

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL SERVICE AND LABOR

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HELD AT: 250 Broadway - Committee Rm.
16th Fl

B E F O R E: I. DANEEK MILLER
Chairperson

COUNCIL MEMBERS: Elizabeth S. Crowley
Daniel Dromm
Costa G. Constantinides
Robert E. Cornegy, Jr.

A P P E A R A N C E S (CONTINUED)

Lorna Thomas, Member OPEI Union
Sales Support Representative
River Bay Corporation

Seth Goldstein
Senior Labor Representative
Local 153 OPEIU

Mora Caney (sic), First Vice President
Strategic Development
Amalgamated Bank

[sound check, pause, background comments]

[gavel]

SERGEANT-AT-ARMS: Quiet, please.

CHAIRPERSON MILLER: Good morning. I'm Council Member I. Daneek Miller. I'm chair of the Committee on Civil Service and Labor. Thanks everybody for coming out this morning. Today's topic of the hearing will be an Oversight - White Collar Workers in the Private Sector: The struggle with Workers Rights, Organization and Unionization. About six out of ten workers in the United States are in occupations traditionally classified as white collars, a sharp rise from a century ago where the number was about 20%. However, less than 3% of these workers in predominantly private sector fields as business services, finance, hospitality have no union--have union representation. Meanwhile, most modern blue collar industries are between 10 and 20% unionized, and public sector workers are at 35% union. That figure for the private sector is only 6-1/2%. Many white collar workers, office and professional employees have obtained expensive educations and are attuned to unequal distribution of wealth given their financial and workplace burdens.

Currently, many white collar workers suffer from title misclassification as contractors making them ineligible for overtime, health insurance, paid time off, unemployment insurance, retirement benefits and so forth. They are also sometimes misclassified in terms of salary when they are not well compensated nor management duties. Finally, some reports have linked stress levels in various white collar industries namely finance and investment banking with mental health risk including a high risk of suicide. Within the workplace there have been also well documented hours and wage abuses. Workers are laboring for longer hours with less pay. This often occurs when colleagues have been pushed out due to priorities on workplace automation and outsourcing. Meanwhile, unpaid labor in the form of unpaid internships continue to be prevalent. With such large growing white collar workforce, it is paramount that worker's rights are understood and protected. Workers must be given the opportunity to organize in order to raise standards where misclassification, abuse and overtime ineligibilities have neglected--neglected and impacted them. Through unionization workers across the country are compensated 21% more

than their non-union counterparts. Additionally, union workers have a greater job security and are able to more effectively contest misclassification while collectively bargaining over wage an hour provisions. They are often also able to achieve retirement protections, safety rules, healthcare, continuing education among other benefits. Given the overwhelmingly positive impact of potential workers organizing unionization holds for white collar workers in the private sector. The committee is convening this hearing today, and we will examine the conditions of these workers and of unions in the white collar fields across the country; and study the past and present and future of labor; discuss workplace standards and promote education on organizing efforts.

Now, I would like to thank Matt for the work that he's done the counsel--Counsel Matt Carlin, thank you for the work that you do--you've done on this. I'd like to thank the members for being here today, Council Member Danny Dromm and Council Member Crowley. Thank you for being here and also our staff, Misty Zoloff (sp?) our Analyst, Paul Stone for putting the finances together and, Mr. Ali Masunajad,

2 my Legislative Director. So, with that, we would
3 like to call the first panel, and that would be from
4 Local 153, Seth Goldstein and Lorna Thomas. [pause]

5 SETH GOLDSTEIN: Thank you very much.

6 CHAIRPERSON MILLER: You may begin
7 wherever you'd like.

8 SETH GOLDSTEIN: We'll start with Lorna
9 Thomas' statement regarding who she is and why we're
10 here.

11 LORNA THOMAS: Good morning. My name is
12 Lorna Thomas, and I'm a proud member of the 153 OPI
13 or OPEI Union. I'm a resident of New York City, and
14 I've been employed with River Bay Corporation as a
15 sales support representative since 1984. I'm
16 considered a non-exempt employee under the Fair Labor
17 Standard Act and the New York Wage Theft Protection
18 Act. River Bay Corporation manages Co-Op City, a
19 housing cooperative in the Bronx that includes 35
20 buildings and seven townhouse clusters. River Bay
21 Corporation has approximately 1,000 employees.
22 Needless, for several years, River Bay Corporation
23 and Marion Scott, (sic) Incorporation, an outside
24 company, brought in to manage River Bay as an engaged
25 in widespread and systemic wage and theft against its

employees. However, it was our Local 153 business rep, Seth Goldstein who met with the Local with 153 Bargaining Unit member and informed us that our employer was violating the law and he advised that we should stand up and file the class action lawsuit against River Bay and Marion Scott. We unanimous-- unanimous--we unanimously agreed to go forward and hired a law firm McLaughlin and Stern and Lois Ginsberg Law Offices, who was both prominent New York City class action law firms to bring a wage an hour lawsuit in federal court. The class action lawsuit filed in 2013 in the Southern Federal State District Court before Honorable John Kotelly (sp?) to represent 70--1,750 workers who alleged enormous violation of labor laws including being offered compensation, which is illegally earned, night differential pay premium that was not properly calculated into overtime payments, and that the workers were subject to scheduled base pay system. Subsequently in 2015, the Federal Court approved the class action and the case was ultimately settled for \$6.2 million. The settlement is one of the largest public housing settlements in recent years. It was a great victory for River Bay Corporation employees.

