



**Miami-Dade Commission on Ethics & Public Trust**

Report of Investigation

**Investigator:** Sylvia Batista

<b>Case:</b> K14-116/ C14-052	<b>Case Name:</b> Valdes v. Mauriello et al.	<b>Date Opened:</b>	<b>CASE CLOSED</b>  Date: <u>12/31/14</u>
<b>Complainant(s):</b>  Rolando Valdes	<b>Subject(s):</b>  Paul Mauriello and Michael Fernandez	11/06/14	

**Allegation(s):**

On or about 11/06/14 Rolando Valdes (Valdes), a sanitation truck driver in the Miami-Dade County Public Works and Waste Management Department (PWWM), filed a complaint with the COE alleging that his performance evaluation was deliberately delayed as retaliation for informing the Miami-Dade County Inspector General's Office (OIG) that managers at PWWM were permitting dangerously overloaded sanitation trucks to operate on the public roads, a practice which is in direct violation of department policy based on federal law. Valdes identified Paul Mauriello (Mauriello), Assistant Director of PWWM, and Michael Fernandez (Fernandez), Assistant Director of Disposal Operations of PWWM, as the respondents to his ethics complaint.

**Relevant Law:**

Division 6. Protection of Employees Disclosing Specified Information, Part III, Chapter 2, Art. IV, Miami-Dade County Code.

**Investigation:**

*Interviews and e-mails:*

**Nov – Dec 2014 – Rolando Valdes, Complainant –**

Valdes advised during several telephone conversations that he was under a great deal of stress and difficulty at his job since he went to the OIG to inform that the waste trucks were being dangerously overloaded putting lives at risk. Valdes stated that he believes that his performance evaluation and merit increase has been withheld due to his “Whistle Blower” status.

Valdes said that he has repeatedly complained to HRD and to his union, but his evaluation and merit increase is still more than three (3) months overdue. Valdes said that he was told by the OIG to file a complaint with the COE.

**11/20/14 – Paul Mauriello, Deputy Director for Waste Operations, PWWM –**

Mauriello was contacted and informed of the allegations brought against him and Fernandez by Valdes. Mauriello advised that the matter was being investigated by the OIG’s office, but was told that an ethics complaint had been filed with the COE.

On the same day, Mauriello sent an e-mail to Fernandez asking him whether the delay in Valdes’ performance evaluation was related to his “whistleblower” status. Mauriello explained to Hernandez that Valdes is the whistleblower on the overweight vehicle issue.

**11/20/14 – Michael Fernandez, Assistant Director of Disposal Operations –**

Fernandez replied to Mauriello’s inquiry as to the reason for Valdes’ performance evaluation and explained that Valdes’ evaluation was impacted due to a change in his rating period. Fernandez said that Valdes was out on a Leave of Absence earlier in the year and experienced out-of-pay status causing his rating period to shift. Fernandez added that the adjustment was not captured by the Human Resources Division’s (HRD) internal system, thus causing the label for Valdes’ performance evaluation not to be generated.

Fernandez said that Valdes’ immediate supervisor was investigating the matter last week by making HRD aware of the problem via e-mail. Additional records indicate that Valdes’ evaluation never appeared as pending based on an e-mail dated 09/18/14, as part of the Division’s quarterly inquiry of outstanding evaluations with HRD.

Fernandez advised that they will process Valdes’ performance evaluation upon receipt of a manual label from HRD which they expect as early as tomorrow for presentation next week.

***E-Mails Reviewed re. delayed performance evaluation –***

09/18/14 – E-mail from Jessica Romero (Romero), Administrative Secretary, PWWM to Denna Starks (Starks), and Charles Lovely requesting a list of pending evaluations for the Transfer Division.

09/18/14 – Reply e-mail from Margie Ponder of HRD to Romero attaching a report of pending performance evaluations for the Transfer Division.

09/18/14 – E-mail from Romero to Fernandez attaching a report of pending evaluations for Transfer Division.

09/18/14 – E-mail from Fernandez to Romero asking that the follow-up because evaluation for most employees on the list are completed and others are out on sick or sick injury leave.

11/10/14 – E-mail from Romero to Fernandez stating that the attached list is from HR and Valdes is not on it.

11/13/14 – E-mail from Anthony Brannen-Starling (Brannen), PWWM, Transfer Station Superintendent, to Jollivette Spear (Spear) advising that that Valdes' evaluation has not been sent to him and that it is about two (2) months late.

11/17/14 – Spear replies that she will work on it that day.

11/20/14 – E-mail from Romero to Fernandez advising that Valdes is not listed in the pending evaluation report.

11/20/14 – E-mail from Starks to Spears stating that Valdes lost pay periods in the most recent evaluation period, but has made up the time. Starks asks that Spear cut a label for 03/18/13 to 07/20/14, with merit due.

11/20/14 – E-mail from Mauriello to Fernandez advising that he had received a call from the COE regarding the overdue evaluation of Valdes, the "Whistle Blower" on the overweight trust issue. The question why Valdes' evaluation and increased compensation is being delayed and whether the delay is related to Valdes' whistle blower status.

11/20/14 – E-mail from Fernandez to Mauriello explaining that Valdes' evaluation was due to a change in his rating period caused by Valdes' leave of absence where he experienced an out-of-pay status causing his rating period to shift. For this reason Valdes' evaluation did not appear as pending. They will process the evaluation as soon as they receive a label and performance evaluation from HRD which will be expedited.

11/21/14 – E-mail from Mauriello to the COE with a copy to Fernandez advising that Valdes' performance evaluation was impacted by an error which resulted from his being out-of-pay status during the rating period, and further stating that Valdes' evaluation will be processed ASAP.

12/01/14 – E-mail from Mauriello to the COE attaching a copy of Valdes performance evaluation and merit raise.

**Conclusion(s):**

Investigative report was turned over to the Advocate for probable cause recommendation.