

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

FORFEITURE RULES OF PROCEDURE

1. Forfeiture of Benefits – Standards.
 - a. Any member who is convicted of a specified offense committed prior to retirement, or whose employment is terminated by reason of his or her admitted commission, aid or abetment of a specified offense, shall forfeit all rights and benefits under the City of Hollywood Police Officers' Retirement System ("System"), except for the return of the member's contributions as of the date of termination. *Authority: Fla. Stat. § 112.3173.*
 - b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under the System. Upon conviction, a member or beneficiary may be required to forfeit the right to receive any or all benefits under the System. *Authority: Fla. Stat. § 175.195 and Fla. Stat. § 185.185.*

2. Preliminary Hearing.
 - a. The Board shall hold a preliminary hearing if the Board receives notice or otherwise has reason to believe that either a member's right or a beneficiary's right to receive benefits from the System are required to be forfeited.
 - b. The member or beneficiary shall be given at least fourteen (14) days written notice of the preliminary hearing. The notice shall state the time, place, and nature of the hearing. The notice shall also state the legal authority and jurisdiction of the Board.
 - c. The member or beneficiary may appear at the preliminary hearing. The member or beneficiary shall have the right to be represented by legal counsel. The member, the beneficiary, or the attorney for either the member or beneficiary shall be entitled to make a presentation to the Board. Any presentation shall be limited to comments or arguments as to the evidence contained in the file. The Board may, in its discretion and upon good cause shown, accept supplements to the file. The member or beneficiary shall, under oath, answer any questions presented by the Board or the Board Attorney. The member, the beneficiary, or the attorney for the member or beneficiary shall also have the right to ask questions.
 - d. At this stage, it is not intended that the Board consider any formal evidence. The Board shall only consider the documentary evidence contained in the file and any evidence received pursuant to sub-paragraph (c) above.

- e. At the conclusion of the hearing, the Board shall decide whether to hold a formal hearing in accordance with Chapter 120, Florida Statutes, to determine if benefits should be forfeited.
3. Formal Hearings – Applicability of Chapter 120, Florida Statutes. Formal Hearings shall comply with Chapter 120, Florida Statutes, and the uniform rules promulgated thereunder to the extent applicable. Legal questions concerning the applicability of either Chapter 120 or the uniform rules shall be decided by the Board Attorney.
4. Formal Hearing – Notice and Record.
- a. If the Board determines that it is appropriate to hold a formal hearing, the Board shall notify the member or beneficiary in writing. The member or beneficiary shall be given at least forty-five (45) days written notice of the formal hearing. The notice shall state the time, place and nature of the hearing. The notice shall also state the legal authority and jurisdiction of the Board, generally state the grounds for forfeiture, and set forth any pre-hearing requirements. The notice shall be mailed to the member or beneficiary at the address of record. If an attorney represents either the member or beneficiary, then the notice shall also be mailed to the attorney's address of record.
 - b. Simultaneously with the Notice of Formal Hearing, the Board shall provide the member or beneficiary with a complete copy of the Board's record as of the date of the notice.
5. Formal Hearing – Prehearing requirements.
- a. Within thirty (30) days after notice of the Formal Hearing, the member, the beneficiary, or the attorney for the member or beneficiary shall provide the Board's Attorney and the Board's Special Counsel, if appointed, with the following items in writing:
 - i. A statement setting forth all relevant documentary evidence of which the member or beneficiary has knowledge including, the name and address of the custodian of the evidence;
 - ii. The name, address, and telephone number of each witness who may testify on behalf of the member or beneficiary;
 - iii. A summary of the testimony to be provided by each witness; and
 - iv. Copies of all relevant documentary evidence in the member's or the beneficiary's possession.
 - b. Within thirty (30) days after Notice of the Formal Hearing, either the Board Attorney or the Board's Special Counsel, if appointed, shall provide

the member, the beneficiary, or the attorney for the member or beneficiary with the following items in writing:

- i. A statement setting forth all relevant documentary evidence of which the attorney has knowledge;
- ii. The name, address, and telephone number of each witness who may testify on behalf of the Board;
- iii. A summary of the testimony to be provided by each witness; and
- iv. Copies of all relevant documentary evidence in either the Board's or attorney's possession which has not otherwise been provided to the member, the beneficiary, or the attorney for the member or beneficiary.

6. Appointment of Special Counsel to Present Case for Forfeiture of Benefits. The Board may in its discretion, at any time during the process, appoint an attorney to act as Special Counsel to the Board to present the case for forfeiture of either the member's or beneficiary's benefits under the System.

