

SVC Case File AL00395



*Pam Bondi Attorney General*

# Seniors vs Crime

*A Special Project of the Florida Attorney General*

September 8, 2014

Barbara Thomas  
Seniors vs. Crime  
Regional Director, Region Four

*Region Four  
Alachua County Sheriff's Office  
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Dear SVC Regional Director Barbara Thomas:

Please consider this communication a request for submission of the above SVC Case File to Florida Attorney General Pam Bondi for enforcement and collection of \$10.4 Million on behalf of 92,000 city and county customers served by Gainesville Regional Utilities, a utilities provider owned by the City of Gainesville, Florida, Alachua County; and provide other statewide remedies as appropriate.

On March 13, 2014 this office accepted the above numbered SVC Case File from Mr. James Konish. He complained the City of Gainesville, FL and Alachua County were unlawfully collecting tax money from customers of a city-owned utility, Gainesville Regional Utilities (GRU), by way of Florida Statute 166.231 – Municipal Public Service Tax (Tax). Further research found a Florida Attorney General's Advisory Legal Opinion #AGO 2013-11 [Pam Bondi] (Opinion) dated June 7, 2013 supporting this Tax allegation; essentially GRU collects Tax upon non-consumption items of a customer's utility bill that the Opinion stated to the City of Leesburg, FL is not a lawful practice.

This office informed GRU and the City of Gainesville of Mr. Konish's allegation via certified return receipt U.S. Mail letter dated April 17, 2014. Both replied on May 28 that their application of Florida (Tax) Statute 166.231 upon a "customer charge", which is a non-consumption item, "is a common practice throughout the State." This reply identified other utility providers taxing in the same manner. On June 5 this office then supplied both a copy of AGO 2013-11 by email with a suggestion that GRU share this Opinion with the other local taxing authority, Alachua County, which also collects Tax through GRU using the same statute. A confirming First Class U.S. Mail letter from this office to GRU on June 10, 2014 again made reference to AGO 2013-11 and supplied this office's calculated minimum Tax overcharge of \$10.4 Million, including the Tax upon State tax and County surcharge, over a three year period.

To date GRU continues to collect the Tax for the City of Gainesville and County of Alachua. The Tax limits of Florida Statute 166.231 are public knowledge. The Florida Attorney General's AGO 2013-11 re-stating the limited scope of Florida Statute 166.231 is also public knowledge. Both sources of Tax guidance are available to any corporate attorney or governmental body. Potentially, GRU, the City of Gainesville, FL and Alachua County, FL should have been aware of, are presently aware of, and continue to ignore, the limits of Florida Statute 166.231. This knowledge and continued common practice may constitute fraud or organized fraud.

On June 5, 2014 Mr. Konish submitted his personal request for Tax refund – Florida Statute 166.235 and .234(6). FS 166.235 then provides 90 days from June 5 for GRU to deny Mr. Konish's request or 45 days from June 5 to provide refund or credit. GRU failed to deny his request within the statutory 90 days and; therefore, by default, may have approved his refund, which has not yet been sent. This event; however, does not provide relief for GRU's 82,000 residential and 10,000 commercial customers, who could benefit from intervention by the Florida Attorney General to correct a potentially fraudulent "common practice throughout the State." This correction could return hundreds of millions of dollars to Florida residents.

Respectfully submitted,

John Caravella  
SVC Office Manager

cc. Mr. James Konish

**PREVENTING VICTIMIZATION AND PROVIDING A WAY FOR SENIORS TO CONTRIBUTE TO THE SAFETY OF ALL FLORIDIANS**