of Automatic Fine to 3203 Antica Street, Fort Myers, FL 33905. This mailing indicated the total of Appellant's accrued automatic fine.

9. Appellant failed to respond to notices from the Commission. Eventually, a Default Final Order was entered on September 14, 2016.

10. On September 15, 2016, the Commission notified Appellant of the entry of the Default Final Order and advised him that if the fine was not paid by October 17, 2016, the matter would be referred to the Department of Financial Services for collection. The letter and the Default Final Order were mailed to 3203 Antica Street, Fort Myers, FL 33905.

11. On September 20, 2016, the Commission obtained a new address for Appellant at 13232 Hastings Lane, Fort Myers, FL 33913-7814.

12. On September 23, 2016, the Commission notified Appellant of the entry of the Default Final Order and advised him that if the fine was not paid by October 24, 2016, the matter would be referred to the Department of Financial Services for collection. The letter and the Default Final Order were mailed to 13232 Hastings Lane, Fort Myers, FL 33913-7814.

13. On November 4, 2016, Appellant submitted his appeal to the Commission. In his appeal, Appellant claims he failed to timely file his disclosure form due to "unusual circumstances." Appellant states that he did not receive the notices from the Commission regarding his right to appeal the assessment of the fine, which were sent in February and March 2016. Appellant states that the mailings were sent to his former home and that he had moved to his current address in December 2014. In support of his appeal, he also states that ever since he began to serve on the Firemen's Pension Fund Board in 2007, he has timely filed every financial disclosure form that he received with the Lee County Supervisor of Elections. Commission records indicate that Appellant's prior financial disclosure forms were timely filed.

14. On November 29, 2016, Appellant filed his 2014 CE Form 1 with the Lee County Supervisor of Elections.

Conclusions of Law

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

16. 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"

17. 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.

18. Appellant was notified of his appellate rights on February 10, 2016, and informed his appeal needed to be received by the Commission on Ethics on or before March 11, 2016, in accordance with the 30-day appeal period allowed by Section 112.3145(7)(f)3., Florida Statutes. Appellant did not timely file an appeal and a default final order affirming his \$1,500 fine was entered on September 14, 2016. Appellant then filed his appeal on November 4, 2016, which was outside the 30-day appeal window. However, he claims he never received the notices concerning his appeal, which were sent in February and March 2016 to his former residence. His claim is supported by documentation from the Post Office showing that he had not received the notices. For this reason, his appeal is accepted as timely filed.

19. Appellant's basis for the appeal of his fine is that he did not receive notice of his obligation to file the 2014 CE Form 1 or any of the notices sent to him by the Commission since he had moved from his former residence and all of the notices were sent to that address. He further claims that it was not until he received the Default Final Order that was sent to his current residence that he became aware of the matter. It appears notices concerning Appellant's filing obligations were sent to his former residence and were not forwarded to him. Considering this, Appellant's rationale justifies waiving the \$1,500 fine.

20. Appellant's basis for the appeal of his fine, that he did not receive notification of his obligation to file the 2014 CE Form 1, constitutes an "unusual circumstance" that justifies waiving the \$1,500 fine.

Order

Based on the foregoing facts and conclusions of law, the Commission hereby rescinds the Default Final Order entered on September 14, 2016, and waives the assessed fine of \$1,500.

ORDERED by the State of Florida Commission on Ethics meeting in public session on Friday, January 27, 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. Richard Fimbel
13232 Hastings Lane
Fort Myers, FL 33913-7814

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

FOR OFFICE USE ONLY:

LAST NAME – FIRST NAME – MIDDLE NAME :

Fimbel – Richard – Michael

MAILING ADDRESS :

13232 Hastings Lane

CITY :

Fort Myers

ZIP :

33913

COUNTY :

Lee

NAME OF AGENCY :

City of Ft. Myers Fire Department Pension Board

NAME OF OFFICE OR POSITION HELD OR SOUGHT :

