

3. STATEMENT OF FACTS

This complaint concerns a city manager that violated Florida's Code of Ethics in three ways: 1) he obtained a substantial discount on catering for his daughter's wedding reception from a company that was a city vendor and partly owned by city lobbyists; 2) the city manager provided an unadvertised city job to an employee of the caterer who helped him obtain the large discount; and 3) the city manager accepted free football tickets in a skybox owned by one of the city lobbyists that owned the catering business.

A. Parties

Ricardo "Rick" Fernandez is the Tallahassee City Manager. Fernandez has a long history as a city employee subject to Florida's ethics laws. The Tallahassee City Commission appointed him city auditor in 1988. He was promoted to assistant city manager ten years later. In 2015, he was named city manager.

The Edison is an upscale restaurant and catering company housed in a building owned by the city and located within the city's Cascades Park. The Edison was developed with millions of dollars of subsidies from the city. The Edison has a lease agreement with the city that allows the city to regulate the The Edison in many respects. The Edison sells various food and entertainment related services to the city.

Several people have an ownership interest in The Edison, many of whom have close ties to the city. Adam Corey is one of the owners of The Edison. At all times relevant to this complaint, he was a registered city lobbyist. Sean Pittman is another owner of The Edison. At all times relevant to this complaint, he was a registered city lobbyist. In addition, it is possible that other city lobbyists or people with business ties to the city have an ownership interest in The Edison. However, The Edison has refused to reveal a complete list of its owners.

B. Facts

Delta “Delia” Fernandez (now Finnerty) is Fernandez’s daughter. She married Brian Finnerty in March 2016. As a dutiful father, Fernandez paid for the wedding. The Edison was the caterer for the wedding reception.

The Edison gave Fernandez a \$4,761.39 discount on his \$14,964 catering bill. One invoice referred to the discount as an “owner discount.” [Exhibit A] A separate invoice referred to it as a “wedding discount.” [Exhibit B] In either case, it was a discount not offered to the public and only provided to Fernandez because of his position as city manager.

Further, while there have been conflicting media reports about who negotiated the catering contract (Fernandez or his daughter), the employees of The Edison knew that Fernandez was ultimately responsible for the bill. Thus, they knew any discount The Edison provided would benefit the city manager’s pocketbook.

A few months after receiving the wedding reception discount, according to a media report, Fernandez provided The Edison employee Edward Kring with a temporary city job and then a promotion to fulltime employment. Kring was one of The Edison’s employees involved in providing Fernandez with the discount for the wedding reception. The position was not advertised to the public. [Exhibit C]

In addition, according to a recent media report, Fernandez received free tickets to attend Florida State University football games in city lobbyist Corey’s skybox during the 2016 season. The report further states that Kring delivered the tickets to Fernandez. Corey’s skybox has forty seats. The annual cost of Corey’s double-skybox is approximately \$80,000, placing the value of an individual ticket in the \$350-\$400 range. [Exhibit D]

C. Ethics Code Violations

Fernandez's actions violated Florida's Code of Ethics in several ways. First, as the city manager, section 112.3148(4) prohibited Fernandez from accepting a gift worth more than \$100 from a lobbyist or from a vendor doing business with the city. Fernandez violated this statute when he accepted a \$4,761.39 discount from The Edison on the catering bill he owed for his daughter's wedding reception. At the time, The Edison was a city vendor, and it was partly owned by city lobbyists Corey and Pittman. The discount was clearly marked on the invoice. Fernandez had the opportunity to refuse it if his daughter had negotiated the discount without his knowledge, or The Edison reduced the bill without his solicitation. He did not. Instead, he paid the discounted bill and pocketed the nearly \$5000.

Fernandez also violated 112.3148(4) when he accepted the FSU football tickets in Corey's skybox. Fernandez knew or should have known that the value of the ticket easily exceeded the \$100 limit.

Further, section 112.3148(3) prohibited Fernandez from soliciting any gift from a lobbyist who has lobbied him or the city within the past 12 months or from a vendor doing business with the city. By directly, or through an intermediary, requesting a discount on catering services and free football tickets from city vendors and lobbyists, Fernandez violated this statute.

Fernandez's actions also violated section 112.313(2), which prohibited him from soliciting or accepting anything of value that is based on an understanding that his official action or judgment would be influenced by such gift. Fernandez accepted the discounted catering services from The Edison. The Edison was a city vendor, and its owners had numerous business relationships with the city, including as lobbyists. When The Edison provided the discount, the restaurant's owners and Fernandez understood that the gift would influence Fernandez's official

actions and judgment as it relates to The Edison, Corey's lobbying clients, and Pittman's lobbying clients. A \$5000 gift can build significant goodwill.

Similarly, section 112.313(2) prohibited Fernandez from accepting the football tickets in Corey's skybox. There can be no doubt that Tallahassee is a football town, and a seat in a skybox for an FSU home game puts a person literally and figuratively high above the masses. So a lobbyist giving a local government employee access to a skybox at an FSU football game is a boldfaced attempt to buy influence.

Finally, section 112.313(6) prohibited Fernandez from corruptly using his official position to obtain a special benefit for others. In contravention of this statute, Fernandez used his position as city manager to reward Kring with a city job. This also benefited the owners of The Edison, as it gave them another connection on the inside of the city. Fernandez obtained this benefit corruptly. "Corruptly means done with a wrongful intent and for the purpose of obtaining . . . any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties." § 112.312(9), Fla. Stat. The act of rewarding someone with public employment for providing a discount on a personal expense carries with it a wrongful intent and is inconsistent with the proper performance of public duties.

D. Conclusion

For all of the reasons stated above, there is ample reason for the Commission to find this complaint legally sufficient and to begin investigating Tallahassee City Manager Rick Fernandez.