

**DEPARTMENT OF ECONOMIC OPPORTUNITY  
Reemployment Assistance Appeals  
PO BOX 5250  
TALLAHASSEE FL 32399-5250**

**PETITIONER:**

Employer Account No. - 9976134  
SUWANNEE VALLEY TRANSIT AUTHORITY  
C/O WILLIAM STEELE, OPERATIONS MANAGER  
1907 VOYLES ST SW  
LIVE OAK FL 32064-4975

**PROTEST OF LIABILITY  
DOCKET NO. 0021 1425 00-02**

**RESPONDENT:**

State of Florida  
DEPARTMENT OF ECONOMIC  
OPPORTUNITY  
c/o Department of Revenue

**ORDER**

This matter comes before me for final Department Order.

Having fully considered the Special Deputy's Recommended Order and the record of the case and in the absence of any exceptions to the Recommended Order, I adopt the Findings of Fact and Conclusions of Law as set forth therein. A copy of the Recommended Order is attached and incorporated in this Final Order.

In consideration thereof, it is ORDERED that the determination dated June 10, 2013, is AFFIRMED.

### JUDICIAL REVIEW

Any request for judicial review must be initiated within 30 days of the date the Order was filed. Judicial review is commenced by filing one copy of a *Notice of Appeal* with the DEPARTMENT OF ECONOMIC OPPORTUNITY at the address shown at the top of this Order and a second copy, with filing fees prescribed by law, with the appropriate District Court of Appeal. It is the responsibility of the party appealing to the Court to prepare a transcript of the record. If no court reporter was at the hearing, the transcript must be prepared from a copy of the Special Deputy's hearing recording, which may be requested from the Office of Appeals.

Cualquier solicitud para revisión judicial debe ser iniciada dentro de los 30 días a partir de la fecha en que la Orden fue registrada. La revisión judicial se comienza al registrar una copia de un *Aviso de Apelación* con la Agencia para la Innovación de la Fuerza Laboral [*DEPARTMENT OF ECONOMIC OPPORTUNITY*] en la dirección que aparece en la parte superior de este *Orden* y una segunda copia, con los honorarios de registro prescritos por la ley, con el Tribunal Distrital de Apelaciones pertinente. Es la responsabilidad de la parte apelando al tribunal la de preparar una transcripción del registro. Si en la audiencia no se encontraba ningún estenógrafo registrado en los tribunales, la transcripción debe ser preparada de una copia de la grabación de la audiencia del Delegado Especial [*Special Deputy*], la cual puede ser solicitada de la Oficina de Apelaciones.

Nenpòt demann pou yon revizyon jiridik fèt pou l kòmanse lan yon peryòd 30 jou apati de dat ke Lòd la te depoze a. Revizyon jiridik la kòmanse avèk depo yon kopi yon *Avi Dapèl* ki voye bay DEPARTMENT OF ECONOMIC OPPORTUNITY lan nan adrès ki parèt pi wo a, lan tèt Lòd sa a e yon dezyèm kopi, avèk frè depo ki preskri pa lalwa, bay Kou Dapèl Distrik apwopriye a. Se responsabilite pati k ap prezante apèl la bay Tribinal la pou l prepare yon kopi dosye a. Si pa te gen yon stenograf lan seyans lan, kopi a fèt pou l prepare apati de kopi anrejistreman seyans lan ke Adjwen Spesyal la te fè a, e ke w ka mande Biwo Dapèl la voye pou ou.

DONE and ORDERED at Tallahassee, Florida, this 11<sup>th</sup> day of April, 2014.



Magnus Hines  
Magnus Hines,  
RA Appeals Manager,  
Reemployment Assistance Program  
DEPARTMENT OF ECONOMIC OPPORTUNITY

FILED ON THIS DATE PURSUANT TO § 120.52,  
FLORIDA STATUTES, WITH THE DESIGNATED  
DEPARTMENT CLERK, RECEIPT OF WHICH IS  
HEREBY ACKNOWLEDGED.

Shanendra Y. Barnes  
DEPUTY CLERK

4-11-14  
DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Final Order have been furnished to the persons listed below in the manner described, on the 11<sup>th</sup> day of April, 2014.