Yet, regrettably, as of this current date, most white collar employees do not have strong union representatives nor access to legal representatives. Wage an hour violations occur regularly and often employees are either too scared or not adequately educated about their rights to receive the overtime that they--they have earned. I do believe that New York City must take a proactive role in ensuring that New York City employees are paid fairly in accordance with Federal and State Labor Laws. I'm prepared to answer any questions.

SETH GOLDSTEIN: Sorry. My name is Seth Goldstein. I'm a Senior Labor representative with Local 153 OPEIU, (coughs) white collar labor union that represents almost 17,000 employees in the New York City area. Wage and theft violations by employees are--are widespread and we've found them in unionized shops. What is particularly disturbing in this case is the River Bay Corporation was regulated by New York City. So New York City had oversight over this company, and yet still they were violation our members' rights for many, many years. We do believe that a local municipal wage an hour division, which I believe has been passed by the City Council

and hopefully will be signed by the Mayor will go a long way to ensuring that our members and non-union employees as well have access to boots on the ground who will be able to come out and investigate when we have these types of violations. Thank you for letting us testify this morning, and I'm willing to answer any questions that you may have.

CHAIRPERSON MILLER: (background comments) Okay. So obviously, you've been an employee of--of the union that--that your--your perspective is obviously from an organizer perspective, and we do want to get into both representative and non-representative. We want to kind of be able to drill down on that, and some of the differences there. But obviously, your experience as a representative that there are some violations of collective bargaining agreements as well as federal provisions that occur even inside of a unionized shop obviously.

SETH GOLDSTEIN: [off mic] Yes, sir.

CHAIRPERSON MILLER: How prevalent--how prevalent--obviously--do you represent groups of workers outside of Co-Op City as well?

SETH GOLDSTEIN: Absolutely. I represent about 3,000 employees in the New York City area.

CHAIRPERSON MILLER: And--and--and if so, how--how prevalent are--are collective bargaining violations or just labor law violations that--that you have seen--

SETH GOLDSTEIN: [interposing] Oh, it's wide.

CHAIRPERSON MILLER: in this industry?

SETH GOLDSTEIN: It's widespread. You know, we have collective bargaining violations all the time. For instance, at River Bay Corporation it wasn't only a legal violation, there also were contractual violations because the collective bargaining agreement called for people that worked over 40 hours to get over time, time and a half. We found that case also in Hunts Point. We had to bring several wage an hour lawsuits against small owners, and these again were individuals who were subsidized by the City of New York, and they were considering bookkeepers to be exempt employees, which everybody knows that's a misclassification, and that was going on for years. And for all I know it still goes on up there. But, it--it happens all the time, and it's

not just the wage an hour violations, we have cases where employers won't bargain with the union, and they'll unilaterally implement changes in terms and conditions of employment. We had that recently at Long Island University, and we've had it at, you know, we've had it at Emblem as well. You know, where the company just doesn't play by the rules, and that's unfair. It's not fair to the employees who want to do a good job everyday, but then they're told that the rules change.

CHAIRPERSON MILLER: So obviously there's a recourse and through whether through the Supreme Court or through an arbitration--a mutual arbitrator. Have you--have they--have you utilized this or do you have it, first of all, in your collective bargaining agreements?

SETH GOLDSTEIN: All of our collective bargaining agreements have an arbitrational process and have arbitration, but often times arbitration does not provide the adequate remedy that our workers need. For instance, if I had used the arbitration process at River Bay where the company had violated the rights of the employees and had, you know, basically created wage theft for millions of dollars,

it would have taken a very long time to have done that. I would have had to do that individually, and we would not have been able to have gotten a remedy that is really important in this case because under arbitration, we only get back pay.

CHAIRPERSON MILLER: But in cases of day-to-day violations of collective bargaining, there's-- there's obviously the opportunity to utilize that process.

SETH GOLDSTEIN: We do have a collective bargaining process, and it helps a lot because our members are more protected than for instance non-union employees. There's a legal obligation. There is also access to the National Labor Relations Board in the cases what are called 885 violations, which are unilateral changes of working conditions.

CHAIRPERSON MILLER: Uh-huh, uh-huh, okay, yeah, and how--how prevalent is that that an employer will come in and contrary to the collective bargaining agreement decide that they want to implement new rules and regulations?

SETH GOLDSTEIN: It happens routinely. You have to be a very strong labor rep, and you have to have a very active group for that not to happen

because you often get HR labor relations directors who have no experience in labor law, and then they think if they can do whatever they want to do whenever they want to do it. And at that point you have to be able to take action. I would say that it happens unfortunately more than it should.

CHAIRPERSON MILLER: And generally, how do you find out about it?

SETH GOLDSTEIN: Well sometimes--I can give you a perfect example. At River Bay where they were paying merit raises to our members and this-- this is not regarding the wage an hour, and that happened for years. And it was only when I made a formal information request to their labor attorney Scott Travella (sp?) that he actually revealed that that was going on. At the same time, they were telling our employees that there was no money for them. So they were obviously giving money to those people who they decided they wanted to give money to, and they were not following the collective bargaining negotiations. So, I had to go to the National-- National Labor Relations Board in that case.

CHAIRPERSON MILLER: So, what--what went--more specifically what I was trying to get at here

is in terms of the--the employee of the member
itself. The members are generally the ones that--
that brings this information to you. Or is there--we
have heard other testimony about a culture of fear
that they were kind of afraid to--to say some things
or even in some instances it was kind of taboo to ask
for premium pay during times that you were entitled
to differentials whether it was night where we can
differential, and that if you ask that you would, you
know, kind of go on the black list.

SETH GOLDSTEIN: I'm going to let Lorna
testify to that because I believe a cultural affair
regarding that, am I correct?

