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Fabiana's employees still waiting for pay that is owed to them for last weeks of work

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The text message Fabiana Carter send on Sept. 8 to her former employees — who had all been promised their wages within a week after the bakery's Aug. 30 closing — was one that no worker wants to get. "I want to empathize [sic] that you are all going to get paid, but it won't be as fast as you expected," Carter wrote. "It might take a week, or two, or a month or two months or maybe more.

"I do apologize for the inconvenience that this situation is causing to your finances, as I am going through the same situation."

In an interview with the Herald, Carter confirmed that she sent the message and said she does not have the money to pay the former employees. Six of them claimed a pattern of bounced checks, payment by handwritten checks or in cash and a confusing pay schedule.

One man claimed he was hired as a manager but not paid the rate he was promised. A woman said she was promoted but never got the raise she was promised.

Carter's withholding of timely payment from employees is illegal under federal and state law. Under state law, employees are entitled to their last paychecks on the next scheduled payday after the end of employment. Should employers not pay by that payday, former employees can be awarded 2% of final wages by the Illinois Department of Labor, with further penalties if employers do not pay after receiving a state order to do so.

"Even in our day and age, employers are still supposed to pay people," said Chicago labor lawyer Thomas Geoghegan. "The employer may be liable in an individual, not corporate capacity, because the law provides."

While Carter said her ex-husband Michael, who owned the also-recently-closed Bibliophile restaurant, is financially responsible for Fabiana's, both of them are named on the checks. Fabiana signed the checks. The associated limited liability company is named "Fabianacarter."

And in that LLC's listing on

the Illinois Secretary of State's website, both Michael and Fabiana Carter are listed as managers.

The Herald was unable to reach Michael Carter for comment.

The Illinois Secretary of State's website indicates the Fabianacarter LLC has not been in good standing since May 1, because they have not filed a required annual report with the office. The Secretary of State can thus refer the LLC to the Illinois Attorney General on Oct. 1 for legal action.

Fabiana Carter said no one has filed for bankruptcy. When she announced the bakery's closing, she said she would continue baking cakes for customers and pastries for newly opened Philz Coffee, 1425 E. 53rd St., which was selling them on Wednesday.

"She still has some kind of income coming in if she's working with Philz and taking cake orders," observed Justin Washington, who worked at Fabiana's as a baker and cake-decorator from November 2018 until it closed.

After Carter announced Fabiana's would close on Aug. 22, "Everybody was asking her, 'When are we going to get paid? You can't not pay us for up to months,'" Washington said. "Her

response is that she's sorry, there is no money in the account, and she doesn't know when she's going to be able to pay us."

(On Friday, a day after the Herald published an edition of this article online, Philz tweeted that they had ended their partnership with Fabiana's and would transition to new offerings by new vendors in their Chicago stores. Carter also closed Fabiana's social networking profiles after its initial publication.)

Sunshine Cahill, who worked as a barista at Fabiana's from July 2018 until the bakery closed, said employees were told when the closing was announced that they would receive their last paychecks within one or two weeks.

Cahill said four of his checks bounced, including the last one received before the bakery closed. Washington said two of hers had bounced. Bria Ellis, who started at Fabiana's as a full-time baker last October, said she was given her checks days after her scheduled payday and asked to wait a few days before cashing it. Some of those checks bounced.

Former employee Jimmie Lester said Carter asked him to take a managerial position on Aug. 12 at \$14 an hour. He had just started working at the Poke Bowl Co. in Lincoln Park when he was offered the Fabiana's job, which offered more money and responsibilities. He quit his job at Poke Bowl and started working in Hyde Park on Aug. 14.

"A week later, I was told the bakery was closing business and given a check for one day's pay, a promise of a full check for days worked and asked to finish the next week and a half out," he said.

When Lester went to the Hyde Park Bank, 1525 E. 53rd St, to cash the check, the teller told him they were unable to do so. He returned to Carter to complain, and he said she gave him most of his pay in cash from the register. Along with the rest of the laid-off Fabiana's employees, Lester has yet to receive the rest of the wages he is owed.

Carter disputed this characterization, saying, "I hired him at the last minute. We were doing the training for him to become a manager, but we didn't have the chance to go through all that process because the bakery closed."

Lester said he never received any training and that he would never have left the Poke Bowl Co., where he got \$13.50 an hour, for less pay.

Brittany Thigpen started work at Fabiana's as a barista but said Carter trained her for two months starting late last winter to be a supervisor.

"I guess she couldn't pay me for that, so at the last moment she changed it to 'lead barista,'" she said. "I asked her about increasing my payroll, and basically I was shut down."

The new title carried more responsibilities — checking inventory, closing every night, being on-call to deal with problems as they arose — but Thigpen never got a raise. She left with the same wage at which she started.

"Every time, I would leave her notes on what to get, she wouldn't get it, and then she would get upset when it wasn't there. It was a huge responsibility," Thigpen said.

Carter refuted this. "She agreed that there was a training period to see if it was going to work, but she didn't get promoted," she said. "She was in training, but obviously she didn't get promoted, because it didn't work."

Thigpen said three of her checks bounced and that Carter paid her in cash when it happened.

Thigpen also said the ceiling leaked, creating a safety hazard, and that the storefront, 1658 E. 53rd St., had no hot water. "She was borrowing water from the building next door until they cut it off," she said, referring to a former Edward Jones storefront next to the bakery that Carter apparently rented. "Most days we would have cold water, and we would have to boil it."

Tipping was also a point of contention. Fabiana's had a tip jar at the cash register, and customers who paid with credit cards had the option of giving a tip when they signed.

"It was explained to us that the tips on the credit card were to go to the bakery, pooled and used to pay the employees," Cahill said. The credit card tips did not go to the workers on top of

their \$13-an-hour minimum wage — the tips were used to pay payroll. Carter took the non-cash tips that customers thought were being given directly to employees.

"Most of us were raising concerns about that, but basically the response at the time was, 'Well, if I'm going to give you the tips directly, then I'm going to give you a tipped wage,'" or \$6.40 an hour, Cahill said. "What I thought was sleazy was that she would have up there that people who came in were tipping the employees, you'd think, when they're paying on credit card. But those tips weren't going to the employees."

Fabiana's stopped accepting credit card tips last spring before installing a new cash register system in late July, which pooled the tips and split them among the working baristas and dishwashers. Carter did not acknowledge the system that her previous employees described and said employees got the tips after a new system was installed.

On Sept. 18, Carter said she closed the bakery because of financial reasons and that the bakery has no money to pay former employees.

"I am trying to gather the money and pay them. I always paid everybody, and because we had a really good relationship as far as I was concerned, I want to make sure they all get paid," she said. "I need to find the money to pay them, and, like I said, I never said I was not going to pay them. I'm going to pay them, but it will take a while."

"We are in the process of closing the bakery and doing everything," Carter said when asked about the status of Fabianacarter LLC. She said she has not discussed the ultimate fate of Fabiana's with her ex-husband, whom she described as the bakery's owner with final legal and financial responsibility. "Obviously because I was managing the bakery, I had the responsibility to pay them, and I'll be paying them."

"I was just the manager," she said.

As of the Herald's Monday evening press time, the former employees had still not been paid.

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