

SETTLEMENT AGREEMENT FOR GRIEVANCE

THIS AGREEMENT (hereafter, the "Agreement") is made and entered into by and between the City of DeLand, inclusive of the DeLand Police Department (hereafter, the "CITY"), Mike Mirino (hereafter, "MIRINO") and the International Union of Police Associations, AFL-CIO (hereafter, "IUPA").

WHEREAS, the CITY terminated MIRINO's employment effective November 6, 2017 for sustained violations of CITY rules and procedures;

WHEREAS, MIRINO and IUPA filed an internal grievance to contest MIRINO's termination from employment with the CITY;

WHEREAS, an arbitration hearing was scheduled for January 30, 2019 with Arbitrator Peter A. Prosper;

WHEREAS, the CITY is willing to provide MIRINO an opportunity to salvage his career as a Police Officer with the CITY upon certain conditions set forth herein and in a separate Last Chance Agreement ("LCA");

THEREFORE, in consideration for the mutual covenants and promises set forth below and other good and valuable consideration, the parties expressly, knowingly and voluntarily agree as follows:

1. Upon finalizing this Agreement and an LCA between all parties, the CITY agrees to convert MIRINO's discipline from discharge to an unpaid suspension covering the time frame of November 6, 2017 through the date of actual reinstatement of MIRINO's employment with the CITY (hereafter, "period of unpaid suspension"). MIRINO's employment with the CITY shall be reinstated upon the following conditions:
 - A. Before this Agreement and the LCA both become effective and MIRINO is reinstated to employment with the CITY, MIRINO must submit to and successfully complete a fitness for duty examination, which may include, but is not limited to, standard LEO physical, blood work, pre-employment drug evaluation, X-rays, fitness testing (not inclusive of P.A.T. testing) and psychological examination. MIRINO agrees to fully cooperate with the CITY by executing any necessary medical authorizations to enable the CITY to confirm MIRINO's successful completion of this requirement. Upon the CITY's receipt and confirmation of MIRINO's successful completion of this condition, MIRINO shall thereafter be eligible for reinstatement to employment as a Police Officer with the CITY at the beginning of the next pay period for the CITY.
 - B. MIRINO shall not receive any retroactive pay or retroactive accruals for vacation and sick leave banks during his period of unpaid suspension. However, upon MIRINO's reinstatement to employment, he shall immediately have 729.72 hours of sick leave reinstated which had previously been forfeited upon his termination

from employment on November 6, 2017. MIRINO shall not have any other leave banks reinstated.

- C. MIRINO shall be reinstated at the hourly rate of pay of \$21.42 which was his rate of pay at the time of his termination from employment. MIRINO shall not be eligible for any pay increases provided to bargaining unit members during his period of unpaid suspension. However, should MIRINO remain continuously employed with the CITY in the future, MIRINO shall be eligible for any future pay increases provided to bargaining unit members consistent with future negotiated agreements between the CITY and IUPA.
- D. Upon MIRINO's return to employment, MIRINO shall submit to, and successfully complete, any necessary training, re-training and training cycles outlined below:
- i. Mandatory trainings as compiled by PD Accreditation manager and training section:
 - Firearms qualification /OSCAR Scenario-based (FDLE requires biennial, however, the department's requirement is ANNUALLY); HL 10.10M
 - Defense Tactics (ANNUAL); HL 10.10M
 - Response to Resistance (Use of force) & Matrix - Which can alternately include Physiological Responses/ Legal Aspects/ Agencies Policy (ANNUAL); HL 10.10M
 - Tasers (Dart firing stun guns) (ANNUAL) (Every 3 Quarters to keep within Accreditation standards) HL 10.10M
 - Less Lethal Weapons (OC, Baton) Intermediate Weapons (Biennial "2yr"); HL 10.10M
 - ii. FDLE MANDATORY ONLINE RETRAINING:
 - Discriminatory Profiling & Traffic Stops (Bias training) (2.0hr) Online (Initial / Periodic "3yr") 2.06M WD 5.29.2
 - Domestic Violence (2.0hr) Online (Initial / Periodic "3yr")
 - Juvenile Sex Offender (2.0hr) Online (Initial / Periodic "3yr")
 - Eyewitness Identification "Photo Lineup" Online (Initial / Periodic "3yr") 15.13M
 - First aid and/or CPR (Initial / Biennial "2yr") HL 10.13M
 - Hazardous materials response (Biennial "2yr") Per WD
 - Infectious Disease Refresher Training (Initial / Annual every 12 months) 29.02M
 - Mental Health Awareness/ PTSD "Shield of Resilience" Online (Initial "new hires", Sworn & non- Sworn) 10.16M
 - NARCAN - (Initial / Periodic "3yr") 14.14M
 - Forfeiture & Seizures (Initial / Annual) WD 7.10 FSS 932.706
 - Fair and Impartial Policing (Bias training) (Annual) 2.06M
 - EVOC (ANNUAL per Dept. Policy not FDLE) HL

