

Memorandum

TO: Commission on Ethics
FROM: MICHAEL MURAWSKI, Advocate
RE: Complaint C 16-05
DATE: FEBRUARY, 2016

RECOMMENDATION:

This complaint should be found NOT LEGALLY SUFFICIENT; it does not meet the requirements of the Employee Protection ordinance.

The complainant, Selwyn Titus (Titus), a private citizen, filed this complaint against various employees of the Miami-Dade County Water and Sewer Department (WASD).

Legal sufficiency exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, and filed with the Ethics Commission within three years of the alleged violation.

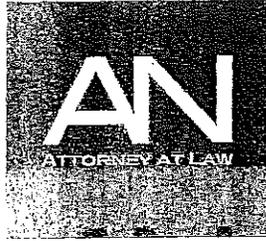
ANALYSIS:

Titus alleges that he filed a complaint against WASD with the Department of Environmental Protection (DEP) in 2013 which resulted in WASD being fined. Subsequently Titus claims he was retaliated against and was subjected to a hostile work environment. Titus alleges that the most recent final action of retaliation against him occurred on April 2015.

CONCLUSION:

Sec. 2-56.28.17 of the County's Employee Protection Act (as amended in October 2015)..." Any employee protected under this division who alleges retaliation *only after exhausting available administrative remedies* (I) under section 2-47 (ii) this division, or (iii) an applicable collective bargaining agreement, file a written complaint with the Miami-Dade County Ethics Commission alleging a prohibited personnel action, *no later than 60 days after a final written decision regarding an alleged prohibited personnel action* has been rendered under the administrative or contractual procedures referenced above."

Titus filed this complaint January 25, 2016, in excess of 60 days after a final written decision regarding an alleged prohibited personnel action. Accordingly, it is time barred and the complaint is NOT LEGALLY SUFFICIENT and should be dismissed.



COMMISSION ON ETHICS
AND PUBLIC TRUST

2016 FEB -1 PH 3:43

1900 North BayShore Drive #3606
Miami, FL 33132
Tel: 305-942-8070
E-MAIL: AN@ANLawFirm.com

C 16-05

January 26, 2016

SENT BY MAIL

Miami-Dade Commission on Ethics & Public Trust
19 West Flagler St., Suite 820
Miami, FL 33130

Re: Selwyn Titus & Miami-Dade County (Water & Sewer Dept.)

Greetings,

I represent Selwyn Titus. Please forward all future correspondences regarding this matter to AN Law Firm, P.A.

Attached please find Mr. Titus' Complaint Form.

Thank you.

Alberto Narvaez

MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST
 19 West Flagler St., Suite 820, Miami, FL 33130
 Tel. 305.579.2594 Facsimile 305.579. 0273

COMPLAINT FORM

1. COMPLAINANT (PERSON BRINGING COMPLAINT) Add pages, if necessary

Name: SELWYN DON TITUS
 Address: 14034 Biscayne Blvd, Apt 601 City: Miami Zip Code 33181
 Contact No.'s: *Specify Home, Work &/or Cell* Legal Rep: AN Law Firm, P.A. - Alberto Naranjo - 305-942-9070
 E-mail: AN@ANLawFirm.com

2. RESPONDENT (PERSON AGAINST WHOM COMPLAINT IS MADE) Add pages, if necessary

Name: See Attached for Full List of Names - MIAMI DADE COUNTY WATER AND SEWER DEPARTMENT, etc.
 Address: 711 NW 1st, Suite 2818 City Miami Zip Code 33128
 Contact No.(s): *Specify Home, Work &/or Cell* William X. Candela - 305-375-2147 - wxc@miamidade.gov
 Title/Office Held or Sought: Assistant County Attorney

3. IF KNOWN, CHECK WHICH APPLIES: ALLEGATION REFERS TO

Person in County Government Person in City Government. Specify City: _____
 County Whistleblower Retaliation Elections Campaign Practices

Note: The Ethics Commission does not have jurisdiction over State officers and employees or the Miami-Dade County School Board.

4. STATEMENT OF FACTS BASED ON PERSONAL KNOWLEDGE.

In a separate attachment, please describe in detail the facts and actions that form the basis of your complaint, including dates when the action(s) occurred. Also, attach any relevant documents as well as names and contact information of witnesses or other persons who may have knowledge about the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions and procedures, see Page 2 of this form.

