



# Police Pension News

A Hollywood Police Officers' Retirement System Publication

**Issue 44**

**Date of Issue:**

**Fourth Quarter 2012**

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*The Board of Trustees wish you & your family a bright and happy holiday season.*

## PENSION FUND INVESTMENT SUMMARY

On September 30, 2012 our fund had a total market value of \$230,332,000. For the quarter the fund gained \$10,646,000.

As of September 30th, the total fund return was 4.83% (net) and its benchmark return was 3.73%. In the previous quarter the fund return was -2.07%.

For the quarter the stock return was 7.58% and the benchmark return was 6.05%. The bond return was 2.33% and the benchmark return was 1.55%.

For the quarter the average allocation of our fund was 51.5% invested in stocks, 45.7% in bonds and 2.8% in cash equivalents (i.e., short term liquid interest bearing investments similar to money market funds and Israeli bonds). Our ongoing target for investment in stocks remains at 50% of the total fund.

### Fiscal Year to Date

**(10/1/2011 – 9/30/2012)**

For the fiscal year to date the total fund return was 17.16% (net) and its benchmark return was 16.93%.

The fiscal year stock return was 30.41% and our bonds returned 6.79% .



For the fiscal year to date the Inverness large cap stock return was 34.89%, the Garcia Hamilton & Associates growth stock return was 26.55%, the Buckhead value stock return was 24.29%, the Eagle small cap stock return was 25.88% and the Rhumbline mid-cap stock index return was 28.44%. The S&P 500 index return for the same period was 30.20%.

For the last year the best performing sector among S&P 500 stocks was Consumer Discretionary which increased 34.38% and the worst sector was Utilities which increased 8.27%.

Among the major economic indicators, the Consumer Price Index (CPI-Urban) increased 2.0% before seasonal adjustment for the twelve months ended in September.

The Producer Price Index (PPI) for finished goods advanced 2.1% before seasonal adjustment for the twelve months ended in September.

The seasonally adjusted unemployment rate was 7.8% in September compared to 8.2% in June.

Real Gross Domestic Product (GDP) increased at an annual rate of 1.3% for the second quarter of 2012, compared with an increase of 2.0% in the first quarter.

## Total Fund Summary



Since September 30, 1992 the fund has an average rate of return of 7.40% (net) per year. For the last three years the total return was 8.99% . For the last year the total return was 17.16% and the benchmark return was 16.93%.

For the last three years the stock return was 12.15% and bond return was 6.66%. For the year the stock return was 30.41% and bond return was 6.79%.

**With a stellar 7.36% return, our Bond Portfolio was in the**

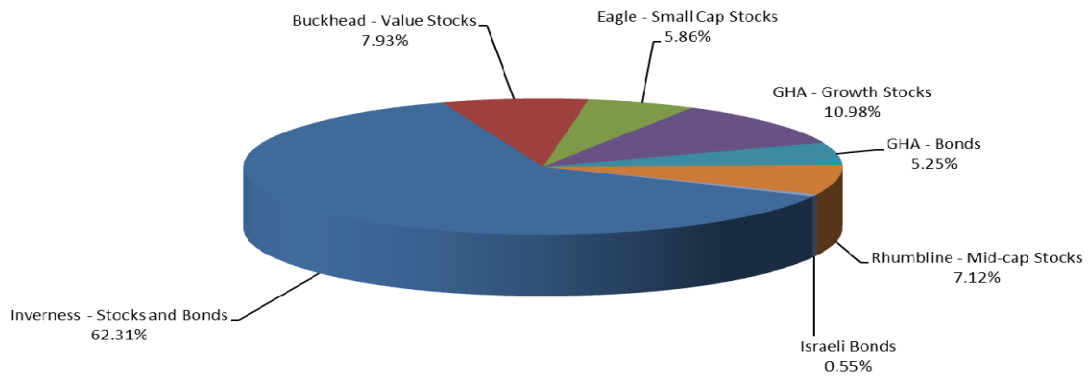
**TOP 13% of the investment universe for 5 year return!**

