



# Maine Human Rights Commission

# 51 State House Station, Augusta, ME 04333-0051

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[www.maine.gov/mhrc](http://www.maine.gov/mhrc)

Amy M. Sneirson  
EXECUTIVE DIRECTOR

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COMMISSION COUNSEL

August 8, 2014

## INVESTIGATOR'S REPORT E12-0403

██████████ (Freeport)

v.

██████████ (Portland)

### I. Complaint:

Complainant ██████████ alleges that Respondent ██████████ discriminated against him on the basis of race, color, national origin, ancestry, and disability by subjecting him to a hostile work environment. Complainant also alleges that Respondent retaliated against him for complaining of unlawful harassment by failing to safeguard personal medical information about his disability. Complainant alleges that he felt compelled to resign from employment due to the harassment and retaliation.<sup>1</sup>

### II. Respondent's Answer:

Respondent denies discrimination and retaliation, and alleges that Complainant resigned his position and moved away from the area due to personal issues. Respondent also alleges that one of the alleged harassers took Complainant in and lent him money while he was in need, and that the Complaint of harassment arose only after Complainant and the alleged harasser had a falling out due to personal disputes.

### III. Jurisdictional Data:

- 1) Date of alleged discrimination: January of 2010 – February 23, 2012.
- 2) Date complaint filed with the Maine Human Rights Commission ("Commission"): August 21, 2012.
- 3) Respondent employs approximately 2,200 people and is subject to the Maine Human Rights Act ("MHRA"), Title VI of the Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act, as well as state and federal employment regulations.
- 4) Complainant is represented by ██████████ Esq. Respondent is represented by ██████████, Esq.

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<sup>1</sup> Complainant alleges that he resigned because of unlawful harassment, and that the circumstances amount to a "constructive discharge". In order to determine whether or not Respondent violated the MHRA, it is not necessary to reach the question of whether or not the circumstances under which Complainant's employment ended amount to a "constructive discharge" within the meaning of the case law defining and interpreting that term. Accordingly, this issue is not addressed, and no recommended finding is provided on this issue.

- 5) Investigative methods used: A thorough review of the materials submitted by the parties, a Fact Finding Conference, interviews, requests for further information and documents. This preliminary investigation is believed to be sufficient to enable the Commissioners to make a finding of "reasonable grounds" or "no reasonable grounds" in this case.

**IV. Development of Facts:**

- 1) The relevant parties, issues, facts, and documents in this case are as follows:
- a) Complainant is black and Congolese-American. He was employed by Respondent from January of 2008 until February 23, 2012, when he resigned from employment. He was a Production Supervisor at the time of resignation.
  - b) Respondent is a company that manufactures plastic containers.
  - c) "Coworker" was an employee who worked with Complainant. Complainant alleges that Coworker harassed him on the basis of race, color, national origin, and ancestry.
  - d) "Supervisor" was Complainant's direct supervisor during his employment. Complainant alleges that Supervisor also subjected him to harassment on the basis of race, color, national origin and ancestry.
  - e) "Plant Manager" supervised both Complainant and Supervisor. Complainant alleges that Plant Manager failed to appropriately address Complainant's reports of sexual harassment.
  - f) "HR Director" is the Human Resources Director for Respondent and interacted with Complainant throughout his employment.
  - g) Exhibit A contains two emails that Complainant sent to Plant Manager on November 5, 2011.
  - h) Exhibit B contains an email that Complainant sent to HR Director on November 29, 2011 while he was out on medical leave.
  - i) Exhibit C contains an email chain between Complainant and HR Director from January 2 – January 4, 2012.
- 2) Complainant provided the following:
- a) When Complainant first began employment, he had a good friendship and working relationship with Coworker. In early 2010, after he was promoted to day-shift crew leader instead of Coworker (who was demoted from the position of day-shift crew leader), Coworker's behavior toward him changed. Coworker's behavior toward him was unpredictable, and he sometimes acted as though he wanted Complainant to fail in his new position.
  - b) Around this time, Coworker and other employees started making racist comments. Some incidents include the following:
    - i) Coworker made a comment to another employee in Complainant's presence that Complainant was where he belonged because what he was doing was "n\*\*\*er's work." Complainant went to Supervisor about it, but Supervisor did not care and told him to ignore Coworker.

