

TO: Michael S. Mullin, County Manager and County Attorney

FROM: Justin Stankiewicz, Former OMB Director

DATE: January 7, 2019

SUBJECT: Employee Grievance

This grievance is being made in accordance with Section 13.02 of the Nassau County Board of County Commissioners Employee Policies and Procedures Manual. Pursuant to this section, "the primary purpose of this is to determine what is right rather than who is right". Additionally, all 3 steps for the process (step 1 the immediate supervisor, step 2 the department head and step 3 the County Manager) are all the same person, therefore I am requesting to initiate this grievance at step 3. Step 3 states that "upon receipt by the County Manager, the employee will be given the opportunity to explain his position to the County Manager or his appointed designee. After considering all the information, the County Manager shall make a decision which shall be final and binding within twenty working days of the meeting." Since my grievance reports wrong doing by you as the County Manager, I respectfully request that a Commissioner or a neutral party hear my grievance and make the final and binding decision. Should the county deny this request, I will follow the policy as written.

As you know, you placed me on paid administrative leave in a meeting which included Ashley Metz and Susan Gilbert on December 11, 2018, stating both verbally and in writing that this was related to the "the investigation regarding the \$1,000 (EXHIBIT A)." You stated in the meeting with me that "paid administrative leave is a standard procedure when an employee is being investigated and that it would apply to you as well if you were being investigated". However, there is no policy relating to the treatment of employees while under an investigation and this statement is untrue since you have not been placed on leave (and in fact have been promoted) since you have been under investigation for an alleged ethics violation that was reported in the spring of 2018 and is still being investigated by the Florida Bar. You also stated in the meeting on the 11th that this situation could take "one week, two weeks....four weeks, you don't know" and that "upon completion you and I would sit back down to discuss my status with the County." This is even confirmed by Susan Gilbert's, your legal executive's, notes (EXHIBIT B), where she wrote once "investigation over will sit back down and go over conclusion." Yet, on December 28, 2018, only 10 working days after being put on paid admin leave, I was called in to meet with you, Ashley and Susan regarding my employment status. You and the Sheriff's office both confirmed that the investigation is still ongoing.

At the December 28, 2018, meeting you gave me two options: resign or get terminated. After I showed no desire to resign and asked for time to consult with a labor attorney, you became angry and provided a termination letter to me (EXHIBIT C) without stating a reason, providing any documentation as to why or any option for a corrective action plan. I specifically inquired as to the reason for my termination, asking if this is related to the \$1,000 investigation and you stated that it is not and that is a separate matter. I again asked for a reason and requested all documentation related to your decision. You stated that "after reflection and interviews of staff that you don't restore trust for the position," but would not give any names or specifics and stated that there were no documents or any investigation which supports your claim. I also followed up with a public records request to which Human Resources confirmed, that there are not "any records responsive to the request for complaints, write-ups, internal investigation documents or supporting documentation related to his [me] administrative leave and termination or any other

disciplinary actions (EXHIBIT D).” Therefore, I can’t find this claim accurate. When I asked what would be reported in my file and to future potential employers, you stated that it would be “termination without cause.” The same public records request to Human Resources requested a list of all employees separated from the county in the last 5 years and the reason for separation. Their report confirmed that not a single of the 202 other employees were “terminated without cause (EXHIBIT E).” Several however, have executed separation agreements with the county outlining terms and conditions for the employee and the employer to mutually agree to separate (records in Human Resources).

Based on this information, I find my termination to be in violation of Section 13.01 of the Employee Policy, which identifies discharge as a step 4 disciplinary action. The policy states, “disciplinary actions are a means of calling employees to accountability for some act of commission or omission regarded as adverse to the employer/employee relationship.” It also states that “it is the intent of Nassau County that the administration of discipline will be constructive, corrective and progressive.” I was disciplined with termination though there was no “act of commission or omission regarded as adverse to the employer/employee relationship”. Additionally, effective October 1, 2018, you, as Interim County Manager, issued my annual evaluation which resulted in an “exceptional” rating and a 3.5% pay increase with no comments provided in the sections regarding “areas of improvement” or “recommendations for development (EXHIBIT F).” This abrupt discipline of termination was not only for no cause but it was not “constructive, corrective and progressive” as outlined by policy. No other Nassau County employee has been disciplined (including current and former Department Heads) without first investigating the alleged wrong doing and determining what violations (if any) have occurred and their severity before determining the appropriate disciplinary action (records in Human Resources).