## Top Ten Stocks

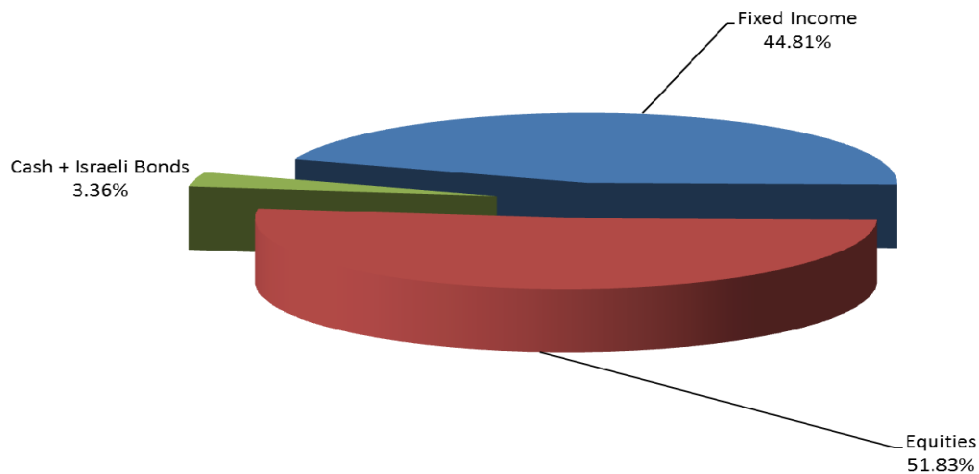
INVERNESS	GARCIA HAMILTON	EAGLE SMALL CAP	BUCKHEAD	RHUMBLINE
Gilead Sciences	Apple Inc.	IAC / InterActive	GE	Regeneron Pharma.
Roper Industries	IBM	Thermon Group	Exxon Mobil	Vertex Pharma.
Merck & Co.	Qualcomm	Macquarie	PepsiCo	Equinix inc.
GE	Microsoft	Cogent Comm.	Cisco	Ametek Inc.
Baxter Int'l.	Coca Cola	KKR Financial	Allstate	Hollyfrontier
Walt Disney	Google	ICU Medical	Conoco Phillips	Kansas City Southn
PepsiCo	Roper Industries	Men's Warehouse	AT&T	Macerich Co.
Marathon Petroleum	American Tower	Forest City	Comcast Corp.	Church & Dwight
Union Pacific	Walt Disney	Cardtronics	Microsoft	Petsmart
US Bancorp	Express Scripts	Cinemark Holdings	Pfizer	Alliance Data System

