

**Attachment to AMENDED Ethics Complaint**  
**against JOSEPH CIURRO (case #17-177)**

This is a complaint related to the ones filed against Juliana Bujalski (complaint #17-175) and against Vincent Gizzi (complaint #17-176). Because Complainant has been advised by staff that the Commission must only consider what is within "the four corners of the Complaint", this complaint will repeat word for word some of the statements in complaint #17-175 and #17-176.

Juliana Bujalski ("**the Mayor**") is the Mayor of Dunedin, FL. Together with her husband Tom Bujalski and two other people, the Respondent entered into a Revocable Use Agreement ("**the RUA**") with City of Dunedin ("**the City**") for a boat slip in the City-owned marina on March 12, 2012. As a "boater", she agreed to pay a monthly "user fee", both being the terms used in the RUA. The RUA is included as **appendix #1**.

Joseph Ciurro ("Respondent"), was the City's Finance Director at the time of the alleged events. As explained in this document, Complainant alleges that the Respondent violated:

1/ Florida Statute §112.311(5) - an obligation in substantial conflict with the proper discharge of his or her duties in the public interest.

2/ Florida Statute §112.313(6) "Misuse of Public Position"

This complaint centers around Respondent's role in deviating from the RUA for a boat slip used by the Mayor in the city-owned marina. The Mayor and her husband were parties to the RUA, along with two other people.

There was a previous ethics complaint against the Mayor (complaint #16-204) which I was not aware of when I filed the present Complaint. There are clear factual errors in the Report of Investigation for #16-204 ("the ROI") and in the Advocate's Recommendation ("the AR") from the same case, which necessitated this amended complaint against the Respondent.

In the Report of Investigation for #16-204 ("the ROI"), included as **appendix #2**, exhibit shows that within one month of entering into the agreement, the Mayor became delinquent on user fee payments. The Mayor largely remained delinquent until more than four years later, the day after the Tampa Bay Times newspaper "requested written marina records from the city" in early August 2016. The Times' newspaper article on this matter is included as **appendix #3**.

The Mayor's husband, Tom Bujalski, entered into an agreement of sorts with the city that carried the title "6-month Amortization" ("**the Amortization Agreement**") on 07/19/2016. This document is included as **appendix #4**. The AR, included as **appendix #5**, states on page 6 that Respondent "*developed a six-month payment plan*" to allow Mr. Bujalski to pay off the monies owed. In doing so, the AR takes Mr. Ciurro's claim in the ROI (item #23) as fact, namely that "the payment plan was not a loan from the city."

However, Respondent drew up an Amortization Agreement. The Merriam-Webster dictionary defines the word "amortize" in relevant part to mean *"to pay off (an obligation, such as a mortgage) gradually usually by periodic payments of principal and interest."* [emphasis]. Interest is involved in any amortization, even if it is zero interest, a fact that the ROI did not report on, nor did the AR consider.

An "amortization" is thus an obligation, and the Respondent was charged zero interest. Florida Statute §112.311(5) does not allow the Mayor to *"incur any obligation of any nature in substantial conflict with the proper discharge of his or her duties in the public interest"*. In Complainant's opinion, allowing such a loan as the Amortization Agreement to the Mayor impedes the "proper discharge" of Respondent's duties.

Respondent stated to the Tampa Bay Times (**appendix #3**) that in arranging a special privilege and exemption for others, *"he did only what he was directed to do by the parks and recreation department"* (Vincent Gizzi is the director of the parks and recreation department).

Respondent further said in ROI (23) that *"based upon his discussion with Mr. Gizzi, he developed a six month payment plan similar to payment schedules he previously had developed for delinquent City utility account customers."*

**Appendix #6** is a sample blank payment schedule for the City's utility works. Note the utility customers are made to sign an agreement in which they affirmatively agree that if they do not pay as agreed upon, then *"no further extensions can be granted and service will be discontinued without notice."*

In contrast, the language in the Amortization Agreement said that *"I acknowledge [sic] that my account has the above mentioned past due balance and I agree I will make the payments as noted above. Also, I will make sure that the payments are received by the City on-time (within the due date and 15th of each month)"*

Note the difference between the two agreements:

1/ Mr. Bujalski was not made to affirmatively acknowledge that "no further extensions can be granted and service [or use] will be discontinued without notice."