- ii) Complainant heard through other employees that Coworker had made many race-related insults about him outside of his presence, including calling him a "dumb n\*\*\*er". Complainant did not personally witness these comments.
- iii) Complainant witnessed both Coworker and Supervisor using the word "n\*\*\*er" and witnessed other coworkers laughing about it. Complainant told Supervisor that he could not use that type of language since Complainant was in a supervisory position and needed to be respected by his employees.
- iv) Coworker left out a copy of a local newspaper which displayed coverage of a Klu Klux Klan ("KKK") march. An email that Complainant sent to Plant Manager on November 5, 2011(see file) shows that Complainant complained about the newspaper incident, and stated that he was going to HR Manager regarding the incident. Despite these complaints, Plant Manager failed to take action to stop the harassment.
- v) In or around November of 2011, Complainant reported to management that someone had written "KKK" on the wall of the women's bathroom.
- vi) In or around May of 2010, Complainant came to work late because of issues with his newborn child. Supervisor was angry and told Complainant to get his "black a\*\*" away from him, and called Complainant a "dumb n\*\*\*er". Complainant reported Supervisor's statements to Plant Manager, who told him to relax and just take it because Supervisor was a hard worker.
- c) Complainant did borrow money from Coworker in or around the spring of 2010, and they maintained a cordial relationship outside of work. He paid Coworker back his money at some point in 2011. There was never a dispute between the two of them regarding any money that he owed Coworker, and Coworker never approached him about it. Complainant even stayed with Coworker for a few days during spring of 2011, when they were still friendly outside of work. Around the spring of 2011, Complainant found out that Coworker had been spreading his personal information around the plant.
- d) Both Supervisor and Plant Manager acknowledge that Complainant reported an incident where "KKK" was written as graffiti in the women's bathroom (and Supervisor admitted he had seen it). Plant Manager stated that he speculated Complainant had written the graffiti himself, but had no basis for this speculation.
- e) In November of 2011, Complainant was hospitalized for depression as a result of the racial harassment by his coworkers and Supervisor. On November 29, 2011, Complainant emailed HR Director to complain about the racial harassment he was experiencing, including the use of the word "n\*\*\*er", and swastika and KKK drawings (see Exhibit B). Nothing was done about his complaints.
- f) On January 2, 2012, Complainant emailed HR Director and requested a meeting with her and Coworker to "talk about workplace conflict past racist issues, and harassment" (see Exhibit C). This meeting was held on January 12, 2012, between Complainant, HR Director, and Plant Manager. Respondent alleges that the meeting had to do solely with resolving personal issues between Complainant and Coworker, and not with his complaints of harassment, which is false. During this meeting, Complainant again brought up the issues of race harassment and was again told to forget about it, and that Coworker was just being dumb. Complainant did not mention Supervisor by name in this meeting for fear of getting fired and did bring up only vague allegations of "managers making

racial remarks", but it should have been addressed. HR Director and Plant Manager never asked him for further detail in this meeting.