# Track The Fund!

**Division of Assets by Investment Manager (including cash)  
September 30, 2012**



**Your Plan's Asset Allocation  
September 30, 2012**

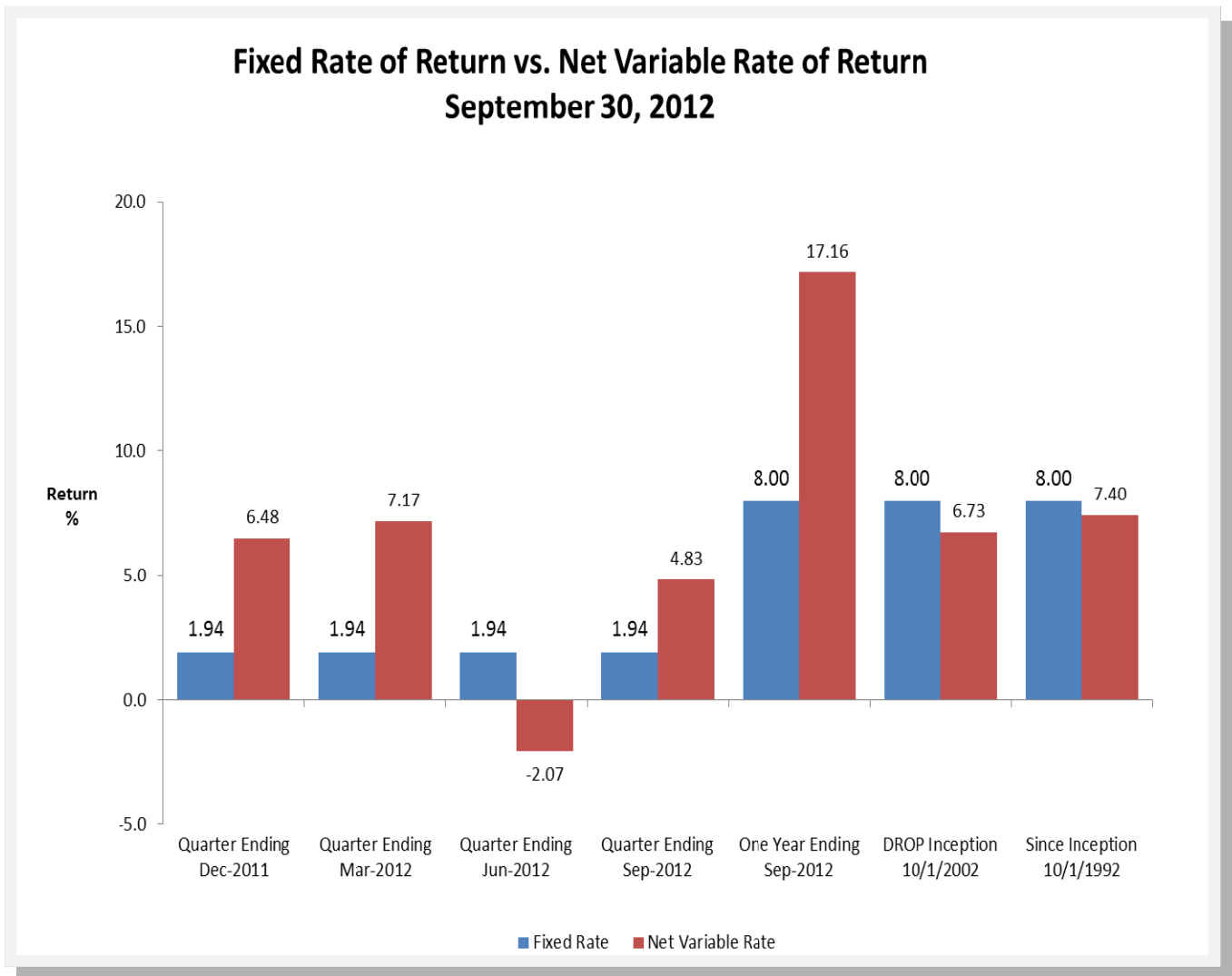


# What does it all mean?

Since the Plan was gutted, the importance of this chart may not interest you. But in reality it should. The fact remains that over the long term the DROP has little impact on pension costs. The updated chart below compares the rate of return of the plan (VRR), to the fixed rate of return (FRR).

Prior to the *claim* of Financial Urgency and the subsequent public referendum, DROP participants made a personal selection upon entering the DROP to receive the VRR or the FRR for his/her DROP assets. DROP participants were able to alternate the rate of return applied to their account month to month, or stay with one investment return.

This chart also demonstrates that since inception, the minimum impact that the FRR has had to the Fund. For the last year, the chart exhibits how the VRR has out-paced the FRR by 916 basis points. That means that if a DROP Member selected the FRR he/she received 8% interest on his/her account. It also means the city earned 9.16% on that DROP account. Since the earliest measurement the DROP cost was a mere 0.60%.



# Retiree Corner

## *Congratulations to our latest Retirees*

*Greggory Forsyth*

*Michael O' Hara*

*Arthur Monteverde*

The Law Firm of Klausner Kaufman Jensen & Levinson recently published a review of a report released by the LeRoy Collins Institute. As a result of the Collins Report, all the newspapers jumped on the pension bashing bandwagon.