- iii. A copy of policies and directives will be provided for MIRINO's review and he will be required to sign receipts of understanding once he has read them.
 - iv. MIRINO will be required to attend Chief Umberger's orientation meeting (approximately 1-hour given to all new hires but MIRINO has never gone through this meeting where the Police Chief provides information regarding his expectations for employment).
 - v. MIRINO shall not be required to re-attend Field Training.
- E. MIRINO shall not be eligible to receive seniority accruals or credits for his period of unpaid suspension. Upon MIRINO's reinstatement to employment, MIRINO will have the same seniority-level as he had as of November 6, 2017 when he was terminated from employment with the CITY.
- F. MIRINO shall not receive any pension credits for any aspect of his period of unpaid suspension. In this regard, the parties agree that the CITY shall not make any pension payments on behalf of MIRINO for any aspect of his period of unpaid suspension.
- G. MIRINO's vacation, vacation rights and sick time accruals shall start at the current rates based on MIRINO's level of seniority as of November 6, 2017.
- H. MIRINO is initially subject to monthly performance reviews as is deemed necessary by the Police Chief and/or the Police Chief's designee. At the conclusion of one full-year of employment for MIRINO after his reinstatement with the CITY, MIRINO shall thereafter be subject to the same process used for evaluating all other full time, non-probationary police officers for the CITY. The CITY agrees that these reviews are not part of the LCA between the parties.
- I. The charge of Incompetence (Section 1.2.10) within IA #17-13 shall be revised to "not sustained." Notwithstanding this revision, MIRINO and IUPA agree that the underlying incident and findings surrounding IA #17-13, which resulted in a 15-month unpaid suspension to MIRINO, is eligible for the CITY to consider for progressive discipline purposes for the remainder of MIRINO's career with the CITY.
2. The parties acknowledge and agree that sufficient legal consideration exists for each to enter into this Agreement and the LCA.
3. MIRINO and IUPA agree to dismiss with prejudice the pending grievance and the arbitration in FMCS Case No. 180116-00449. MIRINO and IUPA also agree that they shall have no right to file a grievance regarding any aspect of this Agreement or the LCA. The CITY and IUPA agree that they shall share equally in any costs incurred to the arbitrator and/or the court reporter relating to the dismissal of this matter.

4. MIRINO and IUPA understand that by entering into this Agreement, they are waiving their right to contest the findings made against MIRINO that resulted in his separation from employment with the CITY. Furthermore, the parties agree that all aspects of the findings from IA 17-13 (subject to the revision set forth in paragraph 11), MIRINO's termination from employment and conversion to an unpaid suspension, along with all other aspects of MIRINO's prior employment history with the CITY, shall be part of MIRINO's permanent employment history with the CITY and, subject to the requirements of the City's rules and regulations, is eligible for consideration by the CITY and its decision-makers with respect to any future potential disciplinary action taken against MIRINO throughout the remainder of his career with the CITY.

5. The CITY, MIRINO and IUPA understand and agree that all prior documents generated with respect to the MIRINO's employment with the CITY, including all paperwork reflecting that he previously had been terminated from employment with the CITY, shall be preserved in accordance with Florida law.

6. The parties shall be solely responsible for their respective attorneys' fees and costs incurred by them as a result of the above-referenced dispute.

7. MIRINO and his heirs, assigns and representatives, do hereby release, acquit and forever discharge the CITY, as well as the CITY's current and former officials, appointees and employees, both in their official and individual capacities (including, but not limited to, Michael Pleus and Jason Umberger), from any and all actions, claims, charges, damages, demands, attorney's fees, expenses or costs of whatever nature arising from any matter relating to MIRINO's employment with the CITY, whether known or unknown, up to and including the effective date of this Agreement. This release of claims includes, but is not limited to: a release of any rights or claims MIRINO may have under the Florida Civil Rights Act of 1992; Title VII of the Civil Rights Act of 1964, as amended; the Constitutions of the United States and the State of Florida, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Older Workers Benefit Protection Act of 1990; the Employee Retirement Income Security Act, as amended; the Fair Labor Standards Act, as amended; the Equal Pay Act; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act; the Energy Reorganization Act; the Florida Whistleblower Protection Act (Sections 448.101-448.105, Florida Statutes); Section 440.205 of Florida's Workers' Compensation Law (retaliation); Section 447.501 of the Florida Statutes; unpaid wage claim; and/or any other federal, state or local laws, ordinances, or regulations prohibiting employment discrimination or retaliation or restricting the CITY's right to take personal action with respect to its employees. MIRINO also agrees that this Agreement includes a release of all claims based on theories of contract or tort (e.g., intentional interference with a business relationship, negligent or intentional infliction of emotional distress, defamation, assault, battery, false imprisonment, invasion of privacy, fraudulent inducement to entering into an Agreement, wrongful termination, etc.), whether based on common law or otherwise. The foregoing list is meant to be illustrative rather than exhaustive. **MIRINO ACKNOWLEDGES, AGREES, AND UNDERSTANDS THAT THIS RELEASE IS A FULL AND FINAL BAR TO ANY AND ALL CLAIMS OF ANY TYPE THAT HE MAY HAVE OR HAD AGAINST THE CITY, FROM THE BEGINNING OF TIME UP THROUGH THE EFFECTIVE DATE OF THIS AGREEMENT.**

