

**Item # 57**

**ADDITIONAL MATERIAL**

**10:00 a.m. Regular Meeting**

**JUNE 12, 2018**

**SUBMITTED AT THE REQUEST OF**

**COUNTY  
ADMINISTRATION**



Office of the County Administrator

**PROFESSIONAL STANDARDS/HUMAN RIGHTS SECTION**

115 S. Andrews Avenue, Room 427 • Fort Lauderdale, Florida 33301 • 954-357-6500 • FAX 954-357-6573

June 11, 2018

**MEMORANDUM**

**TO:** Bertha W. Henry  
County Administrator

**FROM:** Myrielle D. Smith, Professional Standards/Human Rights Manager

**RE:** **Wage Recovery Program Implementation Report, Sunset Review and Recommendation**

Pursuant to §20½-8, Broward County Code, this memorandum reports on the Office of Intergovernmental Affairs and Professional Standards' (OIAPS, now identified as the Professional Standards/Human Rights Section) implementation of the Wage Recovery Program and associated administrative costs.

***I. Background Summary***

The Broward County Board of County Commissioners, on October 23, 2012, enacted Ordinance No. 2012-32, with the stated goals of:

- ✓ Eliminating the underpayment and nonpayment of wages and promoting economic security and dignity for persons working within Broward County;
- ✓ Promoting business and economic development by eliminating unfair competition arising from the underpayment or nonpayment of wages; and
- ✓ Relieving taxpayers of the financial burdens caused by employers that fail to pay employees their earned wages, resulting in increased participation and reliance on public assistance programs by those employees.

The "Wage Recovery" Ordinance, now codified in §§ 20½-1 through 20½-9, Broward County Code, took effect on January 2, 2013, with a provision that the ordinance would be reevaluated in five years. This report serves as a review of the program. As enacted, the Wage Recovery Program affords individuals, whose employers have either failed to pay or underpaid earned wages totaling at least \$60, to file a complaint to recover those wages. Employees filing a complaint must have provided the employer with notice of the unpaid or underpaid earned wages, along with at least a 15-day period to cure before pursuing a complaint. An employee must also provide sufficient information to support his or her claim of unpaid or underpaid earned wages.

If the claim complies with the ordinance's threshold requirements, the Professional Standards Section (PSS) will send a copy of the complaint and a notice to the employer, which sets forth the allegations, rights and obligations of the employer. The employer must submit a response to the Professional Standards/Human Rights Section within 20 days after receiving the complaint and notice, and the Professional Standards/Human Rights Section will, thereafter, attempt to conciliate the wage dispute. If the PSS is unable to conciliate the dispute, the matter is assigned to a qualified hearing officer for a final hearing.

If the hearing officer determines the employer violated the ordinance because it underpaid or failed to pay the employee's earned wages, the hearing officer's final order must: 1) order the employer to pay restitution to the employee equal to twice the amount of back due wages; 2) reimburse the employee for any reasonable costs and attorney's fees incurred in connection with the administrative hearing; and 3) require the employer to pay the Board of County Commissioners' administrative costs in processing the matter, including all costs associated with the hearing. An employer who fails to comply with the hearing officer's order will be assessed interest on all amounts due, and the employee or the County may file appropriate actions in court to recover the respective amounts due to each.

After the Commission's enactment of the Wage Recovery Ordinance, the program was placed under the Professional Standards Section (PSS). The section developed a wage recovery claim notice poster for employers to post at their workplaces. The poster was distributed electronically to county employers through various data sources and is posted on the Professional Standards Section's website at: <http://www.broward.org/ProfessionalStandards/Documents/WR%20Complaint%20Form.pdf>. The poster is available for distribution in English, Creole and Spanish.

The PSS office further developed a Wage Recovery Complaint Form and a Demand for Wages form, for use by individuals seeking the Wage Recovery Program's assistance. Policies and procedures for processing complaints were established, and related documents such as settlement forms and letters for programmatic use were put into place.

## ***II. Program Results from 2013 through FY 2017***

### **A. 2013**

In 2013, the PSS office received 144 inquiries related to wage recovery. Of those inquiries, 28 complaints were filed under the program, requesting a total of \$103,569.54 in unpaid wages. 10 complaints were dismissed for lack of jurisdiction, including dismissals because the work was not performed in Broward County, the complaints were untimely, the employee failed to provide written notice to the employer, or the employees withdrew their complaints after filing. PSS staff was able to conciliate 15 complaints without the need for a hearing. These conciliations resulted in the recovery of \$7,793.31 in back wages.

Three (3) complaints went before a hearing officer. These Wage Recovery hearings resulted in employees recovering a total of \$22,260.73 in back wages. The total wages not collected in 2013 (the difference between the amounts requested and the amounts recovered through conciliations and hearings) equaled \$73,515.50. The single highest recovery in 2013 was for \$19,301.73 and the lowest amount recovered in 2013 was \$57.26.