5. OATH

I, the person bringing this complaint, do depose
 On oath or affirmation and say that the facts set
 Forth in the foregoing complaint & attachments
 Are true and correct, to the best of my knowledge
 And belief.

STATE OF FLORIDA
 COUNTY OF Miami Dade

Sworn to (or affirmed) and subscribed before me
 this 25 day of January, 20 16.

By Selwyn Don Titus
 Name of person making statement

[Signature]
 Signature of Notary Public, State of Florida

And Ortiz
 Print, Type or Stamp Commissioned Name of Notary Public
 Personally known to me _____ or produced identification
 Type of identification produced: FL Driver License

T320-784-61-340-0
 Zmc: 8/11/2013
 Expires: 9/20/2021

[Signature]
 Signature of Complainant

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1. On or about March 21, 2011 and on or about October 10, 2012, I applied and interviewed for the position of Pipefitter Supervisor. The position requires a Water Distribution level 3 license according to state regulation (Florida Administrative Code (FAC) 62-699.310(1) and 62-602.
2. Although I was qualified for the Pipefitter Supervisor position and the fact that I had seniority and the appropriate license for the position, I was not selected.
3. Instead the open Pipefitter Supervisor position was given to Jober Fuentes and Orlando Alvarado in 2011 and to Yosvani Conde in 2012. Neither of these individuals were qualified for the Pipefitter Supervisor position as they did not maintain the appropriate license for the position.
4. Although I was not selected for the position, my name and license number was used and submitted to the Department of Environment Protection in monthly reports as a competent person by the W&S to fulfill the mandatory staffing requirements.
5. On or about February 19, 2013, I submitted a complaint to management explaining that their action of hiring someone without a licenses was a violation of the law. W&S responded that they could select whomever they wanted and could do whatever they wanted.
6. Since my complaint was going unresolved by management, I filed a complaint with the Department of Environmental Protection.
7. As a result of the complaint to the DEP and following their investigation W & S was fined for not having a level 1 distribution operator as their lead/chief operator for over a year in violation of Florida Administrative Codes (FAC) 62-699 and 62-602. Furthermore, W & S

submitted falsified monthly reports with unqualified personnel signing as lead/chief operator and Chief Luis Aguiar signed off on these documents he knows to be false. Moreover, I was the only person in the section with the level of certification and I was not appointed.

8. W&S retaliated against me due to my complaints to management and the Department of Environmental Protection by creating a hostile work environment in hopes that I would resign:

a. I never received a negative evaluation until after my complaint to management and the Department of Environmental Protection. I received a record of counseling within 1 month of filing the complaint with management. As a result of the retaliatory reprimands, I lost seniority status.

b. Prior to my complaints, I was injured and was restricted to working 8 hour days. In April 2014, after I filed the complaints, I reinjured myself, required 2 days off of work and explained that he could no longer work overtime due to the injury. Prior to my complaints, W&S always accommodated me by finding someone to cover overtime hours if needed. After my complaints, I was forced to work overtime although I was injured. I was forced to work overtime until I prevailed in my grievance complaint against management regarding mandatory overtime on or about April 7, 2016.

c. Prior to the complaints, I had no issues requesting days off of work. After, the complaints, I requested time off to care for my injury and my wife whom became ill. My requests were denied and I was reprimanded for taking too much time off

of work although other employees whom have not been reprimanded for taking time off of work, take more sick leave and FMLA leave than I do for the last several years.

c. Knowing that I required time off to care for my wife and my injury, W&S wrongfully forced me to take six hours of annual leave to remove my weapon from county property as a result of a violation by my supervisor. The Attorney General for the State of Florida has instructed W&S to correct this issue but W&S have refused.

d. In April 2015, W&S continued retaliating against me by denying my appeal regarding a reprimand for an accident that cost \$25 worth of damage to an old mail box. The owner of the mail box did not want to pursue a claim and other employees had previously caused serious damage exceeding hundreds of dollars, yet I was reprimand and other employees were never reprimanded.

e. W&S retaliated against me and continuous to retaliate against me by refusing to promote me and harass me.