

 **COPY**

# Florida House of Representatives

Rules & Calendar Council

Larry Cretul  
Speaker

Bill Galvano  
Chair

December 28, 2009

Peter Behringer  
1141 Holly Lane  
Jacksonville, Florida 32207

RE: Complaint 09-05

Dear Mr. Behringer:

On Thursday, December 10, 2009, the Rules & Calendar Council received from the Speaker's Office a copy of your complaint against Representative Rivera. The complaint alleges that Representative Rivera violated House Rule 15.3(b) by accepting and soliciting campaign contributions during the most recent Special Session, and that he violated House Rules 15.1 and 15.2 by making false statements about the alleged wrongful solicitation.

House Rule 15.3(b) prohibits members from soliciting or accepting any campaign contribution during special session on the member's own behalf, on behalf of a political party, on behalf of any organization with respect to which the member's solicitation is regulated under s. 106.0701, Florida Statutes, or on behalf of a candidate for the House of Representatives. House Rules 15.1 and 15.2 require members to act with integrity and comply with the law.

While I find that the conduct alleged, if based on personal knowledge, would require further action, the complaint does not comply with House Rule 16.2(a)(1)c., which reads as follows:

- (1) A complaint shall be in writing and under oath, setting forth in simple, concise statements the following:

...

- c. The nature of the alleged violation, **based upon the personal knowledge of the complainant**, including, if possible, the specific section of the House Code of Conduct, Joint Rule One, or law, rule, regulation, or other standard of conduct alleged to have been violated (emphasis added).

The complaint is based entirely on an article on the PalmBeachPost.com web page and on a blog, the substance of which has been recanted by one source and denied by another. The article and blog entry do not establish that you have personal knowledge of facts sufficient to constitute a violation of Rule 15.3(b), as required by Rule 16.2(a)(1)c. Similarly, the same standard applies

Page 2

with regard to the allegation that Rep. Rivera made false statements about soliciting or accepting such contributions in violation of Rules 15.1 and 15.2. While I review each complaint in a light most favorable to the complainant, I am not required to infer any facts not evidenced by your complaint.

In sum, I do not find that personal knowledge has been sufficiently alleged as required by House Rule 16.2(a)(1)c. Therefore, pursuant to House Rule 16.2(b), I am returning your complaint and dismissing it as filed. You are entitled to resubmit a corrected complaint at any time within two years of the violation alleged pursuant to House Rule 16.2(I).

Respectfully,



Bill Galvano, Chair  
Rules & Calendar Council

Enc.

cc: Rep. Rivera  
Speaker Cretul



# Florida House of Representatives

Rules & Calendar Council

Larry Cretul  
Speaker

Bill Galvano  
Chair

December 15, 2009

Representative David Rivera  
Florida House of Representatives  
1460 Northwest 107<sup>th</sup> Avenue, Suite P – Second Floor  
Miami, Florida 33172-2733

RE: Complaint No. 09-05

Dear Representative Rivera,

Pursuant to the requirements of House Rule 16.2(b)(3), I hereby transmit the enclosed copy of the above-referenced complaint, received in the office of the Rules & Calendar Council on December 10, 2009. This notification is a routine requirement that should not be construed as approving, disapproving or passing any judgment on the complaint.

Within 20 days I am required to examine the complaint and fulfill certain additional responsibilities set out in House Rule 16.2(b)(4)a.-d.

House Rule 16.2(g) provides that the complaint and accompanying records, including copies of this letter, are not available for public inspection until the dismissal of the complaint, a determination as to probable cause or informal resolution, or the receipt of a written request from you to the Speaker that the records be made public.

If you have questions about the content of this letter or the procedures required by the House Rules, please contact me or Rules & Calendar Council Director, Stephanie Birtman, at 488-0350.

Respectfully,

A handwritten signature in black ink, appearing to read "Bill Galvano".

Bill Galvano, Chair  
Rules & Calendar Council

Enc.

RECEIVED  
10  
DEC 9 2009

December 8, 2009

Speaker Larry Cretul  
Florida House of Representatives  
402 South Monroe Street  
Tallahassee, FL 32399  
Sent via FedEx and Fax

Rules & Calendar Council  
Florida House of Representatives

**Re: Ethics Complaint against Representative David Rivera**

Dear Speaker Cretul

I am writing to report a violation of Florida House Rules 15.1, 15.2 and 15.3(b) by Representative David Rivera. Per House Rule 16.2(b) you are required to promptly forward this complaint to Representative Bill Galvano, Chair of the Rules & Calendar Council.