- g) On February 9, 2012, Complainant was placed on an unwarranted Performance Improvement Plan ("PIP"). He had never received discipline or warnings in the past, and he only received the PIP shortly after bringing forward complaints of harassment. He believes the PIP was an act of retaliation on the part of Respondent.
  - h) In or around February 20, 2012, a coworker accessed Complainant's computer at work and forwarded personal emails regarding his hospitalization and his complaints of harassment to other coworkers. Complainant also found out that Plant Manager and Supervisor had told other coworkers about his hospitalization. A coworker told him that everyone knew he had gone to the "nuthouse." He believes this was done in retaliation for complaining of unlawful race harassment. He also believes that Respondent's failure to safeguard his private medical information resulted in a hostile work environment based on his perceived disability.
  - i) Complainant felt he had no choice but to leave his employment due to the harassment and retaliation. He resigned on February 23, 2012. In his resignation email he mentions that Coworker ruined his family life because Coworker would cause problems for him at work when his wife called; he would tell his wife that Complainant was not there or that there were other women with him.
- 3) Respondent provided the following:
- a) Complainant never complained of race harassment to Plant Manager. While Complainant frequently complained to him about Coworker, his complaints were about personal issues between them and were not related to race. Coworker had lent Complainant money and had allowed Complainant to stay in his home at various times due to Complainant's marital issues.
  - b) Complainant emailed Plant Manager to complain about a racist article in a local newspaper that was left out, but then he emailed Plant Manager directly following his complaint and stated that he was not mad anymore, and he would handle the complaint himself (see Exhibit A). Complainant also reported to Plant Manager that someone had written the word "n\*\*\*er" or "KKK" on the wall in the women's bathroom. Plant Manager reported this to HR Director, who told him to investigate by asking others about the incident. When he asked coworkers about it, they stated that they thought Complainant had written the statement himself and that he was "always messing around in there."
  - c) The first time Complainant reported race-related harassment to HR Director was via email when he was hospitalized and out on medical leave (see Exhibit B). HR Director immediately addressed the issue by calling and asking Complainant for more details. Complainant was vague and reluctant to give further information and detail, and stated that he did not want to get anyone in trouble. HR Director told Complainant that it would be very difficult to investigate without names, but Complainant still refused to disclose this information. Complainant only told her that there were racial innuendos being used and that he felt discriminated against. HR Director then called Plant Manager, who stated that he had not heard of any issues regarding race harassment.
  - d) HR Director recalls that at one point Complainant also reported that there was a swastika and KKK symbols drawn on a poster in the break room, but when investigated, there was no physical evidence of this. Respondent decided to conduct a refresher harassment training for all employees as a result

of Complainant's report, and because Respondent was due to have the training anyway, which occurs annually or biannually.

- e) A meeting on January 12, 2013, was held with the purpose of resolving personal conflict issues Complainant was having with Coworker. Harassment was not brought up or addressed during the meeting. Complainant and Coworker had stopped getting along due to money and other personal issues involving Complainant's wife.
- f) Complainant gave a resignation email that does not mention harassment and clearly states he was moving away for personal reasons and because of personal conflict with Coworker. He states in the email that he was moving because Coworker "ruined my family here and overse[a]s" (see file).
- g) Complainant never complained to Supervisor about race harassment from Coworker. He did once complain about KKK being written in the women's restroom. Supervisor went and saw it and had it removed. He asked employees in the plant if they had written it or seen anything suspicious, and they all stated they had not. Supervisor did not use the word "n\*\*\*er", and did not hear any other employees use that language at work. Complainant never complained to him about the use of this word. Supervisor also never said the words "black a\*\*\*".
- h) The PIP issued to Complainant was justified and was unrelated to any complaints of harassment. He was counseled for causing tension between employees by borrowing money from them and by causing disturbances in the workplace due to his marital problems (at one time his wife came to his place of work and threw all of his belongings in the parking lot).

#### **V. Analysis:**

- 1) The MHRA requires the Commission to "determine whether there are reasonable grounds to believe that unlawful discrimination has occurred." 5 M.R.S. § 4612(1)(B). The Commission interprets this standard to mean that there is at least an even chance of Complainant prevailing in a civil action.

#### Hostile Work Environment – Race, color, national origin, ancestry

- 2) The MHRA provides, in part, that it is "unlawful employment discrimination, in violation of this Act . . . for any employer to . . . because of race or color . . . discriminate with respect to the terms, conditions or privileges of employment or any other matter directly or indirectly related to employment." 5 M.R.S. § 4572(1)(A).