LORNA THOMAS: Yeah. A lot of people
wouldn't want to ask, you know, for the, you know,
would not want to ask for, you know the raise in that
regard. You know, the right differentiation that
wasn't calculated properly. You know, wouldn't want
to do that.

CHAIRPERSON MILLER: Do you know of
anyone who actually asked verbally or through a
formal grievance or any other process and there was
some type of retribution or why, or was just made

kind of a inferred fear that existed that something would happen?

LORNA THOMAS: In a situation like that, I know that they would have gone to their shop steward, you know, to try to write up a grievance, and a lot of times this stuff didn't go anywhere.

SETH GOLDSTEIN: But remember again that our members are scared. So even when you go to the employer they don't really feel like they have any protection. Because while we have an arbitration grievance process, if some gets discharged and it could be for any small little thing, it would take eight or nine months for it to get to arbitration. And usually the employer doesn't say, you know, I'm going to terminate you because you, you know, you did something I don't like. The next minute, they're one or two minute late, you know, they start writing her up, and they look for--The things that they ignored previously now become important amazingly. And that's why I think the a more proactive role by the City of New York would be very, very helpful because this employer has to constantly be watched whether it's by myself as a union rep, or by our shop

stewards. If we don't have that oversight on them, you know, they're up to mischief making.

CHAIRPERSON MILLER: I--I do agree so-- But we--we--the Council just recently voted on their Office of Labor Standards, and I--I would suspect that some of these things or some of the--some of the concerns that--that will be addressed along with some of the labor--the newer legislation and protections that have been put in place--put in place for--for workers rights. But this is not in lieu of collective bargaining.

SETH GOLDSTEIN: Right.

CHAIRPERSON MILLER: And--and organized labor. So, I--I think that there is obviously you know that there is a--a--a fiduciary responsibility amongst yourself and other leaders to kind of do that. But that doesn't happen without member participation, right. So if you--you don't know, you can't, and I have a rep and a past president and business agent and president and sometimes you don't know everything.

SETH GOLDSTEIN: Right.

CHAIRPERSON MILLER: And that while these coaches (sic) are going on of fear and intimidation

and particularly in an industry that people are losing their jobs rapidly. People are being downsized, and--and so, how--how do you then address that so that--that you are creating a culture, a pipeline that people feel good about coming to you about these misdeeds that are going on within the company?

SETH GOLDSTEIN: Well, we all know, and you were a president and a rep, that our power comes through our members, right. And so, it takes a lot of organizing and working with the group and education to be able for them to understand what their rights are under the collective bargaining agreement, and also under federal, state and municipal law. I agree with you that there is no fix to the importance of collective bargaining. The importance of collective bargaining means that we can meet across the table and talk and try to resolve our problems without going through the legal--the unfortunate litigation that--that we would have to do. But on the same point, what you're doing by creating these different offices will help us with the collective bargaining that we have because it gives us the tools as good union reps to encourage

our members that they're not alone. That there are-- there--there is a group of people that have the progressive ideas that they have a right to stand up. We try to use the legal tools that we have to create a collective action. For instance, the importance of the wage an hour lawsuit, wasn't the lawsuit. It was that the members voted unanimously to do this and stand together. So, in fact, the--the ultimate wage an hour lawsuit came out of collective action. Am I correct, Lorna?

LORNA THOMAS: [off mic] Yes.

SETH GOLDSTEIN: Why don't you tell them what happened at the meeting when you decided to vote to file a lawsuit.

LORNA THOMAS: There was a lot of people that was scared that didn't want to, you know, go through with this. But, we did stand together, and do what we had to do. [pause]

SETH GOLDSTEIN: Right, the--the fact was that and I--that this--and that's why it's important because it is part of the collective bargaining process. The employees decided unanimously to stand up because they weren't being heard at the table. We had brought up this issue to the employer regarding

wage an hour violations in the context of collective bargaining and all we got was yea, yeah, yeah, that's important. But then, nothing was being done about it. So, of course, we have to go back to the memberships and--and then, you know, then the members give instructions to me what's going on, and then I can either bring it up to the employer or we can, you know, seek administrative remedies through the NLRB or whatever. But you're right. It's absolutely important that the members be educated and be involved in the collective bargaining process.

CHAIRPERSON MILLER: So, I--I have a few questions that--that maybe we can run through them. And certainly again we're doing this from a perspective of--of organized shops. And then we have--and then we are assuming that things occur differently in a non-Union shop and--and--and that's kind of putting it mildly.

SETH GOLDSTEIN: Right.

CHAIRPERSON MILLER: And so--but--so what have you seen and has the impact been on your white collar industry with the change in economy, downsizing, are you seeing increased compensation, decreased compensation, the responsibility of

individuals or workers taking on additional work.

And what, in fact, is their compensation because of additional work that they're taking on.

SETH GOLDSTEIN: I started working in New York City for a labor union in the early '90s. So I've seen over the last 25 years a, you know, in both blue collar and white collar decreased wage increases. I've seen subcontracting of jobs. I've seen, you know, attrition, layoffs, and that's because of, as you said, the economy. But it's also because nobody was championing the rights of working people. And we used to hear do more with less. You know, we have to be competitive but it never seemed that our employees were getting their fair share. It was especially a very gloomy situation during the days of Bloomberg and Giuliani because there was really no access for people who were working people. And they sort of were--were given the talking to, but no one was following through with them, for them. So yeah, I--I think that that's happened, and it is depressing to me. But I also think that when I sit here and I hear of all the wonderful things that the City Council is doing on behalf of working people, I'm sort of encouraged. And that's why I think that

some of the changes that you're proposing for instance I believe that there's something that you've been talking about rules about scheduling, providing opportunities for employees to get the transit check, the sick earned leave. All real progressive ideas that need to be encouraged. They need to be put forward because those are tools for me as a union rep not to substitute collective bargaining but to enhance it.