I believe that my termination and unequal treatment is a retaliatory action by you which began on November 6, 2018 and I’ll explain. On October 15, 2018, you were notified by the Clerk’s office of the missing \$1,000. You gave me a copy of the notification on Wednesday, October 31, 2018 which was the day I returned from a 2.5 week vacation. I was in Tallahassee on county business on Thursday, November 1, 2018 so we met again on Friday morning November 2, 2018 to discuss the missing funds and the remedy. I explained where the money was kept, who had access to the safe, the last time I saw the money, the process that occurs at the EOC during an emergency activation, etc. We agreed that I would write this in a response to the Clerk’s Office and that since I was the custodian of the funds, the corrective action would be for me to personally pay the \$1,000 missing to the County so no taxpayer dollars would be lost. There was no other discussion of any other remedy or disciplinary action and the issue was resolved. On the same day, Friday, November 2, 2018, you signed off on increasing my signing authority by an additional \$50,000 (from \$50,000 to \$100,000) (EXHIBIT G). I was included in typical county meetings in your office on Monday, November 5th and your behavior, attitude and actions remained unchanged with no other mention of the \$1,000. However, on November 6, 2018, Taco Pope, Susan Gilbert and I met at 2:00 pm with you for the intent to discuss the Enclave and Summer Beach trail walkover issue; however, the discussion was solely about the public records request that was submitted by Gunster Law Firm, Raydient/Rayonier’s legal firm, which in addition to other things, specifically asked for text messages relating to county business that had been sent on personal phones (EXHIBIT H). During this meeting is when I disclosed that I had messages related to this request on my personal phone and stated that you, Taco, at least 3 of the Commissioners and Shanea Jones would also have messages as many of them were group messages. You directed me to delete these messages, which is a direct violation of Chapter 119, Florida Statutes. Furthermore, you stated that you have already deleted your text messages which in

addition to a violation of law, is a violation of Section 2.01, Code of Conduct of the Employee Policy and Procedures Manual. After understanding the magnitude and unethical conduct of what you were directing, Susan Gilbert, asked to excuse herself from the meeting stating that she "did not want to be part of this meeting." With you and Taco still in the room, I asked multiple times for you to confirm that you were directing me to delete text messages that are public record to which you affirmed. Immediately following this meeting, I expressed verbally my concern of violating Chapter 119 of Florida law to Taco Pope, Megan Sawyer and Sabrina Robertson. Additionally, I later express this same concern to Tina Keiter and Chris Lacambra.

After this November 6, 2018 meeting, your behavior and attitude towards me changed. I was not included in any other meetings or conversations regarding the response to Gunster's public records request, you did not obtain the messages that I told you that I had in response to Gunster's request and I was not copied on the county's response to Gunster. I was told by staff that you reported to Gunster that no text messages exist and that Gunster asked you again for the messages. Additionally, I had no other meeting with you after November 6, 2018 or any other conversation regarding the missing \$1,000 until the Sheriff's Office contacted me for an interview and said that you had turned over the \$1,000 issue for Law Enforcement investigation on November 12, 2018.

I suspected and concluded that you were seeking retaliation against me, so I went to the Human Resource Director, Ashley Metz, in accordance in Section 1.05, Open Door Policy, of the Employee Policies and Procedures Manual for consultation and guidance. Once providing the facts stated in the above paragraphs, HR felt that there was merit to my claim, however stated that since you are my (as well as the HR Department's) supervisor, Department Head, the County Manager and County Attorney, I had no recourse until an adverse action was taken. Section 2.12 Chain of Command, of the Employee Policies and Procedures Manual prohibits "contact of a County Commissioner directly regarding a County employment matter, grievance or complaint" so I had exhausted all avenues at that point.

However, it didn't take much longer before the adverse action occurred, ultimately resulting in termination of my employment which is supposedly "without cause." To conclude, I feel that I was singled out in retaliation of expressing and refusing to delete public records at your direction. I have identified over 150 individual and group text messages between a combination of you, Commissioner Edwards, Commissioner Taylor, Commissioner Leeper, Shanea Jones, Kristi Dosh, Taco Pope and myself that should have been turned over in response to Raydient/Rayonier's public record request (EXHIBIT I).

As a remedy, I request that I be reinstated to my former position of OMB Director at the same salary and benefits/leave accruals at the time of termination, along with back pay and accruals that would have occurred from December 28, 2018 to the date of reinstatement. With the reinstatement, I also request a different Chain of Command which does not include you as my supervisor.

Should the above request be denied, I request a mutually agreed upon separation agreement which includes the maximum severance allowed by law, back pay and benefits/leave accruals from December 28, 2018 until the date of the separation agreement, payout of all leave as of the date of the separation, rescission of my termination and any other terms and conditions that are mutually beneficial to me and the county.

Justin Stankiewicz