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C 16-28

MIAMI-DADE

COMMISSION ON ETHICS & PUBLIC TRUST

In re:

Titus v. WASD Officials

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PUBLIC REPORT AND FINAL ORDER

Selwyn Titus (Titus), a Miami-Dade County employee, filed the above-referenced complaint against various employees of the Miami-Dade County Water and Sewer Department (WASD). Titus alleges that he contacted his supervisor at WASD to advise of a safety hazard at a job site for failure to have safety equipment, to wit, cones and flaggers. Subsequently, Titus claims he was retaliated against by the Chief of the Water Transmission & Distribution Division of WASD, who reassigned him to another section within the Division.

The County's Employee Protection Act, at Sec. 2-56.28.11, et. seq., of the Miami-Dade County Code (as amended in October 2015), prohibits County officials from taking adverse personnel action against an employee for disclosing, *inter alia*, "Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the County or independent contractor, which creates and presents a substantial and specific danger to the public's health, safety or welfare..."

The Act also provides that, "[I]t shall be an affirmative defense to any complaint...that the adverse action was predicated upon grounds other than, and would have been taken absent the employee's exercise of rights protected by this division."

At the time of the alleged disclosure of the safety "hazard", Titus had already complained to his supervisors that he was in a "hostile work environment" as a result of "ongoing retaliatory harassment" for filing discrimination charges. His re-assignment was the result of his complaint about a hostile work environment and not a consequence of his disclosure of an absence of cones at a job site. Accordingly, this complaint does not state a cause of action for a violation of the Employee Protection Act.

On September 14, 2016, in closed session, the Ethics Commission's Staff Attorney recommended that the case be dismissed for lack of legal sufficiency. In open session, the Ethics Commission voted unanimously to dismiss the case.

Wherefore it is:

**ORDERED AND ADJUDGED** that COMPLAINT C16-28 is dismissed against any and all Respondents.

**DONE AND ORDERED** by the Miami-Dade County Commission on Ethics & Public Trust in public session on September 14, 2016.

MIAMI-DADE COUNTY COMMISSION ON  
ETHICS & PUBLIC TRUST

By:



Jeffrey Cutler, Esq.

Vice-Chair

Signed on this  
date: 09/21/2016