CHAIRPERSON MILLER: So, and I do agree, and that's why I said this is certainly what we're doing is not in lieu. And also, what we're doing is trying to level the playing field for those who are not organized and kind of bring them up to reach those standards that--that organized labor and that the union has brought to workers throughout the country. Again, but have you seen a trend in--in rising compensation or decrease in compensation? Or, has, in fact the fact that folks are doing more with less quite often has that been addressed? And has it been addressed at the bargaining table?

SETH GOLDSTEIN: I think that union employees are more fortunate than non-union employees, but we are seeing even in the unionized

environment because of factors that are really outside of the control of management and unions at the bargaining table, real challenges. You know, and I could address that the healthcare issue has become a real big issue with Premium Share. We ended up at River Bay at the collective bargaining negotiations for probably two years because it was who was going to pay for the health insurance and how much. And, you know, when you have a--when you have a family health plan that's, you know, going to be \$22 or \$23,000 a year, and that may be almost 100% of some of our members' starting compensation, it is not going to incentivize the employer for wanting to hire union employees. Also, we have real challenges with our retirement. You know, in 2008, the banks were bailed out, but the workers had to take the losses both in their 401(k) plans and also pension plans. So then in order to recover we have to then go back to the employer and ask for huge increases in--in pension reimbursement, which goes to our institution, but doesn't go into the pocket of our workers. As a matter of fact, Lorna will tell you that I think our members went without a raise for several years. Why don't you comment on that.

LORNA THOMAS: Yeah, we went without a raise for about six--six years, and as Seth indicated before, the company had to pay back into our pension. And then we had to not--because of that, we wasn't able to get our increase.

SETH GOLDSTEIN: Thank you, and these are all factors that are outside the power of collective bargaining, and you can't just make up money. And so, that was a problem. Also, there is a drive by employers to make, you know, to--to decrease their labor costs not just in healthcare and retirement, but just overall because they follow the Wal-Mart model. And so, in cases like River Bay, we were told that we could get raises, but we would have to give up stuff. And so, every time up 'til the time that we bargained our contracts, we did actually very well because of the tools that we had with the lawsuit. Our members were increasingly just giving give-backs, and I would argue that their life wasn't getting any--any better. Am I correct, Lorna?

LORNA THOMAS: You're right, yeah.

[pause]

CHAIRPERSON MILLER: Okay. We've been joined by Council Member Constantinides. What

impact, if any, has the--the--the so-called freelance with big economy had on white collar workers, and are we seeing more consultants, independent contractors? Just in general, what impact do you--do you see?

SETH GOLDSTEIN: Oh, I think that we've-- we've seen that in several respects where they bring in employees that are, you know, are--are called consultants and they're not really working. It's a way to shrink the bargaining unit to get out of paying their--their taxes. We have had that. I know that Ulaco was a group that we represented. We have 1,000 employees in 1997. We are down to 50 because they just outsourced everything, and they brought in independent contractors. They also misclassified employees, and said that they were management when they weren't. There was a whole--there--there was a whole type of philosophy that you just change the name of a job title, and then you become management. Because if you recall under the current wage an hour provisions, you could exempted if you make a minimum salary of about \$23,000 a year and then if you just throw in some--some what you would call discretionary, um responsibilities. So that, you know, you could make the hamburger maker into the

hamburger president. And then--and that's what's been going on. Thankfully, that has to some extent been remedied by what President Obama has done with the changes in the wage an hour laws. But still, the--the brunt of that occurred to our members because sometimes there's not really a white line between, you know, clerical duties and what a manager can do as a clerical and what the employees can do. And you just have to change. You can change the title from like contract coordinator to contract analyst and everybody goes, Oh, my God, that sounds like it's so important. It can't possibly be covered under the Fair Labor Standards Act.

CHAIRPERSON MILLER: So what impact does--has this had on your--your--has this diminished your membership.

SETH GOLDSTEIN: Yes.

CHAIRPERSON MILLER: What kind of numbers are we looking at over the past decade, five years, past decade?

SETH GOLDSTEIN: I--I would say that you would see that especially at like private colleges. I think you see the, you know, the work going either to independent contractors or to--or they

subcontract. I think that there's a lot of off-shoring that goes on in call centers. Call centers can be moved anywhere within the country. It's been very difficult to keep call center work in a city like New York because you can move that, off-shore that to India and it's easy. And often times companies will, you know, will start going to an Uber type--type of employment situation whether, you know, and, you know, the, you know, the hotel industry is doing the same thing.

CHAIRPERSON MILLER: So--so are you seeing this and more in a specific industry that you guys represent, or is this across the board in white collar? How are you--are you able to retain your numbers in terms of membership? Or are your number diminishing overall throughout the--throughout your--

SETH GOLDSTEIN: [interposing] Well, we've been--we've been organizing. So we've been able to keep up our numbers, but our numbers would be far higher if these changes wouldn't occur. I mean, you know, we're also aware that, you know, technology changes. So, we have to ride with that. Um, and we have to be prepared to train our employees for new jobs. For instance, I can tell you a success. We've

been working hand-in-hand with Amalgamated Bank, and I know that they're going to testify later today. But in the case of Amalgamated Bank, we actually have gained jobs because our members have been properly trained and would be given more responsibility. So I give a lot of credit to Keith and--and to the bank for doing that.

CHAIRPERSON MILLER: Are you seeing this in other industries with other employees? Are--are they willing to retrain workers and be helpful in that way? And/or do you have some type of impact bargaining mechanism that allows for that to happen when these downsizings take place?