This Board will not editorialize the Collins Report and simply will refer you to the link below to learn about its findings.

The Board would like to "Thank" the Law Firm of Klausner Kaufman Jensen & Levinson for this contribution.



To: All Florida Pension Plans

From: Klausner Kaufman Jensen & Levinson

Re: LeRoy Collins Institute September 2012 Report

Date: October 5, 2012

On September 25, the LeRoy Collins Institute released a new white paper entitled *Years in the Making: Florida's Municipal Pension Plans* (hereinafter the 2012 "Study"), a continuation of their earlier 2011 report regarding municipal pension plans in Florida. The purpose of this memo is to share our thoughts with clients about the important role of defined benefit ("DB") plans in the public sector. We will use the 2012 Study as a foil to discuss retirement security and the advantages provided by DB plans. We also encourage clients to discuss the "trends" described by the 2012 Study with their actuary, so as to compare whether and how the new Study's conclusions have any bearing on their plan.

This memo begins with an overview of the 2012 Study. The second half of the memo addresses the underappreciated lifetime security and retirement income provided by DB plans and what some have described as the failure of the 401(k) experiment. In summary, the underlying purpose of this memo is to provide a broader and longer term perspective than the Collins Study, that is less hostile to public employee benefits.

#### 2012 Collins Study

By way of background, the 2012 Study uses Annual Reports from the Department of Management Services ("DMS") from 2005 to 2011 to answer the following question posed by the Study's authors:

whether Florida's municipal pension plans are fundamentally healthy and just need time to weather the current financial storm or have structural problems that require significant repair.

The Study doesn't justify, explain or define what would constitute a structural problem. Nor does the Study hint at any constructive "structural repairs" to the self identified problematic trends. With that said, as set forth below, the Study's findings are generally unremarkable for trustees who are

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www.robertdklausner.com





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**PUBLIC NOTICE**

**THE CITY OF HOLLYWOOD POLICE OFFICERS' RETIREMENT  
SYSTEM BOARD OF TRUSTEES WILL BE MEETING**

<b>January 25, 2013</b>	<b>February 22, 2013</b>
<b>March 29, 2013</b>	<b>April 26, 2013</b>
<b>May 17, 2013</b>	<b>June 28, 2013</b>
<b>July 26, 2013</b>	<b>August 16, 2013</b>
<b>September 27, 2013</b>	<b>October 25, 2013</b>
<b>November 22, 2013</b>	<b>December 20, 2013</b>

**LOCATION: 4205 HOLLYWOOD BLVD., SUITE 4  
HOLLYWOOD, FLORIDA  
TIME: 10:30 A.M.**

***Dates and times are subject to change call to verify meeting***

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, THEY WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, THEY WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE WHICH THE APPEAL IS TO BE BASED.

THIS MEETING MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATION MEDIA TECHNOLOGY, THE TYPE BEING A SPEAKER TELEPHONE. THE ACCESS POINT WILL BE THE SECOND FLOOR POLICE PENSION CONFERENCE ROOM, WITHIN THE SUN CREDIT UNION BUILDING.

PERSONS WITH DISABILITIES WHO REQUIRE REASONABLE ACCOMMODATION TO PARTICIPATE IN CITY PROGRAMS AND/OR SERVICES MAY CALL THE OFFICE OF THE CITY MANAGER FIVE BUSINESS DAYS IN ADVANCE AT 954-921-3201 (VOICE). IF AN INDIVIDUAL IS HEARING OR SPEECH IMPAIRED, PLEASE CALL 800-955-8771 (V-TDD).