2/ In §3 of the RUA, it says that *"all fees are to be paid in advance on or before the first day of each month. If payment is not received by the 15th day of the month, a delinquency charge of \$15.00 or 10% of the user fee (whichever is greater) will be assessed"*

Respondent thus granted Mr. Bujalski, a repeatedly late payer of the user fee, an additional 15 days each month to pay beyond the due date specified in the RUA. No such accommodation was made for utility customers. Treating city boat slip users more leniently than those buying water from the city certainly smacks of special privilege.

There is an allegation in ROI (28), and similar allegations throughout the ROI, that the Mayor *"did not attempt to use her influence as Mayor to obtain a more favorable outcome than she would otherwise have received."* Yet Respondent and Gizzi did provide that "more favorable outcome" when the Mayor asked that have it "arranged" (ROI 18).

Note that the Mayor did not ask if a payment plan existed, she asked if it could be "arranged." Respondent's corruption alarm should have gone off right away, but didn't. Instead, ROI (28) shows that Respondent joined Gizzi in suggesting to the city manager that the Mayor receive what Respondent knew or should have known was special treatment. This while all the while claiming that no special treatment was being given. The logic among the city staff involved seems to have been that since no "special treatment" had been asked for by the Mayor, then none had been given. Such reasoning is either corrupt or idiotic. Either way, Respondent through his actions misused his position in violation of §112

At the bottom of page 5 of the AR, Gizzi is quoted as saying that since no formal notice of delinquency had been sent to the renters, *"the City's ability to exercise more aggressive recovery measures such a requiring the removal of the Bujalski's vessel, or initiating seizure proceedings, seemed inappropriate."* In addition, Respondent said he was *"surprised that no formal notice of delinquency had been forwarded to the Respondent or Mr. Bujalski [the Mayor's husband]"*.

Gizzi's claim as to the City's ability to take action is directly contradicted by the RUA. In relevant part, the RUA §3 states the following:

*In the event a user fee is delinquent after 60 days from the 1st of the month (City Ordinance Section 86-77), the vessel may not occupy the slip, and it is subject to removal from the Marina or seizure for non-payment without further notice and immediate cancellation of the Revocable Use Agreement. All costs of towing and storage will be the sole responsibility of the Boater.* [emphasis]

Therefore, Gizzi's reason for not having the Mayor's boat removed ("notice had not been given") is complete nonsense since it was expressly stated in the RUA that no notice is required.

The investigator and the city attorney also failed to consider the following: the RUA had four boaters as parties to the RUA, including the Mayor. The other three parties did not sign the Amortization Agreement, which is a direct breach of §15 in the RUA. §15 requires that the RUA *"may not be modified except by a document in writing and executed with the same formality as this Agreement."*

Instead, the RUA was modified and not executed with the same formality as the RUA itself. Respondent had no authority to draw up such a special deal and such a special privilege for the Mayor, a deal which was available to no other person. In fact, Respondent's actions were a direct breach of the RUA §15.

There is a waiting list for slips in the marina, and the City's user fees are well below market rates. By not adhering to the City Ordinance, the RUA and Florida law, the Respondent deprived another boater of a spot in the marina, and deprived the City of a promptly paying user.

On page 6 of the AR, fourth line down, it says "*Respondent [the Mayor] told Gizzi that she was unaware of account's past due status and would discuss the matter with her husband so that she could advise Gizzi about a plan to address the delinquency (ROI 16,30)*" [emphasis] However, those ROI items do not say that the Respondent would advise Gizzi.

The quoted statement from the AR therefore calls into question the accuracy of the AR. Perhaps the investigator did tell the Advocate that the Mayor was going to advise Gizzi, or maybe the Mayor in fact had advised Respondent. If either is true, why was that damning fact left out of the ROI?

As alleged in the complaint against the Mayor, she actively sought to "*secure a special privilege, benefit, or exemption*" for herself, that exemption being an exemption from the very clear requirements in the RUA and in Dunedin City Code Ordinance section 86-77. That ordinance is referenced in the RUA itself. Respondent agreed to do as the Mayor requested.

ROI (20) states that Gizzi said that "*he is not aware of a payment plan having ever been requested prior to this matter.*" Gizzi's statement further supports my claim that a "*special privilege, benefit, or exemption*" [emphasis] was sought by the Respondent, and provided by Mr. Gizzi and Respondent. That is why this complaint has been filed (#17-177) as well as against Gizzi (#17-176) and the mayor ((#17-175). Keep in mind that this special "payment plan" (the Amortization Agreement) had never before been furnished to any slip user.

