

STATE OF FLORIDA  
COMMISSION ON ETHICS  
P. O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709

# COMPLAINT

### 1. PERSON BRINGING COMPLAINT:

Name: Vafides, Alan H. Telephone Number: [REDACTED]

Address: <sup>1</sup> XXXXXXXXXXXX

City: Valparaiso County: Okaloosa Zip Code: 32580

### 2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Current or former public officer, public employee, candidate, or lobbyist - please use one complaint form for each person you wish to complain against:

Name: Dr. Richburg, James R. (aka Bob) Telephone Number: 850-729-5360

Address: Northwest Florida State College, 100 College Boulevard

City: Niceville County: Okaloosa Zip Code: 32578

Title of office or position held or sought: College President

### 3. STATEMENT OF FACTS:

Please explain your complaint fully, either on the reverse side of this form or on additional sheets, providing a detailed description of the facts and the actions of the person named above. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. If you believe that a particular provision of Article II, Section 8, Florida Constitution (the Sunshine Amendment) or of Part III, Chapter 112, Florida Statutes (the Code of Ethics for Public Officers and Employees) has been violated, please state the specific section(s). Please do not attach copies of lengthy documents; if they are relevant, your description of them will suffice. Also, please do not submit video tapes or audio tapes.

### 4. OATH

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

STATE OF FLORIDA  
COUNTY OF OKALOOSA

Sworn to (or affirmed) and subscribed before me  
this 4 day of February  
20 09, by Alan H. Vafides  
(name of person making statement)

[Signature]  
VICKIE E. McCAVITT, Notary Public - State of Florida

Comm# DD0721253  
Expires 1/26/2012  
Print, Type, or Stamp Commissioned Name of Notary Public)  
Florida Notary Assn., Inc

[Signature]  
SIGNATURE OF COMPLAINANT

Personally Known  OR Produced Identification   
Type of Identification Produced: \_\_\_\_\_

**STATEMENT OF COMPLAINT**  
**Against Dr. James R. Richburg, aka “Bob”**

**FACT:** Dr. Richburg is considered a “State Officer” under the Florida Code of Ethics, Chapter 112.3145, section (1)(c)3.

**FACT:** Northwest Florida State University was originally known as both Okaloosa-Walton Community College and Okaloosa Walton College prior to its name change on July 8, 2008. Dr. Richburg has been President of this same institution since August 17, 1987.

**FACT: Under the Florida Statutes, Title XLVIII, Chapter 1001.65, “Community college presidents; powers and duties”, Section (5) states;** Each community college president shall: (5) Approve, execute, and administer contracts for and on behalf of the community college board of trustees for licenses; the acquisition or provision of commodities, goods, equipment, and services; leases of real and personal property; and planning and construction to be rendered to or by the community college, provided such contracts are within law and guidelines of the State Board of Education and in conformance with policies of the community college board of trustees, and are for the implementation of approved programs of the community college.

**FACT:** Dr. Richburg (President, Northwest Florida State College) has been a member, and is currently an active member of BCB Holdings, LLC, a Florida Limited Liability Corporation actively registered with the Florida Secretary of State.

**FACT:** Dr. Richburg currently holds a membership interest of 15.50% in BCB Holdings, LLC, according to the First Amendment to Operating Agreement of BCB Holdings, which was filed with an affidavit of BCB Holdings LLC as part of a future advance agreement in the amount of \$600,000 from the Independent Banker’s Bank of Florida. The affidavit was sworn by all BCB Holdings, LLC members, to include Dr. Richburg, on 15 July 2008.

**FACT:** Dr. Richburg has been an original member of BCB Holdings LLC since it’s inception on 11 July, 2000.

**FACT:** Mr. Joseph W. Henderson (Board of Trustees, Northwest Florida State College) has been a member, and is currently an active member of BCB Holdings, LLC, a Florida Limited Liability Corporation actively registered with the Florida Secretary of State.