**A. Name and Legal Address of Complainant**

Peter Behringer  
1141 Holly Lane  
Jacksonville, Florida 32207

**B. Name and Address of Respondent**

Representative David Rivera  
Florida House of Representatives  
1460 NW 107<sup>th</sup> Avenue, Suite P-Second Floor  
Miami, Florida 33172

**C. Nature of Alleged Violation**

Representative Rivera is in violation of Florida House Rule 15.3(b) by accepting and soliciting campaign contributions during the Special Session beginning Thursday, December 3<sup>rd</sup>. Representative Rivera is in violation of Florida House Rules 15.1 & 15.2 for making false statements about soliciting these campaign contributions and therefore compromising the integrity of and his position within the Florida House.

**D. Facts and Legal Provisions Violated**

**Florida House Rules 15.1, 15.2 & 15.3(b)**

**15.1—Legislative Ethics and Official Conduct**

Legislative office is a trust to be performed with integrity in the public interest. A member is respectful of the confidence placed in the member by the other members and by the people. By personal example and by admonition to colleagues whose behavior may threaten the honor of the lawmaking body, the member shall watchfully guard the responsibility of office and the responsibilities and duties placed on the member by the House. To this end, each member shall be accountable to the House for violations of this rule or any provision of the House Code of Conduct contained in Rules 15.1-15.7.

**15.2—The Integrity of the House**

A member shall respect and comply with the law and shall perform at all times in a manner that promotes public confidence in the integrity and independence of the House and of the Legislature. Each member shall perform at all times in a manner that promotes a professional environment in the House, which shall be free from unlawful employment discrimination.

**15.3—Improper Influence; Solicitation of Campaign Contributions**

(b) A member may neither solicit nor accept any campaign contribution during the 60-day regular legislative session or any extended or

special session on the member's own behalf, on behalf of a political party, on behalf of any organization with respect to which the member's solicitation is regulated under s. 106.0701, Florida Statutes, or on behalf of a candidate for the House of Representatives; however, a member may contribute to the member's own campaign.

#### **Facts**

On Thursday, December 3<sup>rd</sup>, the Florida legislature convened for a special session. On Friday, December 4<sup>th</sup> Representative David Rivera held a fundraising event in Miami, Florida. Representative Rivera and the host of the event, Ana Margarita Martinez, solicited campaign funds by providing the attendees with pre-paid postage envelopes that suggested a contribution of up to \$500. The envelope was marked with the words "Sol y Mar" designating the location at which the event was held. According to Mrs. Martinez, this was done so that the campaign could designate the contributions to her specific fundraising event and give her the credit for helping to solicit them.

In a December 8, 2009 article by the *Palm Beach Post*, Representative Rivera denies the fundraising attempts and that the envelopes were distributed. Yet, in the same article the event host, Mrs. Martinez, states that in fact contributions were solicited via the marked envelopes. In a December 8, 2009 blog post on *Post on Politics* pictures of these marked envelopes were included with the previously written news story.

I became aware of the facts of these violations in the media accounts in "Section E: Supporting Media".

#### **E. Supporting Media:**

**Fund-raiser says her event sought money for Miami Rep. Rivera during Session**

***Palm Beach Post*: December 8, 2009**

<http://www.palmbeachpost.com/news/state/fund-raiser-says-her-event-sought-money-for-106217.html>

**Did House budget chief solicit campaign cash during special session?**

***Post on Politics Blog*: December 8, 2009**

<http://www.postonpolitics.com/2009/12/did-house-budget-chief-solicit-campaign-cash-during-special-session/>

#### **F. Conclusion**

During one of the most difficult economic times in our State's history, I have come to lose all respect for any elected official that would choose to spend their time furthering their political aspirations rather than doing the job they were elected to do in Tallahassee. Not only are Representative Rivera's actions a violation of House Rules, there are unbecoming and offensive of anyone chosen to represent their constituents. Dignity and ethics must be restored to our political process.

I respectfully request that you investigate this matter and take all appropriate action required for a violation of the above House rules. Thank you for your attention to this very important issue.

Sincerely,

  
\_\_\_\_\_  
Peter Behringer

Enclosure

cc: Representative Bill Galvano  
Chair, Rules & Calendar Council

Oath: I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint are true and correct to the best of my knowledge and belief.

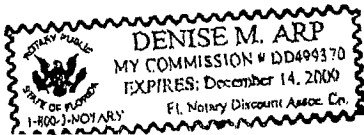
*Peter Behringer*  
Peter Behringer

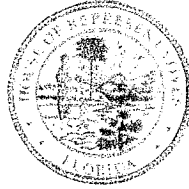
State of Florida  
County of Duval

Sworn to (or affirmed) and subscribed before me this 9th day of December 2009, by Peter Behringer.  
Personally known \_\_\_\_\_ or produced identification X.  
Type of identification produced: FLA DL