SETH GOLDSTEIN: Well, I always believe that nobody is too old to learn or, you know, can't be educated to learn something if they really want to. That's something that I remember reading once a Con-Ed Vice President made when he was testifying to the New York State Public Service Commission when they were talking about jobs that are becoming more complex. And I really do believe that with that philosophy, there--there are organizations that for instance pay for tuition reimbursement that will--and I will credit Advantage Care Physicians, which is a,

you know, which is--I think we have 750 employees in the New York City area and they are associated with Emblem. They actually give \$1,500 college scholarships when they pay for re--you know, they allow people to retrain themselves. When you have that, we can ride with the jobs and, you know, we don't want to fight technology. We want to ride technology. [pause]

CHAIRPERSON MILLER: Okay. So, how--just how--I kind of want to drill down on again how prevalent are the--the kind of independent contractors and--and the part-timers and the freelancers--

SETH GOLDSTEIN: [interposing] It's widespread.

CHAIRPERSON MILLER: --in the industry?

SETH GOLDSTEIN: It's very widespread.

CHAIRPERSON MILLER: Compared to--what would you say?

SETH GOLDSTEIN: I would say that it's increased considerably, and that's why the U.S. Department of Labor is cutting back on when you can consider them an independent contractor. There was a memo that was put out in the last six or seven months

that basically said that, you know, that there is a real test that you have to prove to be an independent contractor. But again, having an organization-- because this isn't a collective bargaining issues because, you know, you could go to arbitration or go to the board. But there is nothing like having investigators that come out, and will look into these issues because, you know, employers don't like to give unions that type of information. And so often times you have to file charges with the National Labor Relations Board, and it could take months. In the meantime, you know, the employees are laid off because of misclassifying and-- Nobody wants to give you the information. You know, they say it's privileged for instance if they subcontract jobs. So, to be effective in collective bargaining negotiations having a local type of office with investigators would be very helpful to us. It's-- it's widespread.

CHAIRPERSON MILLER: So--so--and that was, as, you know, as we sum it up, my question would be what tools do you see as--as a--in your position in representing workers that would be helpful in--in protecting workers' rights and--and kind of ensuring

that these violations don't occur. Now, and then, of course, we'll consider--we'll that you're speaking for workers in general, and I know that you represent your union members. But just in general what tools do you foresee as a mechanism to support workers?

SETH GOLDSTEIN: Well, I--I--I'm speaking to today not just for my bargaining members, but also for all workers in New York City that--that in order for them to have a voice at the table, the tools that could be provided by New York City are very, very important. New York City has always been the center labor. It's a labor town, and we have a long proud history of having strong labor unions. I think that what would help labor unions the most is if we could make it so people don't feel so scared when they speak out. And that means having, you know, rights so they can organize, notification. So these things are available. Having tough penalties if they violate labor laws, or if they violate, you know, rights of collective bargaining. I know that some of this can't be done by you because these are federal issues. But we can all march together in the same direction, and I believe again some of the changes that have been made by this City Council have gone a

long way to really fix some of the problems. I mean for the first time my members got additional rights when you passed the Earned Paid Sick Leave Law. And now, I'm able to take what was passed in New York and apply it to Suffolk County or to Nassau County or to Westchester County because I say, you know, the company we're one company. So how can you have better sick leave here and not have it there? Having access to transit check. These are things that now will help me in my--in my bargaining. So I see a definite roll by the city, and that's always been the case. I mean cities have been often active in labor negotiations on the side of the workers, and when that happens, it empowers workers.

CHAIRPERSON MILLER: Let me--I'm going to digress and--and this is not really a white collar worker--Let me take that back. It has not been because we have a specific package of--of--of worker retention legislation that has been introduced recently. Certainly, do you have anything in your collective bargaining around that are of worker retention when a new--many times we see a new employee comes into an industry, and they take over and they even bring in their staff.

2 SETH GOLDSTEIN: [interposing] Succession
3 clauses.

4 CHAIRPERSON MILLER: Correct.

5 SETH GOLDSTEIN: I try to bargain all
6 successor clauses in my collective bargaining
7 agreements. We often have cases where an employer
8 comes in and takes over and, of course, they don't
9 want to have the union. Look, most employers do not
10 like unions because a union basically is a voice for
11 workers, and a lot of employers want to do what they
12 want to do, and they want to--you know, they have
13 their own philosophy. And so, that gives the workers
14 the power with succession clause, you know, successor
15 clauses to be able to maintain their collective
16 bargaining rights after a new company takes over.
17 Some--I do in some cases. I have in other cases I
18 don't have it, but I do know that if you could pass
19 such retention laws, the National Labors Relations
20 Board will then force an employer to bargain with the
21 union. I know that there was case law recently on
22 that issue where there was a 90-day retention law,
23 and because of that retention law an employer had to
24 bargain. I know management didn't like that, but I
25 thought that that was again a very positive outcome.

Because I do believe that the National Labor Relations Board is moving forward. But I also think that a retention law, you know, you know, and I would love it to be [bell]--I would love it to be widespread to, you know, not just building services. You know, it could be other places would then force employers to negotiate.

CHAIRPERSON MILLER: So--so, yeah, so that is my question because obviously we've--we've--

SETH GOLDSTEIN: [interposing] I agree

CHAIRPERSON MILLER: --gone beyond building services now, and--and to addressing that, but in white collar because obviously companies--

SETH GOLDSTEIN: [interposing] Absolutely.

