

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re ROLANDO AVILA,)
)
)
)
)

Financial Disclosure Appeal No. FD 16-083

Final Order No.

FINAL ORDER

This matter came before the Commission on Ethics, on its own motion, meeting in public session on September 8, 2017, in the matter of Rolando Avila, 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 employed by Miami-Dade County in 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. No later than June 1, 2016, the Miami-Dade County Supervisor of Elections sent Appellant a 2015 CE Form 1. This mailing was sent to 3001 SW 122nd Court, Miami, FL 33175.
3. No later than July 31, 2016, the Miami-Dade County Supervisor of Elections sent Appellant a Notice of Delinquency by certified mail. This notice was also sent to the 3001 SW

122nd Court address. The notice was returned by the Post Office marked "Return to Sender - Unclaimed, Unable to Forward."

4. On August 17, 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 3001 SW 122nd Court address.

5. On September 2, 2016, Appellant submitted his 2015 CE Form 1 to the Miami-Dade County Supervisor of Elections. The disclosure form listed Appellant's address as 4374 SW 161 Place, Miami, FL 33185.

6. The amount of fine automatically assessed against Appellant was \$25.

7. On March 15, 2017, the Commission mailed a Notice of Assessment of Automatic Fine to the 3001 SW 122nd Court address by certified mail. This mailing indicated the total of Appellant's accrued automatic fine. The mailing also included a notice of his right to appeal the fine. According to the Post Office, as of July 18, 2017, the notice is "In-Transit."

8. On April 20 2017, Appellant submitted his appeal to the Commission. The appeal listed Appellant's address as the 4374 SW 161 Place address. In his appeal, Appellant claims that he failed to timely file his disclosure form due to lack of notice. Appellant states that the notices sent by the Miami-Dade County Supervisor of Elections and the Commission regarding his financial disclosure obligation were sent to the address where he resided before his "bitter divorce." As a result of his divorce, Appellant states that he moved out of the 3001 SW 122nd Court address in September 2014. Appellant claims that after he moved out, his wife failed to forward him any mail that he received at the address. Appellant further claims that it was not until his son found one of the notices sent by the Commission and gave it to him, that he realized he had been fined due to his untimely filing.

Conclusions of Law

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

10. 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"

11. 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.

12. Appellant was notified of his appellate rights on March 15, 2017, and informed his appeal needed to be received by the Commission on Ethics on or before April 14, 2017, 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. Appellant then filed his appeal on April 20, 2017, which was outside the 30-day appeal window. However, he claims he never received the notice concerning his appeal, which was sent on March 15, 2017. His claim is supported by documentation from the Post Office showing that he had not received the notice. For this reason, his appeal is accepted as timely filed.

13. Appellant's basis for the appeal of his fine is that he did not receive notice of his obligation to file the 2015 CE Form 1. He claims that he did not receive any of the notices because they were all mailed to his previous address and that his ex-wife did not forward any of the mail to him. In the circumstances presented here, it is not unreasonable to assume that Appellant did not actually receive the notices of his filing obligation. Appellant's basis for the appeal of his fine, that he did not receive notification of his obligation to file the 2015 CE Form, coupled with the lack of any evidence that he personally received notice of his filing obligation, constitutes an "unusual circumstance" that justifies waiving the \$25 fine.

Order

Based on the foregoing facts and conclusions of law, the Commission hereby waives the assessed fine of \$25.

ORDERED by the State of Florida Commission on Ethics meeting in public session on Friday, September 8, 2017.

Date Rendered

Michelle Anchors
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.

MA:jmk

Copy furnished to:

Mr. Rolando Avila
4374 SW 161 PL
Miami, FL 33185

229294 16-083



**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

APR 20 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: Rolando Avila
Address: 4374 SW 161 PL City: Miami State: FL Zip: 33185
Daytime Tel.: 305 995 3334 Cell: 305 218-6250
Email: ravila@dadeschools.net Filer ID# (if known): _____
Public Employer: Miami Dade Canty Public Schools
Public Position: Director Facilities & Computer Operations

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.

The address you have on file for me is incorrect. My ex-wife does not forward mail to me as a result a bitter divorce. I didn't receive this certified letter until 4/17/17 because my son found it in drawer. I'm in a bad financial state as a result of my divorce so I would love to have you forgive the \$25 fine.

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.

4/17/17
DATE


SIGNATURE

Financial Disclosure Management System
THE FLORIDA COMMISSION ON ETHICS

Filer - Fines and Appeals - PID 229294 - Rolando Avila

Filer Information

Org Membership

Forms

Communications

Fines and Appeals >

[View All](#)

Filer Flags

- [2000](#) [2001](#) [2002](#) [2003](#) [2004](#)
- [2005](#) [2006](#) [2007](#) [2008](#) [2009](#)
- [2010](#) [2011](#) [2012](#) [2013](#) [2014](#)
- [2015\(\\$\)](#) [2016](#)

[<<2016 Form Year](#)

Status

Filing: ACTIVE
Fine: No Fine

Flags

Public Address
Filing Extensions
Indefinite: None
Temporary:
None
Eligible for Fines

[Update Flags](#)

The filer has fines for: [2016 \(Appeal\)](#)