*Denise M. Arp*  
Notary Public - State of Florida

Denise M. Arp  
Print, Type, or Stamp Commissioned  
Name of Notary Public





Received  
RCC 12/10/09  
AQB

**The Florida House of Representatives**  
Office of the Speaker

**RECEIVED**  
DEC 10 2009  
AQB

Larry Cretul  
Speaker

Rules & Calendar Council  
Florida House of Representatives

December 10, 2009

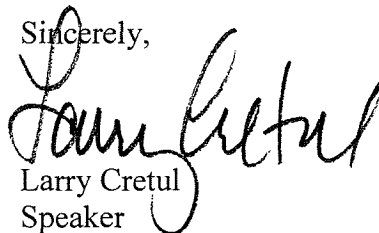
The Honorable Bill Galvano, Chair  
Rules & Calendar Council  
The Florida House of Representatives  
418 The Capitol  
402 South Monroe Street  
Tallahassee, Florida 32399-1300

RE: Ethics Complaint Against Representative David Rivera

Dear Chair Galvano:

In accordance with House Rule 16.2(b), we have received a complaint against Representative David Rivera and are forwarding to you for initial review pursuant to that rule.

Sincerely,

  
Larry Cretul  
Speaker

LC/gtl/li

Enclosure

RECEIVED

DEC 10 2009

December 8, 2009

Rules & Calendar Council  
Florida House of Representatives

Speaker Larry Cretul  
Florida House of Representatives  
402 South Monroe Street  
Tallahassee, FL 32399  
**Sent via FedEx and Fax**

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1141 Holly Lane  
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**B. Name and Address of Respondent**

Representative David Rivera  
Florida House of Representatives  
1460 NW 107<sup>th</sup> Avenue, Suite P-Second Floor  
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**C. Nature of Alleged Violation**

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Sincerely,



Peter Behringer

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Chair, Rules & Calendar Council

Oath: I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint are true and correct to the best of my knowledge and belief.

*Peter Behringer*

Peter Behringer

State of Florida  
County of Duval

*9th*

Sworn to (or affirmed) and subscribed before me this 9th day of December 2009, by Peter Behringer.

Personally known \_\_\_\_\_ or produced identification .

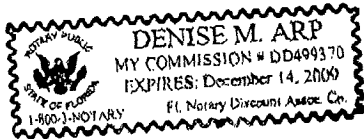
Type of identification produced: FLA DL

*Denise M. Arp*

Notary Public - State of Florida

*Denise M. Arp*

Print, Type, or Stamp Commissioned  
Name of Notary Public



December 8, 2009

Speaker Larry Cretul  
Florida House of Representatives  
402 South Monroe Street  
Tallahassee, FL 32399  
**Sent via FedEx and Fax**

09 DEC 10 PM 21

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Miami, Florida 33172

**C. Nature of Alleged Violation**

Representative Rivera is in violation of Florida House Rule 15.3(b) for contributions during the Special Session beginning Thursday, December 10, 2009. This is a violation of Florida House Rules 15.1 & 15.2 for making false state contributions and therefore compromising the integrity of and his

Original  
received in  
mail  
AP  
12/21

**D. Facts and Legal Provisions Violated**

**Florida House Rules 15.1, 15.2 & 15.3(b)**

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I respectfully request that you investigate this matter and take all appropriate action required for a violation of the above House rules. Thank you for your attention to this very important issue.

Sincerely,



Peter Behringer

Enclosure

**cc: Representative Bill Galvano  
Chair, Rules & Calendar Council**

Oath: I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint are true and correct to the best of my knowledge and belief.

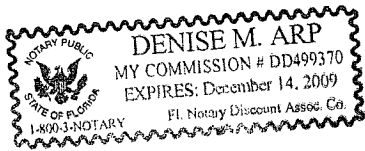
*Peter Behringer*  
Peter Behringer

State of Florida  
County of Duval

Sworn to (or affirmed) and subscribed before me this 9<sup>th</sup> day of December 2009, by Peter Behringer.  
Personally known \_\_\_\_\_ or produced identification .  
Type of identification produced: FLA DL

*Denise M. Arp*  
Notary Public - State of Florida

Denise M. Arp  
Print, Type, or Stamp Commissioned  
Name of Notary Public



# The Palm Beach Post

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## Fund-raiser says her event sought money for Miami Rep. Rivera during session

By **MICHAEL C. BENDER**

Palm Beach Post Staff Writer

Posted: 8:29 p.m. Monday, Dec. 7, 2009

Florida House budget Chairman David Rivera may have violated a fund-raising ban during a legislative session by passing out envelopes with suggestions for donations Friday at a campaign event.

"It's pushing it," House Rules Chairman Bill Galvano, R-Bradenton, said when asked whether candidates could ask that donations be mailed after the session. "There is a moratorium on fund-raising during session, and that includes solicitation."

Rivera said he broke no rules and denies there were fund-raising envelopes at the event. "I had a meet-and-greet, but not a fund-raiser," he said.