Trustee

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

29-11 -16 PM02:05

****** 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, 2014 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:

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
DBi Services	5893 Enterprise Pky, Ft. Myers, FL 33905	Asset Maintenance - EM

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
N/A			

PART C – REAL PROPERTY [Land, buildings owned by the reporting person - See instructions]
(If you have nothing to report, write "none" or "n/a")

N/A

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")

NAME OF BUSINESS ENTITY	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2
	N/A	N/A
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		

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

SIGNATURE OF FILER:

Signature:



Date Signed:

11/28/16

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:

WHAT TO FILE:

After completing all parts of this form, **including signing and dating it**, send back only the first sheet (pages 1 and 2) for filing.

If you have nothing to report in a particular section, you must write "none" or "n/a" in that section(s).

NOTE:

MULTIPLE FILING UNNECESSARY:

A candidate who previously filed Form 1 because of another public position must at least file a copy of his or her original 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.

WHERE TO FILE:

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.

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.)

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.

Candidates file this form together with their qualifying papers.

To determine what category your position falls under, see the "Who Must File" Instructions on page 3.

Facsimiles will not be accepted.

WHEN TO FILE:

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.

Candidates for publicly-elected local office must file at the same time they file their qualifying papers.

Thereafter, local officers/employees, state officers, and specified state employees are required to file by July 1st following each calendar year in which they hold their positions.

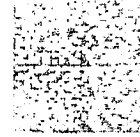
Finally, at the end of office or employment, each local officer/employee, state officer, and specified state employee is required to file a final disclosure form (Form 1F) within 60 days of leaving office or employment. However, filing a CE Form 1F (Final Statement of Financial Interests) does not relieve the filer of filing a CE Form 1 if he or she was in their position on December 31, 2014.

CERTIFIED MAIL

SHARON L. HARRINGTON
Supervisor of Elections
Lee County PO Box 2545
Fort Myers FL 33902-2545



7012 1640 0000 5403 1473



4
7/17/15

7012 1640 0000 5403 1473

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com
OFFICIAL USE

Postage	\$	
Certified Fee		700.00
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total F	222094	
Sent To	Richard Fimbel	
Street, A or PO Box	3203 Antica St	
City, Sta	Fort Myers FL 33905	

Postmark Here

222094
Richard Fimbel
3203 Antica St
Fort Myers FL 33905

NIXIE 155 DE 1600 0808/21/15

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 35902254543 12674-06036-14-41

339019897814 HC

**BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS**

In re **Richard Fimbel**
Civilian Member
Firemen's Pension Fund Board
Fort Myers

PID#: 222094

NOTICE OF ASSESSMENT OF AUTOMATIC FINE

The Commission on Ethics hereby gives notice of an assessment of a fine against you pursuant to Section 112.3145(7)(f), Florida Statutes, due to your failure to timely file your 2014 CE Form 1, Statement of Financial Interests. Under the law, your 2014 CE Form 1, Statement of Financial Interests, was due by July 1, 2015. The law provided for a penalty-free grace period extending the due date to September 1, 2015. After that date, you accrued fines of \$25.00 per day for each day your financial disclosure was late, up to the maximum fine of \$1,500.00 (60 days late), pursuant to Section 112.3145(7)(f), Florida Statutes.

Inasmuch as your 2014 CE Form 1 has not been filed with the Supervisor of Elections for Lee County within the 60 days of the grace period date (September 1, 2015), you have accrued the maximum fine amount of \$1,500.00. This fine must be paid to the Commission on Ethics within 30 days of the date of this notice unless you appeal the fine to the Commission. The Commission has the authority to consider the appeal and waive the fine in whole or in part if your failure to file on time was due to "unusual circumstances" surrounding the failure to file.