**e-mail: [info@hollywoodpolicepensionfund.com](mailto:info@hollywoodpolicepensionfund.com)**

## RECESSION PRESSURES ON PUBLIC PENSIONS

The National Institute on Retirement Security released a new research brief entitled , “The Great Recession: Pressures on Public Pensions, Employment Relations and Reforms,” finds that:

- ✦ Public employers would attract a different labor force if they switched retirement benefits away from pensions. Public employees would be less committed to employers and thus less likely to invest in nontransferable skills that are critical to delivery of taxpayer services.
- ✦ Employee turnover would increase under individual defined contribution accounts and cash balance plans. These types of retirement benefits no longer defer compensation into the future and thus offer fewer economic incentives for employees to stay with public employers.
- ✦ Moving from a pension structure would result in higher cost for public employers and employees because of higher investment and administrative costs for alternative retirement plans.
- ✦ Public employers and employees overwhelmingly choose to stay with pensions rather than moving to alternative benefits when faced with a choice, illustrating the high value of pensions to public sector employers and employees.

Defined benefit pension plans have a track record of simultaneously meeting goals of employers due to their recruitment and retention efforts and goals of employees due to economic security they offer. The Great Recession has presented some funding challenges to public pensions. And states and localities are willing to address these challenges so they can effectively compete for skilled employees in the future.

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<http://store.apple.com/us/go/eppstore/napo>



## RECENT ADDITIONS!



The Board of Trustees recently retained the investment services of Intercontinental Real Estate Corporation & American Realty Advisors. The firms will run a 15 million dollar initial investment in the Real Estate arena. The Board welcomes Intercontinental Real Estate Corporation & American Realty Advisors and wishes them many happy returns!

*Maui Jim*

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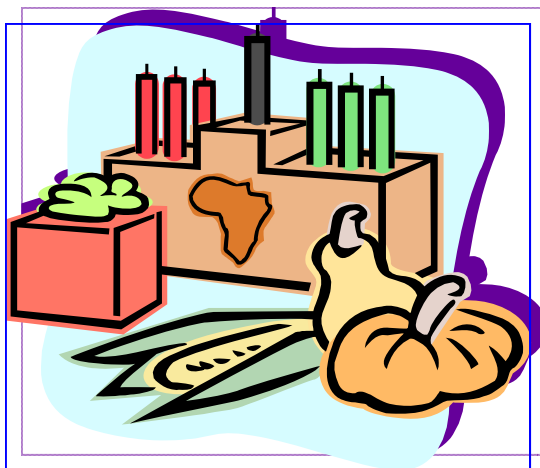




The Public Pension Coordinating Council is a coalition of three national associations that represent public retirement systems and administrators. Combined, these associations serve retirement systems that provide pension coverage for most of the nation's 16 million employees of state and local government.

The associations that form the PPCC are the National Association of State Retirement Administrators (NASRA); the National Council on Teacher Retirement (NCTR); and the National Conference on Public Employee Retirement Systems (NCPERS). Together, these associations represent more than 500 of the largest pension plans in the U.S.

The Public Pension Standards were established in 2002 to reflect minimum expectations for public retirement system management, administration, and funding. The Standards serve as a benchmark by which to measure public defined benefit plans. All public retirement systems and the state and local governments that sponsor them are encouraged to meet the standards.



Retirement systems may apply for one or both of two awards: the Recognition Award for Administration, and the Recognition Award for Funding. To receive the Recognition Award for Administration, the retirement system must certify that it meets the requirements in five areas of assessment highlighted.

The Fund has received this prestigious Award since 2007. Due to the public referendum, we no longer comply for Administration Award.