State House rules bar lawmakers from collecting or soliciting campaign money during a legislative session. Lawmakers have been in a special session devoted to railroad issues since Thursday. Penalties for violating the rule include fines, censure or expulsion.

Ana Margarita Martinez, who hosted the event for Rivera, said the campaign provided envelopes with pre-paid postage and written suggestions of donations of up to \$500. Martinez said her guests were encouraged to send in donations after the special session.

Across the top of the envelope, Martinez wrote "Sol y Mar," the name of the Miami restaurant where the event was held. "I want to make sure that his campaign knows it was derived from my event or that it was from one of my events," she said.

Martinez, who was awarded a \$27 million judgment against the Cuban government after being duped into marrying a Cuban spy, paid for a controversial flier three years ago on behalf of Frank Bolanos' state Senate campaign against Alex Villalobos. The flier commended Bolanos for trying to ban a children's book, *Vamos a Cuba*, from public schools in Miami-Dade County because it included not criticism of Fidel Castor or his Communist government.

Rivera also had fund-raiser scheduled Thursday in Jacksonville, but he changed it to a meet-and-greet after the call was issued for the special session, and that event's sponsor, Mel Gottlieb, said there were no envelopes.

Rivera has raised \$733,000 for his state Senate campaign, or more than double the \$322,000 collected by his primary rival, House Education Council Chairwoman Anitere Flores, R-Miami.

Flores said if Rivera was soliciting campaign donation, "it would be a big concern."

"I had an event that I had to cancel," she said. "If people aren't following the rules, then that's something of concern. The rules are pretty clear on that."

Find this article at:

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<http://www.palmbeachpost.com/news/state/fund-raiser-says-her-event-sought-money-for-106217.html>

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**Florida Political News: December 10, 2009**

Published 3 hours ago from Florida Politics

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Published 23 hours ago from Adam Smith

**That Jim Greer stepping down as GOP Chairman rumor**

Published 23 hours ago from Adam Smith

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Published 1 day ago from Florida Politics

**The Rubio-Crist SunRail dilemma**

Published 1 day ago from Aaron Deslatte



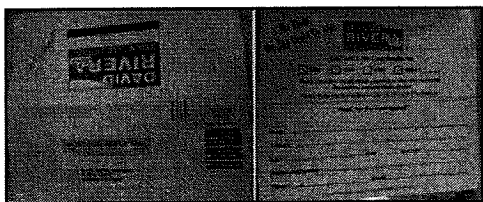
@nphog73

« Dockery rails on stimulus issue, hoping to step off at governor's mansion

Who should pay for rail accidents - taxpayers or CSX? »

**Did House budget chief solicit campaign cash during special session?**

by Michael C. Bender | December 8th, 2009



Florida House budget Chairman David Rivera may have violated a fund-raising ban during a legislative session by passing out envelopes with suggestions for donations Friday at a campaign event.



Rivera

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Read further.

[Share / Save](#)

Tags: David Rivera, House rules

This entry was posted on Tuesday, December 8th, 2009 at 12:01 am and is filed under 2010 campaigns. You can follow any responses to this entry through the RSS 2.0 feed. You can leave a response, or trackback from your own site.

### 5 Responses to "Did House budget chief solicit campaign cash during special session?"

1. *whasup* Says:

December 8th, 2009 at 7:28 am

The godfather of Dade County is at it again.

2. *George* Says:

December 8th, 2009 at 6:20 pm

Rep David Rivera is crooked in his dealings, disingenuous in his speech, trecherous to those who trust him and revengeful to those who don't agree with him. His personal lack of morals is well-known and disgusting. It is a well-known fact that he conducts all fundraising out of his office, at all times.

His staff is loud, vulgar and offensive to all. They conduct fundraising efforts, personal business and personal sexual affairs in his office.

This is all known to the leadership.

3. *Very pleased Rivera constituent* Says:

December 8th, 2009 at 11:44 pm

George,

If you choose to publicly document such damaging accusations against a beloved elected official, who had over 140,000 people vote for him, and in addition, insult his devoted and dedicated staff who obviously work very hard to help their constituents in the district? Why not come up with some proof? Or better yet, identify yourself so that you can lend some level of credibility to your ridiculous charges. Otherwise you are just a cowardly, envious, lowlife, jealous, prick who doesn't have the guts to acknowledge these outrageous and untrue accusations face to face. You sicken me.

4. *get a life* Says:

December 9th, 2009 at 12:05 am

My bet is George is just a cover for a jilted lover, who 'fell in love' with Representative Rivera and found out she was not the only one.

Buck up, and move on!

5. *Harry Houdini Says:*  
December 10th, 2009 at 8:47 am

Cuba Libra on the rocks please. Don't forget the lime.

### Leave a Reply

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"They were equally painful."

--U.S. Rep. John Mica, R-Winter Park, comparing state approval of the SunRail bill to his successful passing of a kidney stone.

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