HOW TO APPEAL

1. Read these instructions carefully before submitting your appeal.
2. **LEGAL AUTHORITY:** Appeals are governed by Section 112.3145(7)(f)3., Florida Statutes, and Commission Rule 34-8.215, Florida Administrative Code.
3. **FORMAT:** Your appeal must be in writing and mailed to Florida Commission on Ethics, P. O. Drawer 15709, Tallahassee, FL 32317-5709, or delivered to Florida Commission on Ethics, 325 John Knox Road, Building E, Suite 200, Tallahassee, FL 32303. The appeal may take the form of a letter or you may use the appeal form included in this mailing. The appeal form also is available at the Commission's website: www.ethics.state.fl.us. Click on "Financial Disclosure" and then the link to the sample appeal form.
4. **DUE DATE:** Your appeal must be received by the Commission on Ethics on or before **March 11, 2016**. **NOTE:** Failure to timely file an appeal will constitute a waiver of your right to appeal and will result in the entry of a default order against you.
5. **UNUSUAL CIRCUMSTANCES:** An appeal must demonstrate that you submitted your CE Form 1 after the extended due date because of "unusual circumstances." "Unusual circumstances" is defined in Commission Rule 34-8.215(4), Florida Administrative Code, as "uncommon, rare, or sudden events over which the reporting individual had no control and which directly result in the failure to act in accordance with the filing requirements." Therefore, circumstances that allowed for time to take steps necessary to file on time do not constitute "unusual circumstances" that will allow the Commission to waive the fine. You have the burden to establish "unusual circumstances." Your appeal must specifically state the circumstances that led to your not filing by September 1, 2015, and must include any documentation or evidence supporting your appeal, such as:
 - a. **SICKNESS/INJURY:** a statement from attending physician, including dates and nature of the illness or injury;
 - b. **LACK OF NOTICE (WRONG ADDRESS):** documentation that you did not reside at the address to which notice was sent;
 - c. **LACK OF NOTICE (ABSENCE FROM HOME):** documentation establishing the period of time of your absence covering the notification period;

- d. **CLAIM OF TIMELY FILING OF FINANCIAL DISCLOSURE:** (1) an affidavit from you attesting under oath or affirmation that you filed your financial disclosure and your recollection of when and how you filed and (2) a copy of a certified mail receipt and/or a copy of the completed form which was filed. If you have witnesses to your filing, we also will need an affidavit from each witness. **NOTE:** A claim of having filed the CE Form 1F for the current year does not satisfy the CE Form 1 filing requirement or excuse a late filing;
- e. **LEFT PUBLIC POSITION BEFORE DECEMBER 31, 2014:** confirmation of your last date of office or employment by your former agency, showing the last date to be before December 31, 2014; or
- f. **UNCLAIMED CERTIFIED MAIL:** if delinquency notice was addressed correctly but not received, you must explain why.
6. **YOUR RIGHT TO A HEARING:** You have the right to have your appeal heard by the Commission and to appear before the Commission at the hearing, but, to exercise this right, you must specifically request a hearing in your appeal. If you do not request a hearing, you will waive your right to a hearing, the Commission will determine the outcome of your appeal based upon the written record (including the documentation you provide and any documentation in your case file), and you will receive no further notice until after the Commission decides your appeal.

FAILURE TO PAY FINE OR FILE APPEAL WITHIN 30 DAYS

If you do not timely file an appeal or pay the assessed fine within 30 days of this Notice, a default order will be entered against you and the Commission will take the steps provided by law to collect the fine, including:

- Referral to the CFO of the Department of Financial Services, if you are a salaried state officer or employee, for withholding of a portion of your salary until the fine is satisfied; or
- Referral to your agency's governing body for withholding of a portion of your salary until the fine is satisfied;
- Referral to a collection agency, which can seek garnishment of your wages; and/or
- An additional civil penalty, not limited by this automatic fine, may be imposed if your disclosure statement is filed more than 60 days late and a complaint is filed against you pursuant to Section 112.324, Florida Statutes.

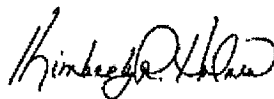
Please contact our office if you have any questions about this matter.