- 3) The Maine Human Rights Commission Regulations provide, in part, as follows:

Harassment on the basis of race or color is a violation of Section 4572 of the Maine Human Rights Act. Unwelcome comments, jokes, acts and other verbal or physical conduct of a racial nature constitute racial harassment when:

- c) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Me. Hum. Rights Comm'n Reg. § 3.09(F) (1) (July 17, 1999).

4) "Hostile environment claims involve repeated or intense harassment sufficiently severe or pervasive to create an abusive working environment." *Doyle v. Dep't of Human Servs.*, 2003 ME 61, ¶ 23, 824 A.2d 48, 57. In determining whether an actionable hostile work environment claim exists, it is necessary to view "all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." *Id.* (citations omitted). It is not necessary that the inappropriate conduct occur more than once so long as it is severe enough to cause the workplace to become hostile or abusive. *Id.*; *Nadeau v. Rainbow Rugs*, 675 A.2d 973, 976 (Me. 1996). "The standard requires an objectively hostile or abusive environment--one that a reasonable person would find hostile or abusive--as well as the victim's subjective perception that the environment is abusive." *Nadeau*, 675 A.2d at 976.

5) Accordingly, to succeed on such a claim, Complainant must demonstrate the following:

(1) that she (or he) is a member of a protected class; (2) that he was subject to unwelcome [race or color] harassment; (3) that the harassment was based upon [race or color]; (4) that the harassment was sufficiently severe or pervasive so as to alter the conditions of plaintiff's employment and create an abusive work environment; (5) that [the] objectionable conduct was both objectively and subjectively offensive, such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so; and (6) that some basis for employer liability has been established.

*Watt v. UniFirst Corp.*, 2009 ME 47, ¶ 22, 969 A.2d 897, 902-03.

6) The MHRC Regulations provide the following standard for determining employer liability for racial harassment committed by a supervisor:

An employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to racial harassment. When the supervisor's harassment culminates in a tangible employment action, such as, but not limited to, discharge, demotion, or undesirable reassignment, liability attaches to the employer regardless of whether the employer knew or should have known of the harassment, and regardless of whether the specific acts complained of were authorized or even forbidden by the employer. When the supervisor's harassment does not culminate in a tangible employment action, the employer may raise an affirmative defense to liability or damages by proving by a preponderance of the evidence:

- (a) that the employer exercised reasonable care to prevent and correct promptly any harassing behavior based on race or color, and
- (b) that the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Me. Hum. Rights Comm'n Reg. § 3.09(F) (2) (July 17, 1999).

7) The MHRC Regulations provide the following standard for determining employer liability for racial harassment committed by a non-supervisor:

[A]n employer is responsible for acts of racial harassment in the workplace where the employer, or its agents or supervisory employees, knows or should have known of the conduct. An employer may rebut apparent liability for such acts by showing that it took immediate and appropriate corrective action.

Me. Hum. Rights Comm'n Reg. § 3.09(F) (3) (July 17, 1999). *See Watt v. UniFirst Corp.*, 2009 ME 47, ¶ 27, 969 A.2d 897, 904.

The Law Court has held as follows: "The immediate and appropriate corrective action standard does not lend itself to any fixed requirements regarding the quantity or quality of the corrective responses required of an employer in any given case. Accordingly, the rule of reason must prevail and an employer's responses should be evaluated as a whole, from a macro perspective." *Watt v. UniFirst Corp.*, 2009 ME 47, ¶ 28, 969 A.2d 897, 905.