Join the Board Of Trustees  
in Welcoming our newest  
Commissioners



**Commissioner Peter D. Hernandez**  
District 2



**Commissioner Traci L. Callari**  
District 3



**Commissioner Kevin D. Biederman**  
District 5

**FLORIDA APPELLATE COURT EXTENDS PENSION  
FORFEITURE LAW**

Bollone sought review of a final order of the Department of Management Services forfeiting all of his retirement system rights and benefits, except for return of his accumulated contributions, as of date of termination, because Bollone was a public employee convicted of a specified offense committed prior to retirement pursuant to section 112.3173, Florida Statutes. A Florida District Court of Appeal has affirmed. Bollone was employed as an instructor with Tallahassee Community College, a Florida Retirement System-participating employer. Bollone was assigned a computer that belonged to TCC to assist him in the performance of his job duties, such as to create curriculum, and communicate with students and faculty. He did not share his faculty office with anyone, and he kept his faculty office locked when he was not there. Although computer technicians, custodial workers, TCC police, and the Mathematics and Science Division Office all had keys to Bollone's office, they were not authorized to use Bollone's computer. As part of an ongoing criminal investigation, Leon County Sheriffs' Office, discovered three images of child pornography on Bollone's computer's hard drive. The child pornography was associated with a program that was not part of the software installed by TCC, and could not be installed accidentally, but must be downloaded with the user's consent. Bollone did not contest his termination as an employee, but was subsequently charged with three counts of possession of child pornography, which are third-degree felonies, in violation of Section 827.071(5), Florida Statutes. Bollone pled no contest to the three counts. Bollone did, however, contest the Division of Retirement's decision to forfeit his rights and benefits under FRS, pursuant to section 112.3173, Florida Statutes. The Administrative Law Judge conducted a formal hearing, and recommended an order finding that Bollone not only possessed child pornography using the TCC computer that had been assigned to him; that his possession of child pornography was done willfully and with intent to defraud the public and TCC of the right to receive the faithful performance of his public duties as a professor at TCC; that Bollone was aware that use of his TCC computer to acquire or view child pornography was a violation of TCC policies; that the use of the TCC computer for possession of child pornography was contrary to the faithful performance of his duty as an employee, and was a breach of the public trust; that Bollone realized or obtained, or attempted to realize or obtain, a profit or gain, or advantage to himself through the use or attempted use of the power, rights, privileges, duties, or position of his TCC employment; that Bollone possessed child pornography for his personal gratification; and that he pled no contest to three counts of possession of child pornography, which are third-degree felonies. The ALJ recommended that the Department of Management Services issue a final order finding that Bollone was a public employee convicted of a specified offense committed prior to retirement pursuant to Section 112.3173, Florida Statutes, and directing forfeiture of his FRS rights and benefits, except for the return of his accumulated contributions as of the date of termination.

*Please continue to next page*

### FLORIDA APPELLATE COURT EXTENDS PENSION FORFEITURE LAW: Con't

Bollone filed no exceptions to the recommended order, and the Department entered a final order adopting the recommended order in its entirety. Section 112.3173(3), Florida Statutes, provides that any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions as of the date of termination. A plea of no contest satisfied requirement of conviction. The ALJ properly determined that the specified offenses proscribed in Sections 112.3173(2)(e)1-5. did not apply. However, Section 112.3173(2)(e)6, the "catch-all" provision, also defines a specified offense as the committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which the public officer or employee acts or by which he is employed of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position. Whether the crime for which former public officer was convicted qualifies as a specified offense depends on the way the crime was committed. Thus, any felony can qualify as a specified offense, so long as the remaining conditions in the statute have been met. For example, the crime of conspiracy to commit mail fraud might not meet the definition of a specified offense if the public officer were to use the mail unlawfully in a private venture without disclosing the office held and without obtaining a benefit by virtue of the office. In contrast, this crime could meet the definition if the public officer had used the mail to solicit a bribe in return for a favor performed at the expense of the public. The felony counts of possession of child pornography to which Bollone pled no contest do not in and of themselves necessarily constitute a specified offense. Rather, the statutory conditions of the "catch-all" category set forth above must be examined and applied to the conduct of the official or the employee in making this determination.

Thus, in order to constitute a specified offense under section 112.3173(2)(e)6, Florida Statutes, the criminal acts must be

- (a) a felony;
- (b) committed by a public officer;
- (c) done willfully and with intent to defraud the public or the employee's public employer of the right to receive the faithful performance of the employee's duty;
- (d) done to obtain a profit, gain or advantage for the employee or some other person; and
- (e) done through the use or attempted use of the power, rights, privileges, duties, or position of the officer or employee.