CHAIRPERSON MILLER: --see it being profitable to getting rid of a--a more long-time employee at a higher rate of pay with a different benefit package and bringing in what they perceive to be a--someone who they can pay less. So obviously we see that across the board. Do you think that that would be beneficial to have sort of a retention or succession--

2 SETH GOLDSTEIN: [interposing]

3 Absolutely.

4 CHAIRPERSON MILLER: --in these companies
5 as well?

6 SETH GOLDSTEIN: Well, I--I think that
7 this--that if--if that can be a signed law that that,
8 you know, in New York City that would be very helpful
9 to workers. Because, you know, to just go back to
10 River Bay, Marion Scott ran River Bay. So
11 theoretically, they were both employees what are
12 called joint employees--employers. And so you can
13 have an outside company come in and say I don't want
14 to recognize the union. So having that type
15 retention law would then give the union the ability
16 to go to the National Labor Relations Board or to
17 other government agencies and argue that there is a
18 collective bargaining responsibility. It would
19 really enhance collective bargaining.

20 CHAIRPERSON MILLER: Okay, so--so, you
21 know, just the--so what we're--we're attempting to do
22 here is within that 90-day period and the other bills
23 or laws are consistent with the--the current law,
24 which gives the 90-day retention period. Which is
25 sort of a review to be able to assess the--the

abilities of the employees to do the job. And beyond that just because you are a new employee shouldn't be a reason that you want to--a justification for you to get rid of these folks beyond that 90-day review period. And so, you know, I--I think that's fair on both sides. It's something that we would be looking to see if it would be preferable in a white collar situation over there--

SETH GOLDSTEIN: [interposing] You would really--

CHAIRPERSON MILLER: --and have it represented.

SETH GOLDSTEIN: You would really protect our workers. You would also protect non-union employees because often times they're not give an opportunity to perform because, you know, someone comes in and says I don't want to have them. But if they have a 90-day period, they could even form a union if they wanted to, or they could, you know, it would help them adjust to having a new employer. And so, I think it's good for union and it's good for non-union.

CHAIRPERSON MILLER: We've been joined by Council Member Cornegy. [pause] So I want to thank

you both for coming out, and we'll conclude that panel, and we'll bring up our next panel. But it's obviously been pretty eye-opening to see some of the things that occur in the--within the white collar world. And whether represented or non-represented, again, these are folks who have--I'd like to express that these are folks who are represented by a bargaining unit, an international union that has the tools and resources available to them. And we can only imagine what occurs in the world for those workers who don't. So we--

SETH GOLDSTEIN: [interposing] Thank you.

CHAIRPERSON MILLER: --that's what we're trying to find out here today where we can be helpful. So thank you for coming out and shining some light on this.

SETH GOLDSTEIN: Thank you very much.

CHAIRPERSON MILLER: [pause] The next panel is Mora Caney from Amalgamated Bank. [pause] You may begin.

MORA CANEY: Good morning. Thank you very much, Chair Miller and to members of the Labor Committee for having this important hearing today. My name is Mora Caney (sp?) and I'm a First Vice

President for Strategic Development at Amalgamated Bank. Amalgamated is a unique financial institution. We are both unionized and owned by a union. Amalgamated was founded by a union of immigrants nearly a century ago at time when workers were not welcome, literally not able to bank at commercial banks. Because the union that formed us, the Amalgamated Clothing Workers, had the foresight to create not just worker protections and strong contracts for their members, they also built housing, provided childcare and created a bank. In fact, Fiorello La Guardia was a Director of Amalgamated Bank. Amalgamated was not the union owned--the only union owned bank at the time, but we were the only to survive the Great Depression. We continued to be majority union owned, although after many mergers, our union is now known as Workers United, and is an affiliate of SEIU. We offer all the products and services of big commercial banks. We offer them for individuals, businesses and non-profits while proudly supporting the progressive vision of America where economic opportunity is available for all. We have clients in 46 states that are headquartered right here in New York City. Our staff is proudly

affiliated with OPIEU, Local 153, and our Building Services Team is 32BJ SEIU. We offer a generous pension plan, overtime pay, paid vacation and sick days and, of course, healthcare. In our most recent contract, we made the decision to raise all employee wages to a minimum of \$15.00 an hour. That includes tellers, back office support, administrative assistants and mailroom staff, the company wide minimum wage \$15.00. Amalgamated is the first financial institution in the country to not just join the first for \$15.00, but to actually bring it home. We've called on our colleagues in the financial industry to follow suit. When most people think about someone working in a bank, they think of the CEOs earning big bonuses and living lavish lifestyles. But just like the image of minimum wage workers being high schoolers earning a little spending money, the image of bank workers is also a myth. A large portion of bank employees make a surprisingly low wage. A recent report by the National Employment Law Project found a significant share of bank workers don't earn a living wage and rely on public assistance. Let me share some startling statistics with you. 30% of all retail

banking employees, more than half a million people are in jobs with a median wage of less than \$15.00 an hour. In New York City, that number is almost 40%. Tellers who constitute more than a quarter of retail banking employees make a minimum wage of \$12.44 an hour. 74% of bank tellers make less than \$15.00 an hour, and while wages for bank tellers have stagnated, the cost of living has increased leading to a 3-1/2% drop in real wages for tellers between 2009 and 2014. We know higher minimum wages in the banking sector would benefit historically disadvantaged groups. The workforce is overwhelmingly female. More than five and six bank tellers are women, and disproportionately of color. We also know that a higher minimum wage would benefit our economy. In New York banking employees account for a large part of New York's public assistance programs. Four in ten families of bank tellers in New York State rely on public programs to supplement their incomes. 31% of bank tellers use this assistance compared to 21--25% of the workforce as a whole. Families of bank tellers account for \$100 million of the cost of these public programs, more than 10% of the New York State total. And it's not

as if anyone could argue with a straight face, but the financial industry can't afford a \$15.00 an hour minimum wage. CEOs of many banks earn multi-millions. Indeed, the average worker to CEO salary across the U.S. is 303 to 1. In the financial industry that number is probably even higher. Here at Amalgamated Bank, the highest to lowest paid ratio is 17 to 1. Again, these numbers are from a recent report by the National Employment Law Project, which I provided copies of to the committee. They speak volumes about the need for white-collar workers to be offered the same benefits their blue-collar brothers and sisters have by being in a union. Thanks for your time today. I'm happy to answer any questions.