### **B. FY 2014**

In FY 2014, the PSS office received 170 inquiries related to wage recovery. Of those inquiries, 50 complaints were filed under the program, requesting a total of \$259,475.94 in unpaid wages. 14 complaints were dismissed for lack of jurisdiction, including dismissals because the work was not performed in Broward County, the complaints were untimely, the employee failed to provide written notice to the employer, or the employees withdrew their complaints after filing. PSS staff was able to

conciliate 22 complaints without the need for a hearing. These conciliations resulted in the recovery of \$47,164.67 in back wages.

14 complaints went before a hearing officer. These Wage Recovery hearings resulted in employees recovering a total of \$57,417.34 in back wages. The total wages not collected in 2014 (the difference between the amounts requested and the amounts recovered through conciliations and hearings) equaled \$154,893.93. The highest single recovery in 2014 was for \$17,692.52 and the lowest amount recovered in 2014 was \$150.00.

**C. FY 2015**

In FY 2015, the PSS office received 269 inquiries related to wage recovery. Of those inquiries, 72 complaints were filed under the program, requesting a total of \$229,333.21 in unpaid wages. 29 complaints were dismissed for lack of jurisdiction, including dismissals because the work was not performed in Broward County, the complaints were untimely, the employee failed to provide written notice to the employer, or the employees withdrew their complaints after filing. PSS staff was able to conciliate 17 complaints without the need for a hearing. These conciliations resulted in the recovery of \$27,111.55 in back wages.

26 complaints went before a hearing officer. These Wage Recovery hearings resulted in employees recovering a total of \$68,081.96 in back wages. The total wages not collected in 2015 (the difference between the amounts requested and the amounts recovered through conciliations and hearings) equaled \$134,139.70. The highest single recovery in 2015 was for \$20,165.94 and the lowest amount recovered in 2015 was \$148.50.

**D. FY 2016**

In FY 2016, the PSS office received 231 inquiries related to wage recovery. Of those inquiries, 75 complaints were filed under the program, requesting a total of \$266,315.82 in unpaid wages. 24 complaints were dismissed for lack of jurisdiction, including dismissals because the work was not performed in Broward County, the complaints were untimely, the employee failed to provide written notice to the employer, or the employees withdrew their complaints after filing. PSS staff was able to conciliate 24 complaints without the need for a hearing. These conciliations resulted in the recovery of \$35,808.62 in back wages.

27 complaints went before a hearing officer. These Wage Recovery hearings resulted in employees recovering a total of \$42,074.01 in back wages. The total wages not collected in 2016 (the difference between the amounts requested and the amounts recovered through conciliations and hearings) equaled \$188,433.19. The highest single recovery in 2016 was for \$6,538.46 and the lowest amount recovered in 2016 was \$130.20.

**E. FY 2017**

In FY 2017, the PSS office received 112 inquiries related to wage recovery. Of those inquiries, 56 complaints were filed under the program, requesting a total of \$192,586.70 in unpaid wages. 19 complaints were dismissed for lack of jurisdiction, including dismissals because the work was not performed in Broward County, the complaints were untimely, the employee failed to provide written

notice to the employer, or the employees withdrew their complaints after filing. PSS staff was able to conciliate 10 complaints without the need for a hearing. These conciliations resulted in the recovery of \$24,615.49 in back wages.

27 complaints went before a hearing officer. These Wage Recovery hearings resulted in employees recovering a total of \$52,757.86 in back wages. The total wages not collected in 2017 (the difference between the amounts requested and the amounts recovered through conciliations and hearings) equaled \$115,213.38. The highest single recovery in 2017 was for \$9,302.00 and the lowest amount recovered in 2017 was \$247.00.

### ***III. Program Status and Recommendation***

Attached for your review are charts that reflect the Wage Recovery program's statistics since its inception on January 2, 2013, through end of Fiscal Year 2017. Over the five (5) year period, the program has collected more than \$385,000 in back wages for residents of Broward County. In light of the fact the Wage Recovery Ordinance calls for a sunset review of the program, this report shall serve as a programmatic review, with a recommendation to extend the Wage Recovery program.

Should you have any questions, please feel free to contact me.