7. Papers or Motions.

- a. All papers or motions submitted to the Board shall be signed either by the member, the beneficiary, the attorney for the member or beneficiary, or Special Counsel to the Board. The signature shall constitute a certificate that the person has read the motion or other paper and that, based upon reasonable inquiry, it is not interposed for any improper purposes such as to harass or cause unnecessary delay.
- b. All requests for relief shall be by motion and shall be in writing unless made on the record during the hearing.

8. Evidence:

- a. Testimony of Witnesses. All witness testimony, including that of the member or beneficiary shall be taken under oath or affirmation. Board Members, the Board Attorney, Special Counsel to the Board, the member or beneficiary, or the attorney for the member or beneficiary, shall be entitled to ask questions of any witness.
- b. Written Evidence. Any part of the evidence may be in written form and shall be made under oath. Documentary evidence may be received in the form of a copy or excerpt. Board Members, the Board Attorney, Special Counsel to the Board, the member or beneficiary, or the attorney for the member or beneficiary, shall be permitted to conduct cross-examination when written testimony is made part of the record.
- c. Subpoena. The Board shall have the power to issue subpoenas upon written request, or on its own. The party requesting the subpoena may seek enforcement of a subpoena under the authority of Chapter 120, Florida Statutes, by filing a petition for enforcement in circuit court. The party requesting the subpoena shall be responsible for complying with all

applicable State or Federal laws, rules or regulations relating to the issuance or service of witness subpoenas and the attendance of witnesses pursuant to any subpoena.

- d. Irrelevant, immaterial or unduly repetitious evidence. Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida.
9. Time. The time periods established by these Rules or by the Board may only be waived by the Board.
10. Continuance. The Board may grant a continuance of a hearing for good cause shown. A request for a continuance shall be by motion. Except in cases of emergency, requests for continuance must be made at least fourteen (14) days prior to the date noticed for the hearing.
11. Post-Hearing Submissions. The Board may, in its discretion, require the submission of proposed findings of fact, conclusions of law, or post-hearing memoranda.
12. Costs and Attorneys' Fees. The member or beneficiary shall be responsible for the payment of his or her attorneys' fees and costs including all costs related to discovery, and the compensation of any professional or lay witnesses retained or called by the member or beneficiary. If the Board elects to retain Special Counsel, the Board shall be responsible for the payment of Special Counsel's attorneys' fees and costs, all costs related to discovery conducted by Special Counsel, and the compensation of any professional or lay witnesses retained or called by either Special Counsel or the Board. The Board shall also be responsible for all costs related to discovery conducted by the Board Attorney and the compensation of any professional or lay witnesses retained or called by the Board Attorney.
13. Record. The Board will not provide a certified court reporter at either the Informal or Formal Hearing. If the member or beneficiary decides to appeal any decision made by the Board with respect to any matter considered by the Board at either the Informal or Formal Hearing, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
14. Decision. The Board shall issue a final order within a reasonable time. A copy of the Board's decision shall be mailed to the member or the beneficiary, to the attorney for the member or beneficiary, and to Special Counsel to the Board. The Board's decision shall contain a notice informing the member or beneficiary of any available judicial review and shall state the time limits which apply to such review.

15. Ex-parte Communication Prohibited. Ex-parte communications between or among the member, the beneficiary, the attorney for the member or beneficiary, or Special Counsel to the Board, and any member of the Board are strictly prohibited. Any Board Member who receives an ex-parte communication shall place in the record all oral or written ex-parte communications received and any responses made.

16. Judicial Review. Review of the Board's decision shall be in the manner prescribed by law. These Forfeiture Rules of Procedure should not be construed to authorize or consent to challenges or appeals not otherwise allowed by law.

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

FORFEITURE RULES OF PROCEDURE – FORMS

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**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

NOTICE OF PRELIMINARY HEARING

NOTICE IS HEREBY GIVEN that a Preliminary Hearing will be held before the Board of Trustees of the City of Hollywood Police Officers' Retirement System on:

_____, 200__ (date)

at _____ a.m./p.m.