CHAIRPERSON MILLER: Thank you so much for your testimony. And you certainly bring a different and interesting perspective here, and so I'm writing things down, a number of things that I thought I wanted to ask, which I will. But certainly some questions around the demographics of the industry. And as you were giving us some of the numbers and the demographics, it came to mind something in a past hearing around pay equity. And do you think that--so my question, my first question

is do you think that pay equity, the problems of--do you see pay equity as a problem within the industry in general, and certainly within those demographics in gender have something to do with that? If so, could you explain what you're seeing within the industry.

MORA CANEY: Sure. Well, I would say a few things. I mean income inequality is a huge problem across our country, and within the financial industry it is also a huge problem. You know, the ratio between CEO pay and worker pay is a sin. And I do think the fact that many of the lower level workers are women, are women of color and it is a part of the reason why that inequity exists the way it does. Within the financial industry we have not done nearly enough to ensure diversity in all ranks of the industry from the top to the bottom. And as the National Employment Law Project Report points out, the vast majority of tellers are women. The vast majority of them are people with color. And so I think the questions around pay equity are probably also related to questions around the way women and people of color are treated and paid within the industry.

CHAIRPERSON MILLER: So, are you saying that--that they are limited to those entry-level positions, or is there a lack of recruitment in terms of the diversity or a lack of promotional and upward mobility opportunities?

MORA CANEY: I think it's probably all of those things. I will say at Amalgamated I feel like we have a very strong upward mobility opportunities for our staff, but we're a smaller bank. We have less than 400 employees, right. And I think in larger institutions you may not see that as much. I do think--you know, look, I think somebody that wants an exciting job where you're making social change will not traditionally look to the finance industry, and I can certainly understand that. I think we need to figure out ways to make these jobs not just better paid on the lower level, but also more interesting, more exciting, more engaging for people. And we need to think about ways in New York in Particular that, you know, our public schools and our public colleges and universities the financial industry can be doing recruitment of individuals that live in New York, that grew up in New York and that reflect the diversity of our city.

2 CHAIRPERSON MILLER: So, obviously, you
3 don't believe that we're seeing that now that they
4 are really putting for that effort. So--so let me--

5 MORA CANEY: [interposing] I will, if I
6 can, just note that Amalgamated participated this
7 year in the city's summer jobs program. We
8 participated in one of the programs within the summer
9 job program. I don't remember the name of it, but
10 where it's targeted more at college kids, less high
11 school kids. But we have 25 interns that we
12 accepted, the vast majority of whom were of color
13 going to public institutions around New York State.
14 All of them were New York City residents, and I think
15 we should make sure that all of the financial
16 institutions in New York are participating in that
17 program.

18 CHAIRPERSON MILLER: So there--there are
19 obviously certain community social responsibilities
20 that--that--that--that these institutions should be
21 following? Do you see them actually participating
22 in--in--you didn't start at Amalgamated, right? You
23 obviously were in the industry at other institutions.

24 MORA CANEY: I have--the only bank I have
25 ever worked at has been Amalgamated Bank, a little

bit--I don't have a strong financial background. I have an organizer background, right. I've worked for the union that owns the bank, Unite, and I've worked in government and in the City Council for many years. So my background is not a financial one. It's a little bit of a unique position for somebody in a financial institution, but Amalgamated is a unique bank. You know, look, there are requirements on the federal, state and city level for financial institutions, as there should be, right? The CRA requirements about investing in communities. The Better Banking Bill places requirements on bank institutions in New York, the requirements for folks who take city deposits. I would urge the Council and your colleagues at the state and federal level to look at what sort of requirements can be placed around pay equity and around recruitment and diversity in recruitment in those types of vehicles within the financial industry. I will also note we take NYCID as a primary means of identification to open bank accounts. We're one of the few banks to do that. I think the Council should consider putting a requirement on banks that are holding city deposits, depository banks and requiring that they take NYCID

as a primary form of identification for account opening purposes.

CHAIRPERSON MILLER: Well, it's certainly a suggestion that we would take under consideration. Considering the amount of resources and in particular the--just the deposits of local banks and the larger banks, would you--I would suspect that they have the ability to kind of minimize these disparities, the pay disparities, and provide better benefit packages. Just in general to their workers, would you attribute this to the lack of the unions within the industry or the lack of obviously collective bargaining, but having that voice that collective voice that could actually make this happen. Would you want to--

MORA CANEY: [interposing] I certainly think that's a big part of it. Amalgamated is one of the few banks in the industry to be unionized, and there is a campaign going on now that Make the Road and CWA among others are involved in nationally to unionize more bank workers.

CHAIRPERSON MILLER: Okay. Council Member Cornegy.

COUNCIL MEMBER CORNEGY: Good morning.

MORA CANEY: Good morning.

2 COUNCIL MEMBER CORNEGY: Well, first I
3 want to just say thank you to Amalgamated for being a
4 good corporate citizen and really setting an example,
5 but what seems to be unfortunately a very high bar
6 morally for dealing with workers. I'm curious,
7 though, as to whether or not you can point to any
8 similarities or higher rates of theft in the banking
9 industry compared to retail? Have--have any studies
10 been done?