CERTIFICATE OF MAILING

I certify that a copy of the foregoing Notice of Assessment of Automatic Fine was furnished to:

Richard Fimbel
3203 Antica St
Fort Myers, FL 33905 -1503

by Certified Mail on this Wednesday, February 10, 2016.



KIMBERLY R. HOLMES
Program Administrator

Florida Commission on Ethics
P. O. Drawer 15709
Tallahassee, FL 32317-5709

-or-

Florida Commission on Ethics
325 John Knox Road, Building E, Ste. 200
Tallahassee, FL 32303

Tel.: (850) 488-7864
Fax: (850) 488-3077
Email: disclosure@leg.state.fl.us

Mail Piece Details

Print this page

Recipient Address

RICHARD FIMBEL
3203 ANTICA ST
FORT MYERS, FL 33905-1503

Record / Case Number:
222094

Return Address

STATE OF FLORIDA
COMMISSION ON ETHICS
PO DRAWER 15709
TALLAHASSEE, FL 32317-5709

Entry Point ZIP:
32317

Mail Piece Information

Tracking Number: 92148901066154000079664970

Date Created: 02/10/2016 11:14:30 AM

Mail Class: USPS First Class Mail

Special Services: Certified Mail
Return Receipt Electronic

Memo: --

Created By: Kimberly Holmes - Commission on Ethics

Tracking Information

Pre-Shipment Info Sent To Usps, February 10, 2016, 12:00:00 AM

Accepted At Usps Origin Sort Facility, February 12, 2016, 10:23:00 AM, TALLAHASSEE,FL 32317

Arrived At Usps Origin Facility, February 12, 2016, 11:38:00 AM, JACKSONVILLE,FL 32203

Departed Usps Facility, February 12, 2016, 08:46:00 PM, JACKSONVILLE,FL 32203

Departed Usps Origin Facility, February 13, 2016, 09:43:00 PM, JACKSONVILLE,FL 32203

Arrived At Unit, February 18, 2016, 08:38:00 AM, FORT MYERS,FL 33905

Sorting Complete, February 18, 2016, 10:22:00 AM, FORT MYERS,FL 33905

Out For Delivery, February 18, 2016, 10:32:00 AM, FORT MYERS,FL 33905

Notice Left (No Authorized Recipient Available), February 18, 2016, 11:12:00 AM, FORT MYERS,FL 33905

Matthew F. Carlucci
Chair
Michelle Anchors
Vice Chair
Daniel Brady, Ph.D.
Matthew J. Carson
Michael Cox
Tom Freeman
Guy W. Norris
Kimberly Bondar Rezanka
Stanley M. Weston



State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, Florida 32317-5709

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

"A Public Office is a Public Trust"

Virilindia Doss
Executive Director

C. Christopher Anderson, III
*General Counsel/
Deputy Executive Director*

(850) 488-7864 Phone
(850) 488-3077 (FAX)
www.ethics.state.fl.us

**NOTIFICATION OF ISSUANCE OF
DEFAULT FINAL ORDER**

TO: Richard Fimbel 222094
Civilian Member
Fort Myers
Firemen's Pension Fund Board
FROM: Kimberly R. Holmes, Program Administrator
DATE: September 15, 2016

A handwritten signature in black ink, appearing to read "Kimberly R. Holmes", is written over the printed name in the "FROM:" field.

Enclosed is an Order issued by the Commission on Ethics at its meeting on September 9, 2016.

If you do not pay the assessed fine by October 17, 2016 (30 days from the date of this letter) or contact our office to make arrangements to pay the fine in installments, the Commission will refer your fine to the Florida Department of Financial Services (DFS) and their contract collection agency—Transworld Systems Inc.—will undertake collecting the fine.

This referral will increase the amount you owe by adding a service fee of 13% of the fine to the balance due, and may affect your credit rating.

