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Attorney for the Charging Party

MONTANA DEPARTMENT OF LABOR & INDUSTRY
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Glenn D. Quinnell,
c/o Best Law Offices, P.C.
425 Third Ave. No.
P.O. Box 2114
Great Falls, MT 59403,

Charging Party,

HR Case No. 0131016372
0131016371

vs.

State of Montana,
Kenton E. Hickethier,
Montana Highway Patrol, and
Montana Department of Justice,
2550 Prospect Ave.
P.O. Box 201419
Helena, MT 59620-1419,

Respondents.

CHARGING PARTY'S REBUTTAL

COMES NOW THE CHARGING PARTY, Glenn Quinnell, and provides his Rebuttal to the Response of Respondents to his Complaint. Trooper Quinnell initially notes that Respondents appear to admit all of the underlying facts. Respondents' position appears to be that because Hickethier did not directly sexually or racially discriminate against or harass Mr. Quinnell, there was no violation of the law. This is a flawed statement of the facts and the law.

Trooper Quinnell objected to discriminatory conduct based on gender and race by Hickethier. Trooper Quinnell's objections to, and report of, the unlawful conduct constituted human rights activity. Respondents have retaliated at every opportunity following his report. Trooper Quinnell personally found Hickethier's conduct to be offensive, and stated so.

With respect to particular other paragraphs, the following additional rebuttal is provided.

- E. Sgt James Hunter and Captain Ed Hilbert can both corroborate that Huseby questioned Trooper Quinnell's honesty and suggested he was embellishing the facts. Once Lt. Colonel Huseby asked Trooper Quinnell for a report, he hoped it would be properly investigated. The investigator did not even attempt to interview the complainant, Trooper Quinnell. Respondent Hickethier was promoted to Major before any disciplinary letter was put in his file.
- F. While the initial testing took place during the tenure of Colonel Tooley, the majority of the process was after Hickethier took command. Both panels contained members who were recently promoted by Hickethier or HR personnel, who, on information and belief, answer to and work closely with Hickethier. Since the filing of this complaint Trooper Quinnell has gone through a third interview process and did not make the top 10. This was for the position of canine handler. He is uniquely qualified for this position, based on the minimum qualifications. Sitting on the panel for this interview was the person who prepared and submitted the Respondents' response in this case, Kila Shepherd. Shepherd and her staff were apparently responsible for compiling the total scores submitted to Hickethier to make his selections. Respondents have provided no feedback on any portion of the process. In fact, although Ms. Shepherd emailed Trooper Quinnell, promising to redo the peer evaluation portion of the process after the first round, this was never done. An email from June Henderson stated the Lt. Colonel did not think it necessary. Respondents suggest that Trooper Quinnell falls short on interviews. After three interviews, they still have given no feedback and have provided no evidence that this statement is true. Regardless, the interview process is subjective.

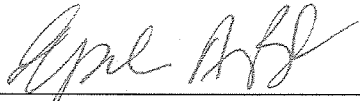
- G. On information and belief, Trooper Quinnell far exceeds the minimum standards. In fact, POST training, the Commanders evaluations, accomplishments and commendations, the fact that Trooper Quinnell is considered by at least some of those in command positions to be a mentor to the troops and someone the Junior Troopers and even some in command positions call when they need advice or assistance, he is one of the most qualified for the positions which have been filled.
- H. The process has changed more than once since Hickethier was promoted. An example of this is the peer review segment of the promotion process. The last Trooper Quinnell was informed, this was 30% of the score. Now, it appears that this segment is as just 15%. Under Hickethier, the process has been secret. Hickethier exercised absolute control over the promotion process. For example, during the promotion process for Major positions, the process was postponed so a policy revision to minimum qualifications could be completed. This allowed the two officers who were promoted to major to qualify and be promoted, instead of applicants who met the qualifications prior to the policy revision. Human Resources, which answered directly to Hickethier, participated in skewing the process.
- I. A promotion after misconduct is not punishment, nor is a "letter of warning" for that conduct, issued after the promotion. The post-promotion "letter of warning" was an attempt to create an illusion that action was taken to correct discriminatory conduct. Hickethier did not make one off color remark. His statements were part of a continuing pattern of harassment and abuse, which persists and continued from 2011 to the present. Retaliation against Trooper Quinnell began, and persisted, from the time when he reported Respondent Hickethier's misconduct.
- J. Trooper Quinnell reported the illegal conduct because he believed it was the right thing to do, and because he understood that as a law officer he had a duty to report it. The Respondents retaliation never stopped or adequately addressed the retaliation.
- K. Although Trooper Quinnell justifiably expected that someone on behalf of DOJ or MHP would follow up with him, they never have contacted him.

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DATED this 4th day of September, 2013.

BEST LAW OFFICES, P.C.

By: 
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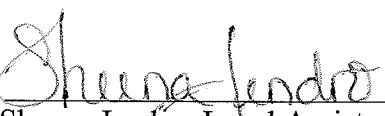
CERTIFICATE OF SERVICE

I hereby certify that the foregoing was duly served on the following, as indicated below:

☒ U.S. Mail
☐ Overnight Delivery
☐ Hand Delivery
☐ Facsimile

Kila K Shepherd
Human Resources Services Bureau Chief
Central Services Division
302 North Roberts
P.O. Box 201404
Helena, MT 59620

DATED this 4th day of September, 2013.

By: 
Sheena Jendro, Legal Assistant