Shanendra Y. Barnes  
SHANEDRA Y. BARNES, Special Deputy Clerk  
DEPARTMENT OF ECONOMIC  
OPPORTUNITY  
Reemployment Assistance Appeals  
PO BOX 5250  
TALLAHASSEE FL 32399-5250

By U.S. Mail:

SUWANNEE VALLEY TRANSIT  
AUTHORITY  
C/O WILLIAM STEELE, OPERATIONS  
MANAGER  
1907 VOYLES ST SW  
LIVE OAK FL 32064-4975

DEPARTMENT OF REVENUE  
WILLA DENNARD  
CCOC BLDG #1 SUITE 1400  
2450 SHUMARD OAK BLVD  
TALLAHASSEE FL 32399

DEPARTMENT OF REVENUE  
ATTN: DIANNE AYERS  
PO BOX 6417  
TALLAHASSEE FL 32314-6417

State of Florida  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
c/o Department of Revenue

**DEPARTMENT OF ECONOMIC OPPORTUNITY**  
**Reemployment Assistance Appeals**  
**PO BOX 5250**  
**TALLAHASSEE FL 32399-5250**

**PETITIONER:**

Employer Account No. - 2962948  
SUWANNEE VALLEY TRANSIT AUTHORITY  
C/O WILLIAM STEELE  
OPERATIONS MANAGER  
1907 VOYLES STREET  
LIVE OAK FL 32604-4975

**PROTEST OF LIABILITY**  
**DOCKET NO. 0021 1425 00-02**

**RESPONDENT:**

State of Florida  
DEPARTMENT OF ECONOMIC  
OPPORTUNITY  
c/o Department of Revenue

**RECOMMENDED ORDER OF SPECIAL DEPUTY**

TO: Altemese Smith  
Bureau Chief,  
Reemployment Assistance Program  
DEPARTMENT OF ECONOMIC OPPORTUNITY

This matter comes before the undersigned Special Deputy pursuant to the Petitioner's protest of the Respondent's determination dated June 10, 2013.

After due notice to the parties, a telephone hearing was held on January 27, 2014. The Petitioner, represented by the Director of Operations, appeared and testified. The Respondent, represented by a Department of Revenue Tax Auditor III, appeared and testified.

The record of the case, including the recording of the hearing and any exhibits submitted in evidence, is herewith transmitted. Proposed Findings of Fact and Conclusions of Law were received from the Petitioner.

**ISSUE:** Whether the Petitioner is required to reimburse the Unemployment Compensation Trust Fund for benefit payments made to the claimant, pursuant to Section 443.1312; 443.1313, Florida Statutes.

**Findings of Fact:**

1. The Petitioner is a transit authority which is registered with the Florida Department of Revenue as a reimbursable employer. As a reimbursable employer the Petitioner is not required to pay a tax on the wages of employees but is required to reimburse the Department of Revenue for payment of unemployment compensation benefits, now known as reemployment assistance benefits, that are paid to former employees of the Petitioner.
2. One of the Petitioner's former employees, Kimberly Tucker, filed a claim for reemployment assistance benefits October 17, 2011, and was denied. Kimberly Tucker filed an appeal and a telephone hearing was held at which the Petitioner was represented.

3. On October 22, 2012, an Appeals Referee issued a decision reversing the denial of benefits. The Petitioner filed an appeal with the Reemployment Assistance Appeals Commission. On December 20, 2012, the Reemployment Assistance Appeals Commission issued an order affirming the decision of the Appeals Referee. The Petitioner did not appeal the order of the Reemployment Assistance Appeals Commission to the district court.
4. The former employee filed a subsequent claim for reemployment assistance benefits effective January 1, 2013. A *Determination Notice of Reemployment Assistance Claim Filed* was mailed to the Petitioner and the Petitioner responded.
5. As a result of the Petitioner's written response, a determination letter was mailed to the Petitioner on June 10, 2013, advising the Petitioner that a determination regarding the claimant's job separation was appealed on the prior claim and that the appeals decision held the claimant not disqualified from receiving benefits. The determination further advised that the Petitioner was a base period employer on the new claim and was subject to charges for the Petitioner's pro rata share of benefits paid on the new claim.
6. The June 10, 2013, determination notified the Petitioner that if the Petitioner disagreed with the requirement to reimburse the Unemployment Compensation Trust Fund the Petitioner could file an appeal within twenty days. The Petitioner filed a timely written protest on June 13, 2013.