If you pay your fine now, you can do so online by credit card. See the enclosed flyer or call us for more information. **Once your fine has been submitted to Collections you will no longer be able to take advantage of our online payment system.**

Failure to pay, or make arrangements to pay, the fine by the above date will also result in a copy of the enclosed Order being provided to your agency head, appointing authority, and presiding officer, as well as to the Florida Bar, if you are an attorney.

If you have any questions, please do not hesitate to contact our office.

Enclosures

**BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS**

In re Richard Fimbel,

2014 CE Form 1

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DEFAULT FINAL ORDER

This matter comes before the Commission on Ethics for the failure of Richard Fimbel to pay the assessed fine. Pursuant to Section 112.3145(7)(f), Florida Statutes, the Florida Commission on Ethics is charged with assessing automatic fines of \$25 per day up to a maximum of \$1500 for persons who are required to file financial disclosure but who either file late, or not at all.

FINDINGS OF FACT

1. Richard Fimbel, Fort Myers, Firemen's Pension Fund Board, was on the list of persons required to file a Statement of Financial Interests for the year 2014.
2. Pursuant to Section 112.3145(7)(f), Florida Statutes, Richard Fimbel was mailed a copy of the 2014 CE Form 1 no later than June 1, 2015, and was mailed a delinquency notice by certified mail no later than July 31, 2015. Additional attempts to contact Richard Fimbel were also made by Commission staff.
3. However, Richard Fimbel did not file a 2014 CE Form 1 by the designated due date. Richard Fimbel was sent a notice of payment due advising of the statutory rights to appeal or dispute the automatic fine in a hearing before the Commission if such appeal was received within 30 days of the notice of payment due. No timely appeal was received from Richard Fimbel.

4. More than 60 days have elapsed since the notice of payment due was transmitted without Richard Fimbel paying the fine.

5. On its own motion, the Commission voted to affirm that a fine in the amount of \$1500 has accrued in this matter.

CONCLUSIONS OF LAW

6. The Commission has jurisdiction over the parties to and subject matter of this case, pursuant to Section 112.3145, Florida Statutes.

7. Richard Fimbel's failure to timely appeal the assessed fine constitutes a waiver of the entitlement to an appeal, pursuant to Rule 34-8.215(2), Florida Administrative Code.

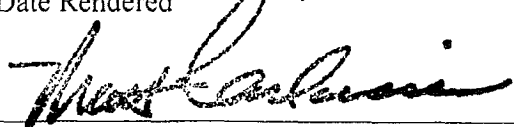
ORDER

8. Pursuant to Section 112.3145(7) and 112.31455, Florida Statutes, the Commission on Ethics shall attempt to determine whether Richard Fimbel is currently a public officer or public employee receiving salary or wages from a governmental entity. If so, the matter will be referred to either the Chief Financial Officer for the State of Florida or the governing body for Fort Myers, as appropriate, for withholding of salary until the debt is satisfied.

9. *If Richard Fimbel is no longer a public officer or employee, or if the Commission cannot determine filer's status, the matter will be referred to the Florida Department of Financial Services for collection or wage garnishment.*

WHEREFORE, the automatic fine that Richard Fimbel accrued in the amount of \$1500 is affirmed. The fine shall be paid to the Florida Commission on Ethics within 30 days of the date this Default Final Order is entered. After that date, nonpayment will result in collection as provided for in Section 112.3145(7) and 112.31455, Florida Statutes.

ORDERED by the State of Florida Commission on Ethics meeting in public session on
September 9, 2016.

Sept. 14, 2016
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 SECTIONS 112.3241 AND 120.68, 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, BY U.S. MAIL AT P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709 (OR BY DELIVERY TO 325 JOHN KNOX ROAD, BUILDING E, SUITE 200, TALLAHASSEE, FLORIDA 32303); AND BY FILING A COPY OF 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.