According to ROI (12), Frantz did not look at a delinquency report for the marina from July 2015 until "*he received the March 2016 slip rental report.*" It was during this time period of illness and neglect (07/2015 to 03/2016) that the Mayor's delinquency with the city increased the most, from \$247.63 to \$2,576.88. The bare minimum that the Respondent, as the City's Financial Director, should have done is to ask questions like: how was that ballooning debt allowed to occur? What is contractually obligated? Should I ask the city attorney for advice? Apparently, he asked none of these questions, instead taking the easy and corrupt way out.

A person like Respondent who corrupts public administration is by definition themselves corrupt.

Respondent engaged in a charade that simply lacks credibility. The picture he and others have tried to paint is one of the Mayor being uninvolved for years with a delinquent account she had with her own city. The Mayor only and suddenly appeared on the scene to secure special privileges and exemptions, after over years of non-involvement. Yet they claim everything was done ethically and properly. That story is not believable. That story is a lie.

Respondent apparently lacked the spine to stand up to the Mayor, but this deficiency in his character does not exempt him from Florida ethics laws. The Nuremberg defense ("I was just following orders") does not relieve Respondent of his obligations under the Florida Ethics laws.

Standards for legal review:

For Florida Statute §112.311(5), it might be *Blackburn v. State, Commission on Ethics*, 589 So. 2d 431 (1991) 1st DCA. Complainant is not sure.

For a public official's actions to be a violation of Florida Statute §112.313(6), the person must *"corruptly use or attempt to use his or her official position...to secure a special privilege, benefit, or exemption"* for herself. The word "corruptly" is defined as follows in §112.312(9):

*"Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, 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.*  
[FS §112.312 (9)]

The *"omission of a public servant"* in this case is Respondent not enforcing the RUA, not enforcing the city ordinance, and in fact unlawfully allowing Mr. Bujalski to enter into the Amortization Agreement. In doing so, both Respondent and the Mayor took actions that were inconsistent with the proper performance of his or her public duties and thus they violated Florida Statute §112.313(6) "Misuse of Public Position."

*Siplin v. Commission on Ethics*, 59 So.3d 150 (2011), 5th DCA, is a relevant case that cites many previous relevant cases. It references *Latham v. Commission on Ethics*, 694 So.2d 83 (1997), 1st DCA, as saying that:

*The connotation generally given to the word "corrupt" suggests that one who is found guilty of being corrupt could well expect to be penalized. Moreover, the bearer of an officially-administered stamp of corruption, may find loss of livelihood among the least of his worries. The wake of such censure can easily sweep away business and political ambitions, station in the community, and the respect and love of family and friends.*

However, this analysis forgets the definition of the word "corrupt" given in the statute, as stated above. Any "penalties" beyond what the ethics code contemplates are consequential in nature and immaterial to §112. A person "found guilty of being corrupt" as a result of an FCE complaint will generally face no prison time and no reputational damage, unlike someone who is "found guilty of being corrupt" in a court of law.

Please pay close attention to the use of the words "and" and "or" in the above statutory definition of the word "corrupt." It's legally sufficient to show that the actions by Respondent were taken 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. The benefit does not have to be for himself, it can be for somebody else. Complainant believes he has made the requisite showing. The Advocate's Recommendation in this case may depend on a finding of "wrongful intent", a term not defined in the statute.

The Complainant is informed and believes, and upon such information and belief, alleges that the Mayor unlawfully and unethically pressures and intimidates city employees in to doing what she wishes them to do. In doing so, the Mayor has created a toxic work environment in Dunedin city government in which employees are afraid to offer their competent professional opinion on matters, and fearful of enforcing ordinances and contracts against certain people, including against the Mayor and her family. That may be a mitigating factor in determining culpability for the Respondent, but that is for the FCE to decide.

In investigating the present complaint, the investigator should ask the new city manager Jennifer Bramley about the work environment she found when she arrived. The investigator should also ask if there have been any complaints of intimidation or harassment against the Mayor (if any), whether those complaints were formal, informal or verbal.

Complainant wrote an e-mail to Respondent on 10/17/2017 and laid out the ethics case against him. Complainant stated the following in bold letters:

*However, should you have any facts that demonstrate that an ethics complaint against you is not warranted, then please provide them.*

Respondent did not respond to that e-mail.