#### Conclusions of Law:

7. Section 443.036, Florida Statutes, provides in pertinent part: Definitions.—As used in this chapter, the term:
  - (7) “Base period” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year.
  - (8) “Benefits” means the money payable to an individual, as provided in this chapter, for his or her unemployment.
  - (9) “Benefit year” means, for an individual, the 1 year period beginning with the first day of the first week for which the individual first files a valid claim for benefits and, thereafter, the 1 year period beginning with the first day of the first week for which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year.
  - (13) “Contributing employer” means an employer who is liable for contributions under this chapter.
  - (14) “Contribution” means a payment of payroll tax to the Unemployment Compensation Trust Fund which is required under this chapter to finance reemployment assistance benefits.
  - (36) “Public employer” means:
    - (a) A state agency or political subdivision of the state;
    - (b) An instrumentality that is wholly owned by one or more state agencies or political subdivisions of the state; or
    - (c) An instrumentality that is wholly owned by one or more state agencies, political subdivisions, or instrumentalities of the state and one or more state agencies or political subdivisions of one or more other states.
  - (38) “Reemployment assistance” means cash benefits payable to individuals with respect to their unemployment pursuant to the provisions of this chapter. Where the context requires, reemployment assistance also means cash benefits payable to individuals with respect to their unemployment pursuant to 5 U.S.C. ss. 8501-8525, 26 U.S.C. ss. 3301-3311, 42 U.S.C. ss. 501-504, 1101-1110, and 1321-1324, or pursuant to state laws which have been certified pursuant to 26 U.S.C. s. 3304 and 42 U.S.C. s. 503. Any reference to reemployment assistance shall mean compensation payable from an unemployment fund as defined in 26 U.S.C. s. 3306(f).

- (39) "Reimbursement" means a payment of money to the Unemployment Compensation Trust Fund in lieu of a contribution which is required under this chapter to finance reemployment assistance benefits.
- (40) "Reimbursing employer" means an employer who is liable for reimbursements in lieu of contributions under this chapter.
8. Section 443.1313, Florida Statutes, provides that unless a public employer has made an election to pay contributions the public employer must reimburse the Unemployment Compensation Trust Fund for the amount of regular benefits, short-time compensation benefits, and extended benefits paid to individuals based on wages paid by the public employer.
9. Section 443.131(3), Florida Statutes, provides conditions under which a contributing employer will not be charged for benefits paid. However, Section 443.131(4), Florida Statutes, provides that the provisions of subsection (3) do not apply to reimbursing employers.
10. The evidence presented in this case reveals that the Petitioner is a public employer which is required to reimburse the Unemployment Compensation Trust Fund in full, in lieu of paying a tax, for the proportionate share of benefits which is attributable to service in the employ of the Petitioner.
11. The law requires that a reimbursable employer must reimburse the Unemployment Compensation Trust Fund. There is no provision in the law that would relieve the Petitioner, a reimbursable employer, of that responsibility.

**Recommendation:** It is recommended that the determination dated June 10, 2013, be AFFIRMED.  
Respectfully submitted on February 21, 2014.



R. O. SMITH Special Deputy  
Office of Appeals

A party aggrieved by the *Recommended Order* may file written exceptions to the Director at the address shown above within fifteen days of the mailing date of the *Recommended Order*. Any opposing party may file counter exceptions within ten days of the mailing of the original exceptions. A brief in opposition to counter exceptions may be filed within ten days of the mailing of the counter exceptions. Any party initiating such correspondence must send a copy of the correspondence to each party of record and indicate that copies were sent.

Una parte que se vea perjudicada por la *Orden Recomendada* puede registrar excepciones por escrito al Director Designado en la dirección que aparece arriba dentro de quince días a partir de la fecha del envío por correo de la *Orden Recomendada*. Cualquier contraparte puede registrar contra-excepciones dentro de los diez días a partir de la fecha de envío por correo de las excepciones originales. Un sumario en oposición a contra-excepciones puede ser registrado dentro de los diez días a partir de la fecha de envío por correo de las contra-excepciones. Cualquier parte que dé inicio a tal correspondencia debe enviarle una copia de tal correspondencia a cada parte contenida en el registro y señalar que copias fueron remitidas.

Yon pati ke Lòd *Rekòmande* a afekte ka prezante de eksklizyon alekri bay Direktè Adjwen an lan adrès ki parèt anlè a lan yon peryòd kenz jou apati de dat ke Lòd *Rekòmande* a te poste a. Nenpòt pati ki fè opozisyon ka prezante objeksyon a eksklizyon yo lan yon peryòd dis jou apati de lè ke objeksyon a eksklizyon orijinal yo te poste. Yon dosye ki prezante ann opozisyon a objeksyon a eksklizyon yo, ka prezante lan yon peryòd dis jou apati de dat ke objeksyon a eksklizyon yo te poste. Nenpòt pati ki angaje yon korespondans konsa dwe voye yon kopi kourye a bay chak pati ki enplike lan dosye a e endike ke yo te voye kopi yo.

*Shanetra Y. Barnes*

SHANEDRA Y. BARNES, Special Deputy Clerk

*Date Mailed:*

*February 21, 2014*

Copies mailed to:

Petitioner

Respondent

Joined Party

KIMBERLY D. TUCKER  
12545 SE COUNTY RD 25A  
JASPER FL 32052-4035

WILLA DENARD  
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