- 8) Here, Complainant establishes a hostile work environment claim by showing that he was subjected to unlawful harassment on the basis of race and color, that the harassment was severe or pervasive enough to create an abusive environment, and that the harassment was both objectively and subjectively offensive. Reasoning is as follows:
- a) The record reflects that Complainant was subjected to and reported serious allegations of harassment on the basis of race/color to management beginning in November of 2011, one of which was undisputed ("KKK" graffiti). The fact that this graffiti occurred makes it plausible that other racially discriminatory behavior occurred as well.
  - b) Complainant did have relationships with Supervisor and Coworker which appear to have been friendly for at least part of Complainant's employment. However, Complainant alleges that this changed in the workplace when he was promoted over Coworker (*see* Exhibit B, noting that the harassment started when a coworker saw his paystub). This explanation supports Complainant's allegation of race-based harassment, if his coworkers were trying to put him in his place in reaction to his promotion.
  - c) It is clear from the record that Complainant was the subject of discriminatory harassment which Complainant found to be offensive and abusive, and which is objectively offensive and abusive as well. It can be argued that the incident of the KKK graffiti alone, which Respondent admitted seeing, is a severe enough offense to render the work environment hostile, given the extreme connotations associated with the KKK.
- 9) Respondent is found to be liable for the hostile work environment because it failed to adequately and promptly correct and prevent future harassment. Reasoning is as follows:
- a) While Respondent conducted a harassment training for its supervisory employees after Complainant's reports of harassment, Respondent acknowledged that this was a regularly scheduled annual or bi-annual refresher training which was to occur regardless of any complaints of harassment.
  - b) The supervisory harassment training alone cannot be considered sufficient to correct and prevent racial harassment. There is also nothing in the record to suggest that Respondent conducted any training for non-supervisory employees, despite Complainant's repeated reports of harassment by his coworkers.

- c) Complainant repeatedly reported allegations of egregious discriminatory behavior in the workplace, including the use of swastika signs, KKK graffiti, and the use of the word "n\*\*\*er" (see exhibits and file). While Respondent stated that some of these allegations could not be corroborated, it acknowledged that "KKK" was written in graffiti on the wall of the female bathroom. The only investigation conducted into this allegation was management asking fellow employees if they had seen anything, which resulted in one employee alleging Complainant had done it. This issue was not addressed further until Complainant's email to human resources in January of 2012 while Complainant was out on medical leave. Given the seriousness of this issue, and the fact that the KKK graffiti was documented to have occurred, Respondent's failure to do more to investigate the issue was inadequate.
  - d) Respondent contends that it could do nothing because of Complainant's vague allegations and refusal to name his harassers. While it is not in dispute that Complainant was vague in some of his allegations (in that he was reluctant to name specific people), it was unreasonable for Respondent to conduct no investigation into the serious allegations because of Complainant's initial reluctance to give names. Furthermore, Complainant had already named Coworker as one offender in his email to management on November 5, 2011 (see Exhibit A). Further investigation would have been appropriate given the seriousness of Complainant's allegations as a whole.
  - e) Complainant emailed human resources in January of 2012 requesting that he meet with members of management to discuss issues of "past racial harassment" (see Exhibit A). Respondent stated that when the meeting occurred, however, Complainant did not raise issues of harassment, and therefore harassment was not discussed. Given that Complainant had specifically requested the meeting in order to discuss issues of harassment, it is implausible that he would not have mentioned them, and unreasonable for Respondent not to have raised the issue on its own.
- 10) Complainant has established that he was subjected to a hostile work environment on the basis of his race, color, national origin, and ancestry, and that Respondent is liable for the discrimination he experienced.

#### Hostile Work Environment - Disability

- 11) The MHRA provides, in part, that it is "unlawful employment discrimination, in violation of this Act . . . for any employer to . . . because of disability . . . discriminate with respect to the terms, conditions or privileges of employment or any other matter directly or indirectly related to employment." 5 M.R.S. § 4572(1)(A).
- 12) Using the same legal analysis above, Complainant here fails to establish a hostile work environment based on disability or perceived disability, with reasoning as follows:
- a) The record does not contain evidence showing either that Complainant is disabled or that he was perceived to be disabled by Respondent. Complainant was admittedly treated for severe depression, and missed several weeks of work as a result. However, there is no medical evidence to indicate that the condition had an actual or expected duration of at least six months, substantially limited a major life activity, or that Complainant was diagnosed with Major Depressive Disorder. See 5 M.R.S. § 4553-A. There is also no evidence in the record to show that Respondent believed that Complainant had a disability.