The first two elements of the "catch-all" provision, were not an issue, so the appellate court had to determine whether there was competent, substantial evidence in the record to support the ALJ's conclusion that the other three elements of the "catch-all" provision were satisfied. A piece of cake: the court concluded there was competent, substantial evidence in the record to support the ALJ's conclusions that Bollone committed the felony of possession of child pornography willfully and with intent to defraud the public of the right to receive the faithful performance of his duties as a professor at TCC; that his earlier downloading and accessing child pornography proved his possession was done knowingly; that his intentional possession of child pornography on his TCC computer was contrary to TCC's policies and contrary to the faithful performance of his duties; that the public and TCC had a right to expect Bollone would not use the computer entrusted to him for criminal activity; and that the public was defrauded when Bollone used that public property to further his private interest in the possession of child pornography, a crime under the laws of Florida, and a breach of the public trust. Bollone's two primary arguments were not availing. First, Section 112.3173(2)(e)6 does not provide that only economic gain can be considered personal gain. Second, Bollone's use of the public computer was a power, right and privilege of his position that he exercised to possess child pornography.

*Bollone v. Department of Management Services, Division of Retirement*, 37 Fla. L. Weekly D2697 (Fla. 1<sup>st</sup> DCA November 26, 2012).

A special "thanks" to Steve Cypen for this contribution.

*Don't Forget To Visit Us !!!*

[www.hollywoodpolicepensionfund.com](http://www.hollywoodpolicepensionfund.com)

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**Star & Shield's Season of Giving Campaign**

Through January 15, 2013, for each auto insurance quote from Start & Shield Exchange, \$10 will be donated to the Florida PBA's Heart Fund.

Quotes must be requested by eligible people - sworn or civilian public safety personnel (active and retired) as well as their parents, siblings and children - and the Season of Giving must be referenced. The Florida PBA must be chosen from the list of participating non-profits. Limit one donation per household.

**Call 866-942-9822 for a quote.**

***Disclaimer***

The information contained herein is provided for informational purposes only. The foregoing information/summary/prices/quotes/statistics have been obtained from sources we believe to be reliable, but cannot guarantee its accuracy or completeness. Neither the information nor any opinion expressed constitutes investment, tax and/or legal advice from the Board of Trustees and/or any and all entities thereof. Please consult your professional investment, tax and/or legal advisor for such guidance.

**In Closing....**



**Litigation Update**

The latest Rulings on the matter are posted on the announcement page of the pension web site, or scan the QR.

The Board of Trustees will be meeting December 21st to discuss the matter with their legal counsel. Please monitor that page for the latest updates.

***In case you did not view the on-line version of the last newsletter.***

**Retiree Monthly Payments**

The payments from the Plan are always distributed on the first business day of the month. During a re-

cent holiday weekend you may have noticed that was very evident.

The Plan Administrator held meetings with our custodian in an effort to prevent delayed payments going forward.

As a result, the Board is pleased to announce that our custodian will now be releasing the payments to your bank on the last business day of the month when the "first of the month" falls on a weekend or a holiday.

We hope this helps those who have auto payments set up. The Board would like to "thank" Fiduciary Trust for taking these additional measures to help our retirees.

**Supplemental Distribution**

Please do not call the office to see if there will be a 13th check. We assure you that proper notification will be provided in a uniform manner once all the information has been reviewed by the Board and approved.

Further, this is also a time NOT to gloat, lets all reflect & remember those affected that had their supplemental distri-

bution ripped from their hearts by the plan sponsor.

**Reporting a Death**



There was a case recently published where a retiree died and the family members did not advise the plan about the death. Payments continued for many months until they

learned of the death through other means. The funds were eventually recovered, but this should have never happened.

The Board does not want to take action (civil or otherwise) against a family member, but will do so to protect the Plan.

Please make certain that instructions are provided to contact the Office of Retirement when appropriate after your passing.