



## INTER-OFFICE MEMORANDUM

Department of Public Protection  
Division of Fire Services  
125 West New York Ave. Room 220  
DeLand, FL 32720-5415  
386-736-5940 – FAX 386-822-5025

**TO:** Kenneth Giraldo, Firefighter/Paramedic  
Division of Fire Services

**FROM:** Joseph E. Pozzo, Director  
Division of Fire Services

**SUBJECT:** NOTICE TO DISMISS

**DATE:** September 9, 2010

**FILE NO:** FSD10-102

**REFERENCE:** NOID FSD10-098

You are herewith notified of Dismissal. This action will be effective on September 9, 2010. This action is taken for the following reason(s):

### Background & Investigation

On May 3, 2010, the Department of Public Protection Internal Affairs Unit initiated an investigation into the circumstances surrounding two (2) incident reports filed on April 16<sup>th</sup>, and 27<sup>th</sup>, 2010, with the Volusia County Sheriff's Office (VCSO) by Mrs. Jamie Giraldo. The incident reports stated that a schedule II controlled substance, along with other medical items was found at your residence, on both occasions. The reports further identify the following:

On April 16, 2010, one (1) pre-filled syringe labeled morphine sulfate (a controlled substance); one (1) vial labeled morphine sulfate (a controlled substance) along with other non-controlled substance medications were found at your residence, and then transferred to you by a VCSO Deputy. In a sworn statement (June 4, 2010) you stated that after collecting the medications from the VCSO Deputy on April 16, 2010, you, on the same day, went back to the station and wasted it like they always do, and that your partner Paul Barbour probably witnessed you dispose of the medication. Firefighter Barbour in a sworn statement (June 21, 2010) stated he did not witness FF/PM Giraldo in possession of any items after he had spoken with the deputy, and did not witness you discard of any items upon their return to the station. Volusia County Fire Services (VCFS) has no record of any controlled substance destruction conducted by you on April 16, 2010.

On April 27, 2010, one (1) 1 ML vial of 10 mg Morphine (a controlled substance) bearing lot #036104 along with other non-controlled substance medications, IV solutions, and various intravenous administration paraphernalia were found at your residence. The one (1) 1 ML vial of 10 mg Morphine bearing lot #036104 was taken into custody by VCSO. The one (1) 1 ML vial of 10 mg Morphine bearing lot #036104 tested positive on April 28, 2010. The test was conducted by a uniformed member of the VCSO staff utilizing a Nark #3 Heroine-Morphine Test. The Public Protection Internal Affairs Unit investigation has determined that on March 24, 2008, an EMS Controlled Substance Discard Form was signed by both you and retired Lieutenant Susan Whitlock indicating twenty-one (21) 10 mg/ml vials of Morphine, Lot # 036104 were destroyed. In a sworn statement (June 4, 2010) you acknowledged signing the EMS Controlled Substance Discard Form dated March 24, 2008 along with a witness, retired Lieutenant Susan Whitlock. You further stated and agreed your signature indicated the items listed were destroyed or discarded in accordance with set procedures.

On both April 16, 2010 and April 27, 2010 morphine (sulfate), a controlled substance was found at your residence

In a sworn statement (June 4, 2010) you stated you did not purchase the morphine found at your residence, and if it belonged to VCFS you never knowingly transported the morphine to your residence. You further stated in this same sworn statement you did not knowingly remove the vial of morphine, a controlled substance from the VCFS inventory to your residence.

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During the provision of a sworn statement on June 4, 2010, and during a second interview on July 6, 2010, with the Department of Public Protection Internal Affairs Unit, you did not provide any additional substantiated explanation for the morphine (sulfate), a controlled substance found at your residence on April 16, 2010, and April 27, 2010.

On April 28, 2010, Dr. Peter Springer, Volusia County EMS Medical Director notified you in writing that your privileges to function as an emergency medical technician or paramedic under his license were suspended immediately and would be indefinite in duration. This suspension includes and is not limited to involvement with VCFS and other pre-hospital care providers. Further, Dr. Springer explained this action is being taken out of an abundance of caution to protect patients, other health care professionals and his medical credential.

Additionally on June 11, 2010, the Department of Public Protection Internal Affairs Unit investigation has determined that you performed advanced pre-hospital care/treatment on your neighbor, Mr. Daniel Jones who was a walk-in patient to your assigned station (Station 15). Through VCFS records research, it was further determined that an accurate and complete run report cannot be located documenting this event. In a sworn statement (July 6, 2010), you stated you remembered Daniel Jones coming to Station 15 but was not sure of the date or treatment rendered. Further you stated you were unable to state with certainty that an EMS report was completed; you did not know who your partner was the day you treated Mr. Jones at station #15.