- b) Assuming that Complainant was disabled, or perceived as disabled, he nonetheless could not show that he was subjected to harassment severe or pervasive enough to constitute an abusive work environment. He pointed to a comment by a coworker that everyone knew he had been to the "nuthouse". This comment appears to be a stray remark, which – while insensitive – is insufficient to establish severe or pervasive harassment.
  - c) Complainant alleges that Respondent's failure to safeguard his medical information by preventing another coworker from accessing his emails resulted in a hostile work environment. Complainant failed to show, however, how Respondent was at fault for the alleged actions of his coworker, and how this act constituted harassment on the basis of disability.
- 13) Complainant has not demonstrated that he was subjected to a hostile work environment on the basis of disability/perceived disability.

#### Retaliation

- 14) The MHRA makes it unlawful for "an employer . . . to discriminate in any manner against individuals because they have opposed a practice that would be a violation of [the MHRA] or because they have made a charge, testified or assisted in any investigation, proceeding or hearing under [the MHRA]." 5 M.R.S. § 4572(1)(E).
- 15) The MHRA further defines unlawful discrimination to include "punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act." 5 M.R.S.A. § 4553(10)(D).
- 16) The Maine Human Rights Commission regulations provide as follows:

No employer, employment agency or labor organization shall discharge or otherwise discriminate against any employee or applicant because of any action taken by such employee or applicant to exercise their rights under the Maine Human Rights Act or because they assisted in the enforcement of the Act. Such action or assistance includes, but is not limited to: filing a complaint, stating an intent to contact the Commission or to file a complaint, supporting employees who are involved in the complaint process, cooperating with representatives of the Commission during the investigative process, and educating others concerning the coverage of the Maine Human Rights Act.

Me. Hum. Rights Comm'n Reg. 3.12 (July 17, 1999).

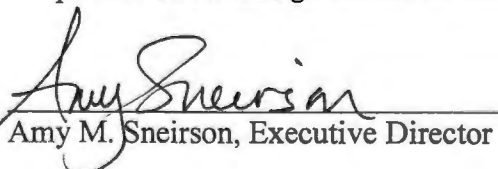
- 17) In order to establish a prima-facie case of retaliation, Complainant must show that he engaged in statutorily protected activity, he was the subject of a materially adverse action, and there was a causal link between the protected activity and the adverse action. *See Doyle v. Dep't of Human Servs.*, 2003 ME 61, ¶ 20, 824 A.2d 48, 56; *Burlington Northern & Santa Fe Ry. v. White*, 126 S. Ct. 2405 (2006). The term "materially adverse action" covers only those employer actions "that would have been materially adverse to a reasonable employee or job applicant. In the present context that means that the employer's actions must be harmful to the point that they could well dissuade a reasonable worker from making or supporting a charge of discrimination." *Burlington Northern*, 126 S. Ct. 2405. One method of proving the causal link is if the adverse action happens in "close proximity" to the protected conduct. *See Id.*