Copy Furnished to:

Richard Fimbel
3203 Antica St
Fort Myers FL 33905 -1503

MFC/kh

cc: Marie Adams

10/20/2016

Richard Fimbel
13232 Hastings Lane
Ft. Myers, FL 33913

FLORIDA
COMMISSION ON ETHICS

NOV 04 2016

RECEIVED

ORIGINAL

Kim Holmes
Program Administrator
P.O. Drawer 15709
Tallahassee, FL 32317-5709
Email: Holmes.kim@state.fl.us
Phone: (850) 488-7864

Ms. Holmes,

I am writing in reference to a letter I recently received about non-receipt of a financial disclosure form. I have been a volunteer on the City of Ft. Myers Fireman's Pension Board since 2007. Since that time, I have faithfully served on the firefighters pension board and over the years whenever I have received the annual non-disclosure form, I have completed it and returned it as required.

Recently I received a letter stating that my form had not been returned, which I found strange since I had sent one in earlier in this year. A few days later I received a call from Mr. Bo Jackson from the FL Commission on Ethics asking about the missing form and I explained that I had completed and returned everyone that I had received. Mr. Jackson asked a few additional questions and said he would look into it and get back to me. A couple of weeks later he called me back and asked what my current address is, which I provided. He asked if I had another address anytime in the previous couple of years, which I stated that we have lived at this address for just under two years and my previous address was 3203 Antica St, Ft. Myers, FL. He then mentioned that the form that was missing was the one that would have been sent in last year. I said that we had moved at the end of 2014 to our current address and I had submitted the proper documentation to have our mail forwarded to our new address as required. I stated that I was completely unaware of the fact that I was missing the form and as far as I knew I had submitted it. I mentioned that I had provided an updated address through the pension board's administrator and as far as I knew everything was good.

After discussing it further, he mentioned that the missing form was most likely sent to our old address and because of that I may not have received the form. Until very recently I had no idea there was an issue or that I was missing a form. I was completely shocked when I received your letter in reference to the fine and it stating that the commission was unable to get a hold of me. My physical address did change when we moved a couple miles from our previous home to our current one in Dec of 2014. I also mentioned that my phone number and my email address did not change and has remained the same for over ten years, and during that time I was still attending most of the pension board meetings and nothing was ever mentioned to me that my financial disclosure form was missing.

Since I started serving in 2007 through today, I have never knowingly failed to complete and send the form back in as required. I am a citizen of Lee County, who has lived here with my wife of 22 years and during that time we have been raising our three children and we have remained active in our local community throughout that time. In 2007, I was asked if I would be willing to serve on the City of Ft. Myers Fireman's pension board, which I said I would be honored to volunteer and give back time to our community Fire Department.

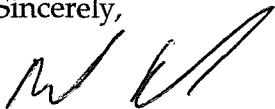
As previously mentioned, I have no problem filling out the required form and will be glad to complete it, as we are not hiding anything. I am requesting that the commission review my case, knowing that I have always submitted my form for the seven years prior and the year after without a problem, which should raise a question of what happened. Based on the timing, there is a chance I did not receive the disclosure form and I never knew there was an issue as I was never asked about the missing form or had received any type of notification or letters stating that the form was missing.

This year when I received the disclosure form, I filled it out and returned it, still not knowing the previous year's form was unaccounted for. During the previous year, I was never asked about the form, even during our scheduled pension board meeting, it was never brought up or mentioned. The history is clear, that I have willingly complied and submitted the requested form consistently from 2007 – 2013 and then again this year for 2015, with no issues and if I was asked for the form, I would have and still will be glad to sign one for 2014. Based on these facts, I request that the fine be removed and my record cleared of this incident.

I appreciate your time and willingness to review this issue. I apologize that I was not able to get back with you sooner; however, I was dispatched to Lake City working between there and Tallahassee directing some clean-up activities after Hurricane Hermine and then a week or so after returning home to Ft. Myers I was actively involved with State EM in FL and GA just prior to Hurricane Matthew and have been directing clean-up activities NE Florida and Georgia until I returned home last week at which time I was able to check into this issue.

If you have any questions or need any additional information, please feel free to contact me.

Sincerely,



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