#### **Violations:**

**Based on the findings of the Internal Affairs Investigation IA 2010-03-279, the following allegations have been sustained:**

#### **1. Unauthorized possession of a controlled substance**

Such action is in violation of the following:

Fire Services Division Standard Operating Guidelines: II-102.005 Controlled Substance Accountability, Section IV, procedure A.2, B3:

*Section IV, A.2 ...The controlled substance is not, at any time, to be stored in any location other than the ALS permitted units; and*

*Section IV, B.3 Controlled substances not administered shall be properly disposed of/wasted and documented accordingly.*

**Volusia County Merit Rules and Regulation Sections 86-453 (13):**

*(13) Any conduct, on or off duty that reflects unfavorably on the county as an employer.*

Florida Statutes Chapter 893.06 (2)-Distribution of controlled substances; order forms; labeling and packaging requirements:

*(2) Possession or control of controlled substances obtained as authorized by this section shall be lawful; if in the regular course of business, occupation, profession, employment, or duty.*

## **2. Falsifying Documents**

Such action is in violation of the following:

Fire Services Division Standard Operating Guidelines: I-102.001 under General Rules Section 100.009; and Section 100.017:

*100.009 Members shall make no false official reports or knowingly enter, or cause to be entered in any department books, records or reports, any inaccurate, false or improper information, and*

*100.17 Members shall be responsible for the completeness, accuracy and dispatch of all reports with which they are concerned.*

## **3. Unauthorized removal of items from county property (misappropriation)**

Such action is in violation of the following:

Volusia County Merit Rules and Regulation **Sections 86-453 (1), and (3):**

- (1) Willful neglect in the performance of the duties of the position to which the employee is assigned; and*
- (3) Willful misuse, misappropriation, negligence or destruction of county property or conversion of county property to personal use or gain.*

## **4. Unprofessional Conduct**

Such action is in violation of the following:

Fire Services Division Standard Operating Guidelines: II-101.003 under EMS Report Documentation, Section II, Scope

*It is required that an EMS provider shall ensure an accurate and complete run report is prepared for each instance in which a patient was assessed.*

Volusia County Merit Rules and Regulation **Sections 86-453 (10):**

- (10) Incompetent or unsatisfactory performance of duties.*

## **Conclusion**

I met with you and your union representative, Lt. Heather Love on September 3, 2010. During this meeting, the events leading up to and those that occurred on April 16<sup>th</sup> and April 27<sup>th</sup> were discussed.

I have thoroughly reviewed all documented information concerning this incident, and have given consideration to the oral information you presented during our meeting of September 3, 2010. Accordingly, I have decided to proceed effective the date of this letter with your dismissal from Volusia County Fire Services.

Pursuant to Volusia County Merit System Rules and Regulations, Section 86-455, the Volusia County Legal Department and Personnel Director have reviewed and concur with this intended action.


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Initials


In accordance with the Agreement between the County of Volusia and the International Association of Firefighters (IAFF) Local No. 3574, and Section 86-485 (a) (3) of the Merit System Rules and Regulations you have ten (10) working days from receipt of this notification (or effective date of the dismissal) to appeal this action through either the grievance and arbitration procedure as described in the Agreement between Volusia County and the IAFF, or the complaint and grievance process as described in the Volusia County Merit System Rules and Regulations.

Should you decide to exercise your right to appeal through the Volusia County Merit System Rules and Regulations, submit your written request to the County Personnel Office, 230 N. Woodland Blvd, Suite 262, DeLand, FL 32720. Please see Section 86-485 of the Volusia County Merit System Rules and Regulations that outlines the appeal procedures.

In either case, if you do not file your appeal by the time indicated, it will be assumed that you have waived this right.

  
Initials

Please contact Maureen (Mo) Gruber, Materials Coordinator at (386) 943-7862 and arrange a time to return all issued items that remain the property of Volusia County as soon as possible, and no later than September 17, 2010.

  
SIGNATURE OF EMPLOYEE

9/16/10 17:25  
DATE AND TIME RECEIVED

cc: ☐ Tom Motes, Personnel Director  
☐ Nancye Jones, Asst. County Attorney  
☐ Charles Hargrove, Asst. County Attorney

☐ Chandra Gordon, EEO Coordinator  
☐ Mike Coffin, Director, Public Protection  
☐ James R. Ryan, Deputy Director, Public Protection