8. MIRINO agrees that he will not file any lawsuit against the CITY based on any right waived or released under this Agreement. Nothing contained in this Agreement prohibits MIRINO from participating in any investigation or proceeding before any federal, state, or local governmental agency if subpoenaed to do so; provided that the release in this Agreement prevents MIRINO from recovering any relief (including, but not limited to, money damages of any type and/or reinstatement to employment with the CITY). Nothing contained in this Agreement prevents MIRINO, IUPA or the CITY from filing suit against the other to enforce the terms of this Agreement, and this Agreement may be introduced into evidence to establish and enforce the settlement reached by the parties.

9. MIRINO represents that he has no other suits, claims, charges, complaints, or demands of any kind whatsoever currently pending against the CITY with any local, state, or federal court or any governmental, administrative, investigative, civil rights, or other agency or board other than those referenced herein.

10. The parties agree that this Agreement was entered into in the State of Florida, and shall be construed and enforced in accordance with the laws of the State of Florida. In the event that either party is forced to institute legal proceedings for breach of the terms of this Agreement, it is specifically understood and agreed that any such legal proceeding must be brought exclusively in the federal or state courts servicing Volusia County, Florida. Additionally, the parties agree that any trial in such legal proceeding shall be non-jury. The parties further agree that the prevailing party shall be entitled to receive its costs and attorney's fees incurred in connection with enforcing the terms of this Agreement.

11. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not for or against the drafter.

12. This Agreement, along with the LCA, constitute the complete understanding between MIRINO, IUPA and the CITY with regard to the resolution of the above-referenced matter.

13. MIRINO acknowledges that he has carefully read and fully understands the provisions of the LCA and this document, including the release of claims; that he has had a reasonable period of time in which to consider these Agreements; that he has had the opportunity to consult with counsel regarding these Agreements; that he has consulted with counsel regarding these Agreements and that he is knowingly, voluntarily, and expressly entering into these Agreements.

IN WITNESS WHEREOF, the parties hereto execute this Agreement.

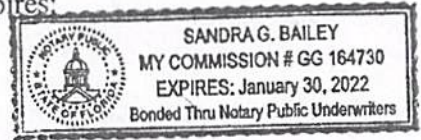
Mike Mirino 3/5/19
Mike Mirino Date

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was executed before me this 5 day of March, 2019,
by Mike Mirino, who is personally known by me [or who has
produced Fla. Dr. License as identification] and who took an oath.

Sandra G. Bailey
Notary Public
State of Florida at Large

Sandra G. Bailey
Type or Print Name of Notary
My Commission Expires:



Ryan Burton 3/5/19
For International Union of Police Associations Date AS TO FORM

RYAN BURTON, ASSOC. GEN COUNSEL
Name and Title

Michael Pleus 3/6/19
Michael Pleus for City of DeLand Date
DeLand City Manager

LAST CHANCE AGREEMENT

IT IS AGREED between the CITY OF DELAND, including the DELAND POLICE DEPARTMENT (hereafter, the "City"), MIKE MIRINO (hereafter, "Mirino") and the INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO (hereafter, "IUPA") as follows:

1. Mirino, as a result of his role in losing methamphetamine which was evidence relied upon in an arrest, was subject to an internal investigation with the City. This investigation concluded with sustained findings against Mirino for violating Police Department Rules and Procedures, Section 1.2.12 Carelessness, Section 5.7.6 Incident Reports and Section 1.2.10 Incompetence.¹

2. As a result of these findings, in conjunction with Mirino's prior employment history, the City terminated Mirino's employment as a Police Officer with the City.

3. Thereafter, IUPA and Mirino processed a grievance contesting the level of discipline issued to Mirino. The City denied all grievance steps resulting in IUPA and Mirino requesting to arbitrate the City's decision to terminate Mirino's employment.