**at 4205 Hollywood Boulevard, Suite 4
Hollywood, Florida 33021**

to consider whether the Board shall conduct a Formal Hearing regarding the forfeiture of the above-named person's retirement benefits pursuant to Sections 112.3173, 175.195, or 185.185, Florida Statutes, as may be applicable. The Preliminary Hearing shall comply with the Board's Forfeiture Rules of Procedure. The above-named person may personally appear at the Preliminary Hearing and has the right to be represented by legal counsel. The Trust Administrator is directed to mail a copy of this Notice and the Board's Rules of Forfeiture Procedure to the above-named person, attorneys of record, the Board Attorney and Special Counsel to the Board, if appointed, at least fourteen (14) days prior to the Preliminary Hearing.

DATED: _____

**BOARD OF TRUSTEES CITY OF
HOLLYWOOD POLICE OFFICERS'
RETIREMENT SYSTEM**

By: _____

Title: _____

In accordance with the Americans with Disabilities Act of 1990, any person in need of a special accommodation to participate in this proceeding should contact the Fire and Police Pension Office no later than seven (7) days prior to the proceeding for assistance (Telephone 954.967.4395). If hearing impaired, telephone the Florida Relay Service for assistance (Telephone 800.955.8771/TDD or 800.955.8770/Voice).

Any person who decides to appeal a decision made by the Board with respect to any matter considered at this hearing, will need a record of the proceedings. For such purpose he/she may need to insure that a verbatim record of the proceedings is made which records and includes the testimony and evidence upon which the appeal is to be made. Source: Section 286.0105, Florida Statutes.

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

NOTICE OF FORMAL HEARING

NOTICE IS HEREBY GIVEN that a Formal Hearing will be held before the Board of Trustees of the City of Hollywood Police Officers' Retirement System on:

_____, 200__ (date)

at _____ a.m./p.m.

**at 4205 Hollywood Boulevard, Suite 4
Hollywood, Florida 33021**

to consider whether to order the forfeiture of the above-named person's retirement benefits in accordance with Sections 112.3173, 175.195, or 185.185, Florida Statutes, as may be applicable. The Formal Hearing shall be conducted in accordance with the Board of Trustees' Forfeiture Rules of Procedure and Chapter 120, Florida Statutes. The Trust Administrator is directed to mail a copy of this Notice and the Board's Rules of Forfeiture Procedure to the above-named person, attorneys of record, the Board Attorney and Special Counsel to the Board, if appointed, at least forty-five (45) days prior to Formal Hearing.

In accordance with Rule 5 of the Board's Rules of Forfeiture Procedure, within thirty (30) days after notice of the Formal Hearing, the member, the beneficiary, or the attorney for the member or beneficiary shall provide the Board's Attorney and the Board's Special Counsel, if appointed, with the following items in writing:

- a. A statement setting forth all relevant documentary evidence of which the member or beneficiary has knowledge including, the name and address of the custodian of the evidence;
- b. The name, address, and telephone number of each witness who may testify on behalf of the member or beneficiary;
- c. A summary of the testimony to be provided by each witness; and

- d. Copies of all relevant documentary evidence in the member's or the beneficiary's possession.

Within thirty (30) days after Notice of the Formal Hearing, either the Board Attorney or the Board's Special Counsel, if appointed, shall provide the member, the beneficiary, or the attorney for the member or beneficiary with the following items in writing:

- a. A statement setting forth all relevant documentary evidence of which the attorney has knowledge;
- b. The name, address, and telephone number of each witness who may testify on behalf of the Board;
- c. A summary of the testimony to be provided by each witness; and
- d. Copies of all relevant documentary evidence in either the Board's or attorney's possession which has not otherwise been provided to the member, the beneficiary, or the attorney for the member or beneficiary.

DATED: _____

**BOARD OF TRUSTEES CITY OF
HOLLYWOOD POLICE OFFICERS'
RETIREMENT SYSTEM**

By: _____

Title: _____

In accordance with the Americans with Disabilities Act of 1990, any person in need of a special accommodation to participate in this proceeding should contact the Fire and Police Pension Office no later than seven (7) days prior to the proceeding for assistance (Telephone 954.967.4395). If hearing impaired, telephone the Florida Relay Service for assistance (Telephone 800.955.8771/TDD or 800.955.8770/Voice).

Any person who decides to appeal a decision made by the Board with respect to any matter considered at this hearing, will need a record of the proceedings. For such purpose he/she may need to insure that a verbatim record of the proceedings is made which records and includes the testimony and evidence upon which the appeal is to be made. Source: Section 286.0105, Florida Statutes.

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

ORDER APPOINTING SPECIAL COUNSEL TO THE BOARD

The Board of Trustees of the City of Hollywood Police Officers' Retirement System, pursuant to Rule 6 of its Forfeiture Rules of Procedure, appoints the following individual as Special Counsel to the Board in the above-referenced forfeiture matter.