11 MORA CANEY: By employ--heft by
12 employees?

13 COUNCIL MEMBER CORNEGY: Yes.

14 MORA CANEY: I am unaware of any facts
15 around that. You know, obviously it's something
16 financial institutions always need to be aware an
17 thoughtful of and concerned about. I would imagine
18 that creating a support workplace with employees who
19 are well treated would decrease the possibility of
20 that happening.

21 COUNCIL MEMBER CORNEGY: I would, too,
22 and I was just trying to see whether or not that was
23 an argument that I could--I could foster to encourage
24 other banking institutions to do the same.

25 MORA CANEY: I'm all for it.

2 COUNCIL MEMBER CORNEGY: Thank you.

3 [pause]

4 CHAIRPERSON MILLER: So what did you
5 attribute the--the--the lack of disparity between the
6 CEO's salaries and upper management salaries and the
7 everyday worker in comparison to the rest of the
8 industry?

9 MORA CANEY: At Amalgamated?

10 COUNCIL MEMBER CORNEGY: At Amalgamated.

11 MORA CANEY: We've made a conscious
12 decision to not continue to perpetuate an obscene
13 income inequality at Amalgamated Bank.

14 CHAIRPERSON MILLER: Council Member.

15 COUNCIL MEMBER CORNEGY: I just wonder do
16 you have any problems with--with worker retention
17 based on that model?

18 MORA CANEY: Um, you know--

19 CHAIRPERSON MILLER: [interposing]
20 Through the upper management retention.

21 MORA CANEY: Um, I--I think sometimes it
22 is a little bit harder for us to recruit upper
23 management folks because we may not pay quite as high
24 as some other institutions. But frankly, the people
25 that make the decision to come to Amalgamated are

people who want to come to a bank that's a little bit smaller where they might have a little bit of a bigger footprint and might be able to do some things that are a little bit more creative and flexible and people whose values align with our values, right?

COUNCIL MEMBER CORNEGY: Okay. Thank you.

CHAIRPERSON MILLER: So, could--could you talk a little bit about some of your workers. Your--what do you--do you call them hourly or salaried employees? What are they? The--the tellers and more of the entry level folks.

MORA CANEY: We are both hourly and salaried employees. Our employees that are unionized have a 37-1/2-hour work week. Anything above--above that is overtime. Our overtime includes meal money for our staff. We provide a pension for all of our employees. It's 15.5% of their annual income. Employees do not contribute to the pension. The bank contributes. There is also the option of an unmatched 401(k). If employees want to contribute to that themselves they can. Our healthcare plan includes 11 sick days and for our unionized members 15 vacation days.

2 CHAIRPERSON MILLER: [pause] and do you
3 know of any other financial institutions that are
4 organized that are unionized and/or that have--do-do
5 you know any that are organized?

6 MORA CANEY: I don't. I think there are
7 a handful of others, but off the top of my head, I
8 don't know what they are. I think either the CWA or
9 Make the Road by Walking--actually Make the Road New
10 York I think it's called now could answer that
11 question for you.

12 CHAIRPERSON MILLER: Are--are these
13 benefits--these benefit packages that you just
14 mentioned is that consistent with the industry or is
15 it different, more or less than the compensation
16 package that is being offered?

17 MORA CANEY: I think offer a 15.5% of
18 salary pension is much more generous than industry
19 standards. And to, you know, sort of additionally
20 respond to Council Member Cornegy's question about
21 our ability to recruit top staff with less obscene
22 salaries (laughs) you know, I think part of the
23 reason that we're able to do that as well is that we
24 do offer a more generous package on the benefit side
25 than some other institutions might.

2 CHAIRPERSON MILLER: So--so compared--so
3 let's take the tellers and some other more entry
4 level positions. So they have the 15 days vacation
5 and--as well. Is that industry standard or is that
6 kind of an anomaly within the industry?

7 MORA CANEY: I don't know. I'm sorry. I
8 would guess it is probably not an industry standard
9 for entry level folks, but I don't know the answer to
10 that.

11 CHAIRPERSON MILLER: Okay. Do you have
12 anything else you want to add?

13 MORA CANEY: No, just thank you very much
14 for looking at this important issue, and please let
15 us know how we can continue to be supportive.

16 CHAIRPERSON MILLER: Thank you so much
17 for coming out and shining light on this as well.
18 Thank you. This morning again we are here to explore
19 the white collar industry and its impact, the impact
20 of recent economies whether its the gig, the
21 freelance, and some of the downsizing that we have
22 seen. Some of the burdens that have been placed,
23 additional burdens that have been placed on these
24 workers because of the downsizing that we have seen.
25 And whether or not these responsibilities allow them

to incur additional compensation. Obviously, we have seen that that is not the case there. One of the things that we did not have the opportunity to really drill down on and see what the impact of these additional responsibilities on workers have been. We received testimony and had conversations with workers who are not here to testify today, but talked about it. It's the impact on their physical wellbeing, their physical as well as mental wellbeing with additional hours, taking home work. We had some statistics that said that the average white collar worker was doing about an additional three hours of work at home each day, which did not include weekends. So we really want to drill down on that, and see where the Council can possibly be of assistance. But I thank everybody for coming out. I hope that this was helpful, it was beneficial and that we learned a few things in that collectively we can work in the future to make the conditions of working families better, which is what we strive to do at this committee continuously. So I think you for coming out. With that, this hearing adjourned.

[gavel]

1 COMMITTEE ON CIVIL SERVICE AND LABOR

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 24, 2015