2016 Fines and Appeals


Form Year 2015 Filed Forms						
Received Date	Form Type	Form Signed	Filed by Email	Filing Location	Updated	Comments
09/02/16	Form 1	Yes	No	SOE	HOLMESK(SOE IMPORT) on 11/30/2016	Miami-Dade

2016 Fine Information				Update Fine Information			
				Assign Agency Contact			
Fine Balance	Fine Status	Fine Date	Original Assessment	Fine Amount	Last Payment Date	Payment Plan Start Date	Payment Plan Amount
\$25.00	Appeal	3/15/2017	\$25.00	\$25.00			
Fine Address 4374 SW 161 PL Miami FL 33185 Org/Suborg Miami-Dade County Public Schools-Employees							

2016 Fine Payment History						
Date Posted	Description	Amount	Method	Payment ID	Comments	
3/15/2017	Fine Levied	+ \$25.00			Fined \$25.00	
Current Balance: \$25.00						

 Add a New Filer

 Jump To A Filer
 PID:

 Quick Filer Search
 First Name:
 Last Name:

2016 Fine Year Event

Chronology

<input checked="" type="checkbox"/> Date	Type	Description	Reference
<input checked="" type="checkbox"/> 08/17/2016	Postcard Sent	Courtesy Postcard Reminder	Print Queue: 8/17/2016 Printing Confirmed: 8/17/2016

Letter Sent To:
 Rolando Avila
 3001 Sw 122nd Ct
 Miami, FL 33175 -2244

<input type="checkbox"/> 08/26/2016	Filer	Assistant says it is on his Communication: desk and he will deliver Phone today. He had moved and did not get notices.	Emily Prine
<input checked="" type="checkbox"/> 09/2/2016	Form Received	Form 1 Received, Signed	Form 1 Received by Miami-Dade SOE

Form Received By: Miami-Dade County SOE
Filing Location: Miami-Dade County SOE
Record Created By: HOLMESK(SOE IMPORT) on 11/30/2016

<input type="checkbox"/> 03/15/2017	Fine Levied	Fined \$25.00	Journal: 3/15/2017 12:00 PM
<input type="checkbox"/> 03/15/2017	Notice of Assessed Fine	Initial Fine Notice	Journal: 3/15/2017 1:02 PM
<input checked="" type="checkbox"/> 03/15/2017	Letter Sent	Notice of Assessed Fine - Filer 1st Fine Letter	Print Queue: 3/15/2017 Printing Confirmed: 3/15/2017

Letter Sent To:
 Rolando Avila
 3001 Sw 122nd Ct
 Miami, FL 33175 -2244

<input type="checkbox"/> 04/25/2017	Fine Appeal	FD 16-083	Journal: 4/25/2017 12:56 PM
-------------------------------------	-------------	-----------	--

04/25/2017 Alternate Fine
Mailing Address

Journal: [4/25/2017](#)
[2:02 PM](#)

 04/25/2017 Letter Sent Fine Appeal

Print Queue:
[4/25/2017](#)
Printing Confirmed:
[4/25/2017](#)

Letter Sent To:
Rolando Avila
3001 Sw 122nd Ct
Miami, FL 33175 -2244

2016 Fine Appeal – FD 16-083	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">Update Appeal</td> <td style="padding: 2px 10px;">Withdraw Appeal</td> </tr> <tr> <td style="padding: 2px 10px;">Assign Attorney</td> <td style="padding: 2px 10px;">Request More Info</td> </tr> <tr> <td colspan="2" style="padding: 2px 10px; text-align: center;">Record Appeal Outcome</td> </tr> </table>	Update Appeal	Withdraw Appeal	Assign Attorney	Request More Info	Record Appeal Outcome	
Update Appeal	Withdraw Appeal						
Assign Attorney	Request More Info						
Record Appeal Outcome							
Appeal Status: Active Appeal Receipt Date: 04/20/2017 Timely Filed: No Print Appeal Letter: Yes Hearing Requested: No Appeal Reason: Lack of Notification Appeal Notes: Appeal Number: FD 16-083 Appeal Analyst Assigned: Final Order Number: Final Order Date:	No Hearing Requested						

FD 3488

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:

Avila Rolando

MAILING ADDRESS:

4374 SW 166 PL

CITY: Miami

ZIP: 33185

COUNTY: Miami-Dade

NAME OF AGENCY:

NAME OF OFFICE OR POSITION HELD OR SOUGHT:

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

Processed Date: 9/2/16
Scanned Date: 9/2/16
Filing Status Code:

MIAMI-DADE ELECTIONS

2016 SEP -2 AM 10:38

RECEIVED

**** 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):

[x] 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 [x] 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
Miami Dade County Public Schools	13135 SW 26 ST MIAMI, FL 33185	Education

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.

FD 3688

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	
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: _____

8/18/16

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 file a copy of his or her Form 1 when qualifying as a candidate who files a Form 1 with a qualifying officer is not required to file with the Commission or Supervisor of Elections.

Facsimiles will not be accepted.

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 page 3 of instructions.

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 must file at the same time they file their qualifying papers.

Thereafter, file by July 1 following each calendar year in which they hold their positions.

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 **not** relieve the filer of filing a CE Form 1 if the filer was in his or her position on December 31, 2015.

RECEIVED
SEP-2 AM 10:38