NAME:
ADDRESS:
CITY, STATE, ZIPCODE:
TELEPHONE:

The Trust Administrator is directed to mail a copy of this Order to the above-named person, attorneys of record, and the Board Attorney.

**BOARD OF TRUSTEES CITY OF
HOLLYWOOD POLICE OFFICERS'
RETIREMENT TRUST**

DATED: _____

By: _____

Title: _____

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

NOTICE OF APPEARANCE

_____ files this of Notice of Appearance on behalf of (insert above-named person) _____. Copies of all future notices and papers should be mailed to the undersigned at the address listed below.

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Appearance was mailed to:

Board of Trustees, City of Hollywood
Police Officers' Retirement System
4205 Hollywood Boulevard, Suite 4
Hollywood, Florida 33021

Stephen H. Cypen, Esquire
Cypen & Cypen
Attorney for the Board
Post Office Box 402099
Miami Beach, Florida 33140-0099

_____, Esquire
Special Counsel to the Board

on this _ day of _____, 200__.

By: _____

Printed Name: _____

Address: _____

Telephone: _____

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

FINAL ORDER ON FORFEITURE OF RETIREMENT BENEFITS

THIS MATTER came before the Board of Trustees of the City of Hollywood Police Officers' Retirement System for a formal hearing on _____, 200__, pursuant to Sections 112.3173, 175.195 and 185.185, Florida Statutes, upon _____

_____.

Having considered the testimony and evidence presented, and being otherwise fully advised, the Board hereby finds that: _____

_____.

The Trust Administrator is directed to mail a copy of this Final Order to the above-named person and all attorneys of record.

PURSUANT TO SECTIONS 112.3173 AND 120.68, FLORIDA STATUTES, THIS FINAL ORDER MAY BE APPEALED TO THE DISTRICT COURT OF APPEAL WITHIN THIRTY (30) DAYS.

**BOARD OF TRUSTEES CITY OF
HOLLYWOOD POLICE OFFICERS'
RETIREMENT SYSTEM**

DATED: _____

By: _____

Title: _____

Any person who decides to appeal a decision made by the Board with respect to any matter considered at this hearing will need a record of the proceedings. For such purpose, he/she may need to insure that a verbatim record of the proceedings is made, which records and includes the testimony and evidence upon which the appeal is to be made. Source: Section 286.0105, Florida Statutes.

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

MOTION

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion was served via U.S. Mail to the Trust Administrator, the Board Attorney, Special Counsel to the Board, all other attorneys of record, and the above-named individual on this ____ day of _____ 200____.

By: _____

Printed Name: _____

Address: _____

Telephone: _____

In accordance with the Americans With Disabilities Act of 1990, any person in need of a special accommodation to participate in this proceeding should contact the Fire and Police Pension Office no later than seven (7) days prior to the proceeding for assistance (Telephone 954.967.4395). If hearing impaired, telephone the Florida Relay Service for assistance (Telephone 800.955.8771/TDD or 800.955.8770/Voice).

Any person who decides to appeal a decision made by the Board with respect to any matter considered at this hearing will need a record of the proceedings. For such purpose, he/she may need to insure that a verbatim record of the proceedings is made, which records and includes the testimony and evidence upon which the appeal is to be made. Source: Section 286.0105, Florida Statutes.

**CITY OF HOLLYWOOD
POLICE OFFICERS' RETIREMENT SYSTEM**

In re: The Forfeiture of the Retirement Benefits of

_____ / (name)

SUBPOENA

TO:

YOU ARE COMMANDED to appear before the Board of Trustees of the City of Hollywood Police Officers' Retirement System located at 4205 Hollywood Boulevard, Suite 4, Hollywood, Florida 33021 on _____ at _____ a.m./p.m. to testify in the above-styled cause.

IF YOU FAIL TO APPEAR, YOU MAY BE IN CONTEMPT OF COURT.

You are subpoenaed to appear by the undersigned and unless you are excused from this subpoena by the undersigned or the Court, you shall respond to this subpoena as directed.

DATED this _____ day of _____, 200__.

By: _____

Printed Name: _____

Address: _____

Telephone: _____

I HEREBY CERTIFY that a true and correct copy of the foregoing Subpoena was served via U.S. Mail to the Trust Administrator, the Board Attorney, Special Counsel to the Board, all other attorneys of record and the above-named individual on this _____ day of _____, 200_.