4. This matter is currently at the step of arbitration in FMCS Case No. 180116-00449 before Arbitrator Peter A. Prosper.

5. The City considers Mirino's above-referenced conduct, in conjunction with prior violations of department rules, regulations, directives, policies and/or procedures, to be serious in nature and to constitute a terminable offense under the totality of the circumstances. However, the

¹ The CITY agrees, pursuant to a Separate Settlement Agreement with Mirino and IUPA, to revise the incompetence finding against Mirino in IA #17-13 to "not sustained".

City is agreeable to providing Mirino with an opportunity to correct his behavior and to be given a last chance to salvage his career with the City.

6. In consideration of Mirino's prior tenure with the City, but with due regard for the his continued behavior, the City, IUPA and Mirino agree that his employment with the City will continue only if he strictly complies with all of the following conditions:

- A. Mirino will satisfy and comply with all obligations set forth in the Settlement Agreement separately executed between the parties to resolve this matter.
- B. Mirino and IUPA agree and understand that any violation of Section 1.2.12 Carelessness, Section 5.7.6 Incident Reports or Section 1.2.10 Incompetence, or any incident which materially jeopardizes the operation of the City's Police Department, may be grounds for revocation of this Agreement and termination of Mirino's employment without the right of appeal.
- C. This Agreement shall exist between the City, Mirino and IUPA for three (3) years from the date of execution by the parties hereto. Mirino expressly acknowledges that he has had an opportunity to fully review the terms of this Agreement and that he fully understands its obligations. Further, Mirino recognizes that the City is under no obligation to enter into this Agreement or continue his employment, but that the City is desirous of providing him with one last chance to continue in its employ.

7. Mirino and IUPA waive any rights they may have to challenge any aspects of this Last Chance Agreement or the Settlement Agreement separately reached between the parties in this matter via the Grievance and Arbitration Procedure provided in Article 12 of the Collective Bargaining Agreement between the City and IUPA.

8. The City recognizes and acknowledges that Mirino shall be given a reasonable and unbiased opportunity to rehabilitate his career in accordance with this Agreement. The City further agrees that no City official shall attempt to undermine or interfere with this Agreement.

9. The parties agree and understand that any violation of Section 6 of this Agreement is grounds for revocation of this Agreement and termination of Mirino's employment. In the event that the City decides to terminate Mirino's employment during the duration of this Agreement, the parties agree that Mirino and/or IUPA shall have the limited right to meet with the City Manager to present any mitigating factors, and the City Manager shall have the final decision-making authority regarding the City's ability to reconsider its decision to terminate Mirino's employment. The City Manager's decision shall be final, binding and non-appealable through the grievance and arbitration procedure. Mirino and IUPA agree that such termination from employment under these circumstances shall not be subject to review under the grievance/arbitration procedures of any Collective Bargaining Agreement ("CBA") between the City and IUPA. In the event that the City terminates Mirino's employment during the duration of this Agreement, Mirino and IUPA have no arbitration rights; however, nothing in this Agreement precludes Mirino from seeking potential court remedies, if any.

10. Mirino and IUPA agree and understand that even after the expiration of this Last Chance Agreement, the underlying incident and findings surrounding IA #17-13, which resulted in a 15-month unpaid suspension to MIRINO, is eligible for the CITY to consider for progressive discipline purposes, under the City's rules and regulations, for the remainder of MIRINO's career with the CITY.

11. Mirino expressly acknowledges that nothing contained in this Agreement shall be construed as guaranteeing Mirino employment for any specific period of time. Notwithstanding

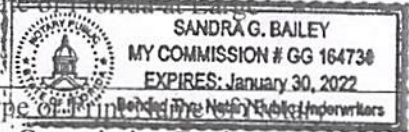
this Agreement, Mirino shall be subject to all City policies and procedures governing employment matters not covered herein.

12. By entering into this Agreement, Mirino acknowledges that he has had the opportunity to consult with an attorney or representative of his choosing; that no one has coerced him into executing this Agreement and that he is freely and voluntarily executing this Agreement.

[Signature] 3/5/19
Mike Mirino Date

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was executed before me this 5 day of March, 2019, by Mike Mirino, who is personally known by me [or who has produced Fla. Dr. License as identification] and who took an oath.

[Signature]
Notary Public
State of Florida

Type of Printing: Printed by the Notary Public/Inkwriters
My Commission Expires:

[Signature] 3/5/19
For International Union of Police Associations Date ASTO FORM
RYAN BURTON, ASSOC. GEN COUNSEL
Name and Title

[Signature] 3/6/19
Michael Pleus for City of DeLand Date
DeLand City Manager