**FACT:** Mr. Joseph W. Henderson currently holds a membership interest of 6.47% in BCB Holdings, LLC, according to the First Amendment to Operating Agreement of BCB Holdings, which was filed with an affidavit of BCB Holdings LLC as part of a future advance agreement in the amount of \$600,000 from the Independent Banker’s Bank of Florida. The affidavit was sworn by all BCB Holdings, LLC members, to include Mr. Henderson, on 15 July 2008.

**FACT:** Mr. Joseph W. Henderson has been an original member of BCB Holdings LLC since it’s inception on 11 July, 2000.

**FACT:** Mr. Charles W. Clary III, aka “Charlie Clary”, founder of DAG Architects Inc. and former FL State Senator, District 7) has been a member, and is currently an active member of BCB Holdings, LLC, a Florida Limited Liability Corporation actively registered with the Florida Secretary of State.

**FACT:** Mr. Charles W. Clary III currently holds a membership interest of 41.36% in BCB Holdings, LLC, according to the First Amendment to Operating Agreement of BCB Holdings, which was filed with an affidavit of BCB Holdings LLC as part of a future advance agreement in the amount of \$600,000 from the Independent Banker’s Bank of Florida. The affidavit was sworn by all BCB Holdings, LLC members, to include Mr. Clary on 15 July 2008.

**FACT:** Furthermore, Dr. Richburg, Mr. Henderson, and Mr. Clary are all members of the Board of Directors for Beach Community Bancshares Inc., a “for profit” corporation actively registered with the Florida Secretary of State.

[http://www.beachcommunitybank.com/officers\\_directors.aspx](http://www.beachcommunitybank.com/officers_directors.aspx)

**FACT:** Dr. Richburg, Mr. Henderson, and Mr. Clary are clearly “Business Associates” in at least one “for profit” LLC and one “for profit” Corporation.

**FACT:** DAG Architects, Inc has listed several past projects in the last few years that were awarded by NWF State College during Dr. Richburg’s tenure as President, to include:

- NWF State College Observatory and
- NWF State College Health Tech Building.

**FACT:** DAG Architects, Inc. was awarded a contract in 2007 by NWF State College for the master plan and design of the new NWF State College Education center in South Walton county.

Source: <http://www.nwfstatecollege.edu/news/newsitem.cfm?NewsID=762>

<http://www.owc.edu/news/newsDetail.cfm?ID=94>

**FACT:** In 2005, NWF State College trustees approved an amendment of the **standing contract** between the college and Orcutt Associates, Sam Marshall Architects and DAG Architects, Inc. for the team to work on an update to the Niceville campus master plan to incorporate the proposed joint-use facility. (**Apparently, DAG Architects has a standing contract with NWF State College**).

Source: <http://www.owc.edu/news/newsitem.cfm?NewsID=490>

## **List of State Ethics Code Violations, allegedly by Dr. James R. Richburg**

1. Dr. Richburg, through the College Board of Trustees, has participated in multiple decisions to approve multiple contracts awarded to DAG Architects, Inc, which is owned by Charles Clary, a business associate of Dr. Richburg’s in BLB Holdings, LLC. Further, Dr. Richburg has not disclosed his business relationships with Mr. Clary to the public or to the College Board of Trustees, nor has he disclosed his business relationship to Mr. Joseph Henderson, member,

Board of Trustees, in accordance with public law (specifically, Form 8A, Memorandum of Voting Conflict for State Officers).

#### **Chapter 112.3143 Voting conflicts**

(4) No appointed public officer shall **participate** in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or **which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.**

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

2. Dr. Richburg's private business association with Mr. Clary, and his business relationship with Mr. Henderson (Board of Trustees), without full and public disclosure of his financial and business interests in accordance with Chapter 112.313, has created a conflict of interest which causes the public to question the integrity of the contracts process at Northwest Florida State College.

#### **112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.**

##### **(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.-**

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; **nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her**

**public duties or that would impede the full and faithful discharge of his or her public duties.**

3. Dr. Richburg has misused his public position to benefit business associates without full and proper disclosure of these relationships under Chapter 112 of the Florida State Code of Ethics.

**112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.**

(6) MISUSE OF PUBLIC POSITION.-No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

Alan H. Vafides  
Valparaiso, Florida

Attached:

Affidavit of BCB Holdings, L.L.C.