MDS/tp

C: Monica Cepero, Deputy County Administrator



**PROFESSIONAL STANDARDS  
WAGE THEFT PROGRAM STATISTICS**

**EXHIBIT A**

**Wage Recovery Program Caseload Statistics**

| Fiscal Year  | Total Inquiries |
|--------------|-----------------|
| 2013         | 144             |
| 2014         | 170             |
| 2015         | 269             |
| 2016         | 231             |
| 2017         | 112             |
| <b>Total</b> | <b>926</b>      |

| Fiscal Year  | Total Complaints Received | Total Complaints Dismissed | Total Conciliated | Total to Hearing Officer |
|--------------|---------------------------|----------------------------|-------------------|--------------------------|
| 2013         | 28                        | 10                         | 15                | 3                        |
| 2014         | 50                        | 14                         | 22                | 14                       |
| 2015         | 72                        | 29                         | 17                | 26                       |
| 2016         | 75                        | 24                         | 24                | 27                       |
| 2017         | 56                        | 19                         | 10                | 27                       |
| <b>Total</b> | <b>281</b>                | <b>96</b>                  | <b>88</b>         | <b>97</b>                |

| Fiscal Year  | Total in Favor of Complainant | Total in Favor of Employer |
|--------------|-------------------------------|----------------------------|
| 2013         | 2                             | 1                          |
| 2014         | 10                            | 4                          |
| 2015         | 21                            | 5                          |
| 2016         | 24                            | 3                          |
| 2017         | 25                            | 2                          |
| <b>Total</b> | <b>82</b>                     | <b>15</b>                  |

| Fiscal Year  | Complaints Received |
|--------------|---------------------|
| 2013         | 28                  |
| 2014         | 50                  |
| 2015         | 72                  |
| 2016         | 75                  |
| 2017         | 56                  |
| <b>Total</b> | <b>281</b>          |

| Fiscal Year  | Wages Recovered+    | Conciliated         | Awards*             |
|--------------|---------------------|---------------------|---------------------|
| 2013         | \$30,054.04         | \$7,793.31          | \$22,260.73         |
| 2014         | \$104,582.01        | \$47,164.67         | \$57,417.34         |
| 2015         | \$95,193.51         | \$27,111.55         | \$68,081.96         |
| 2016         | \$77,882.63         | \$35,808.62         | \$42,074.01         |
| 2017         | \$77,373.35         | \$24,615.49         | \$52,757.86         |
| <b>Total</b> | <b>\$385,085.54</b> | <b>\$142,493.64</b> | <b>\$242,591.90</b> |

| Fiscal Year  | Wages Requested       | Wages Not Collected** |
|--------------|-----------------------|-----------------------|
| 2013         | \$103,569.54          | \$73,515.50           |
| 2014         | \$259,475.94          | \$154,893.93          |
| 2015         | \$229,333.21          | \$134,139.70          |
| 2016         | \$266,315.82          | \$188,433.19          |
| 2017         | \$192,586.70          | \$115,213.38          |
| <b>Total</b> | <b>\$1,051,281.21</b> | <b>\$655,195.70</b>   |

\* Awards refer to wages awarded by a Hearing Officer at the time of hearing.

+ Wages Recovered includes amounts that were awarded by a Hearing Officer and amounts recovered through conciliation.

\*\* Wages Not Collected equals the difference between the amounts requested and the amounts recovered through hearings and conciliations.

  
**PROFESSIONAL STANDARDS**  
WAGE THEFT PROGRAM STATISTICS

**EXHIBIT B**

Wage Recovery Program Expenses/Hearing Officer Costs

| Fiscal Year  | Actual Cost        | Cost Awarded       | Cost Recovered    |
|--------------|--------------------|--------------------|-------------------|
| 2013         | \$3,590.47         | \$2,930.03         | \$800.63          |
| 2014         | \$9,667.12         | \$4,424.27         | \$0.00            |
| 2015         | \$17,827.91        | \$10,400.28        | \$2,357.01        |
| 2016         | \$16,313.00        | \$8,239.29         | \$4,345.32        |
| 2017         | \$9,493.00         | \$5,976.78         | \$1,745.72        |
| <b>TOTAL</b> | <b>\$56,891.50</b> | <b>\$31,970.65</b> | <b>\$9,248.68</b> |

EXHIBIT C

## Wage Recovery Cases for Airport Vendors

1. 12 Cases were filed by Eulen America employees. All were filed in June 2016. All cases were either withdrawn or settled without a hearing.
  - 1 complaint was dismissed for lack of jurisdiction (the amount claimed was less than \$60).
  - 1 complaint was dismissed because the notice to the employer was insufficient.
  - 6 complaints were withdrawn by the employees.
  - 1 complaint was settled for \$330.82.
  - 1 complaint was settled for \$503.30.
  - 1 complaint was settled for \$130.20.
  - 1 complaint was settled for \$453.54.
2. 1 Case was filed in October 2016 by an employee of Fox Rent-A-Car. (off site location).
  - The case went before a hearing officer who awarded the employee \$1,407.70 in back wages.
3. There were no other airport vendor wage recovery cases filed prior to, or after 2016.