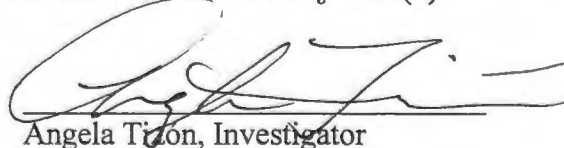
- 18) The prima-facie case creates a rebuttable presumption that Respondent retaliated against Complainant for engaging in statutorily protected activity. *See Wyrwal v. Saco Sch. Bd.*, 70 F.3d 165, 172 (1<sup>st</sup> Cir. 1995). Respondent must then produce some probative evidence to demonstrate a nondiscriminatory reason for the adverse action. *See Doyle*, 2003 ME 61, ¶ 20, 824 A.2d at 56. If Respondent makes that showing, Complainant must carry his overall burden of proving that there was, in fact, a causal connection between the protected activity and the adverse action. *See id.* Complainant must show that he would not have suffered the adverse action but for his protected activity, although the protected activity need not be the only reason for the decision. *See University of Texas Southwestern Medical Center v. Nassar*, 133 S.Ct. 2517, 2534 (2013) (Title VII); *Maine Human Rights Comm'n v. City of Auburn*, 408 A.2d 1253, 1268 (Me. 1979) (MHRA discrimination claim).
- 19) Here Complainant establishes a prima-facie case of retaliation by showing that he reported unlawful harassment, he was issued a Performance Improvement Plan (PIP), and that the PIP was issued in close proximity to his complaints of harassment (within a few months).
- 20) Respondent produced probative evidence to show that Complainant was issued the PIP for legitimate performance issues, including inappropriate work conduct.
- 21) Complainant could not show that the PIP was issued for false reasons, and that he was issued the PIP in retaliation for complaining of racial discrimination. It is clear from the record, including emails to management (see file), that Complainant was having personal issues at the time the PIP was issued: he was involved in a dispute with his wife in the workplace, and had borrowed money from coworkers which had caused tension among them. These are legitimate nondiscriminatory issues that were addressed in the PIP. There is no evidence that the PIP was an act of retaliation on the part of Respondent.
- 22) Complainant has not demonstrated that he was subjected to retaliation for MHRA-protected activity.

## **VI. Recommendation:**

For the reasons stated above, it is recommended that the Maine Human Rights Commission issue the following findings:

- 1) There are **Reasonable Grounds** to believe that [REDACTED] discriminated against [REDACTED] on the basis of race/color by subjecting him to a hostile work environment, and conciliation of this portion of the charge should be attempted in accordance with 5 M.R.S. § 4612(3);
- 2) There are **No Reasonable Grounds** to believe that [REDACTED] discriminated against [REDACTED] on the basis of disability by subjecting him to a hostile work environment, and this portion of the charge should be dismissed in accordance with 5 M.R.S. § 4612(2).
- 3) There are **No Reasonable Grounds** to believe that [REDACTED] retaliated against [REDACTED] for complaining about racial harassment in violation of the MHRA, and this portion of the charge should be dismissed in accordance with 5 M.R.S. § 4612(2).

  
Amy M. Sneirson, Executive Director

  
Angela Tizon, Investigator

From:  
Sent:  
To:

[REDACTED] (Maine) <  
Saturday, November 05, 2011 4:27 PM  
Maine)

Importance: High

brought in the forecaster at lunchtime that depicted KKK members marching on forest ave and laid it right on the break room table so I could see it, I'm pissed and looking through the Code of business Conduct it says "

1. DISCRIMINATION

CCC's Discrimination and Harassment policy prohibits treating an employee or applicant differently on the basis of age, creed, marital status, disability, national origin, race, color, religion, gender, veteran status, sexual orientation or any other characteristic protected by applicable federal, state or local law. Examples of prohibited discrimination include refusing to hire an applicant, disciplining an employee, or altering an employee's wages, hours or working conditions because of membership in a protected class.

2. HARASSMENT

CCC's Discrimination and Harassment policy prohibits harassment on the basis of age, creed, marital status, disability, national origin, race, color, religion, gender, veteran status, sexual orientation or any other characteristic protected by applicable federal, state or local law that has the purpose or effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's work performance; or (3) otherwise adversely affecting an individual's employment opportunities. Examples of prohibited harassment could include racial slurs or epithets,

negative stereotyping, possession of sexually explicit materials, ***THE CIRCULATION OR POSTING OF WRITTEN OR GRAPHIC MATERIALS THAT SHOW HOSTILITY TOWARD INDIVIDUALS BECAUSE OF THEIR PROTECTED STATUS AND THREATS DIRECTED AT AN INDIVIDUAL BECAUSE OF HIS OR HER MEMBERSHIP IN A PROTECTED CLASS. SUCH CONDUCT IS PROHIBITED IN THE WORKPLACE, EVEN IF THE CONDUCT IS NOT SUFFICIENTLY SEVERE OR PERVASIVE TO CONSTITUTE UNLAWFUL HARASSMENT***

We both know his bigoted mind and his intentions, I'm going to [REDACTED] boss, I don't make this guy do chores sanitations nothing, he pencil cheats majority of his paperwork, cheats every night on his numbers, and because of what I have had a habit of being late in the past, I got to put up with his bs, over and over, I'm done, either write him up or I will and I will make a formal complaint. And press charges. This paper should of belonged in his locker, asked everyone if it was there while hiding the front cover no one I mean no one has a clue where it came from. And please because I like [REDACTED], but his views are a little off I want this to be between me and you and [REDACTED] s boss, I can't work like this.

[REDACTED]  
Production Supervisor  
Safety Coordinator

[REDACTED]  
364 Portland, ME 04101

**From:** [REDACTED] (Maine) >  
**Sent:** Saturday, November 05, 2011 6:06 PM  
**To:** [REDACTED] (Maine)

**Importance:** High

I'm not mad anymore just forget it I'll just deal with it ok

[REDACTED]  
Production Supervisor  
Safety Coordinator  
[REDACTED]  
364 Portland, ME 04101

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**From:** [REDACTED] (Maine)  
**Sent:** Saturday, November 05, 2011 6:05 PM  
**To:** [REDACTED] (Maine)  
**Subject:** Read:  
**Importance:** High

Your message

**To:** [REDACTED] (Maine)  
**Subject:**  
**Sent:** Saturday, November 05, 2011 4:27:18 PM (UTC-05:00) Eastern Time (US & Canada)

was read on Saturday, November 05, 2011 6:04:57 PM (UTC-05:00) Eastern Time (US & Canada).

**From:** [REDACTED] (Maine)  
**Sent:** Tuesday, November 29, 2011 5:03 PM  
**To:** (Franklin)  
**Subject:** at home  
  
**Importance:** High  
**Sensitivity:** Confidential

Hello

I'm at home now am doing this partial program for a few days talked to steve on sunday, many issues to deal with depression and anxiety, financial issues with garnished wages, work. Can you please come and do a sensitivity training as far as race issues. You were right I am not to have to deal with issues like that in the workplace it started about a year ago, and certain words, as nigger used by people in front of other people and it astonished others, I am talking vaguely, because I don't want anyone to get in trouble, but when other leaders see this it diminishes the value of your importance at work. The thing is it did bother me very much so and its hard when you know its someone you look up to and has helped you what do you do. It kind of spread like wildfire, swastikaz on operators desks, kkk signs in bathrooms, a lot of racially motivated motives, and a huge start of all this started when my paycheck was in my folder on the operators desk and the operator saw my base pay. I'm not perfect, I have tardiness issues, and have had issues personal but more medical in the last couple months, but I always come through at crunch time , for audits, training, etc. I feel personally that me, you, and [REDACTED] should be the only ones, dealing with my case. Please call me at [REDACTED]

**From:** (Franklin)  
**Sent:** Wednesday, January 04, 2012 1:36 PM  
**To:** (Maine)  
**Subject:** RE: workplace conflict

Hello  
I am in the process of trying to schedule another date to come to Portland in the near future. There are a lot of things pending and I am trying to firm up dates so I can set a time for Portland. Possibly next week. I will be in touch.

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**From:** (Maine)  
**Sent:** Monday, January 02, 2012 12:57 PM  
**To:** (Franklin)  
**Subject:** workplace conflict  
**Importance:** High

Are you going to be up sometime, I need yourself, and I to sit down and talk about workplace conflict past racist issues, and harassment. Thanks.