



September 11, 2020

Amy M. Sneirson, Executive Director  
Maine Human Rights Commission  
51 State House Station  
Augusta, Maine 04333-0051

RE: Lisa Nelthropp v. Port Resources  
MHRC Case No.: E20-0211

Dear Ms. Sneirson:

I, in connection with Mr. Stephen Whiting of The Whiting Law Firm, P.A., represent Ms. Nelthropp in connection with her employment discrimination complaint against Port Resources. Please allow the following to serve as Ms. Nelthropp's Reply to Respondent's Answers.

Port Resources makes numerous important concessions in its response to the Commission's inquiry about the termination of Ms. Lisa Nelthropp. Port Resources admits that it did not follow its company protocol with respect to Ms. Nelthropp's termination. Response, Answer 19, ¶ 6 (conceding that Port Resources "departed from the specific investigation guidelines in the handbook"). Port Resources similarly does not deny that there is no restriction against talking about personal things at work or that such conversations are "not uncommon." *Id.* at ¶ 11. Port Resources also admits that before it fired her, Ms. Nelthropp "made known the importance of her faith." *Id.*, Answer 6. These concessions in combination affirmatively prove Ms. Nelthropp's prima facie case: She was not fired for discussing her personal beliefs but because of the religious content of those beliefs.

Moreover, Port Resources provides *no evidence* to rebut Ms. Nelthropp's Declaration; rather, it affirmatively disclaims that its response is intended to constitute evidence. *See* Port Resources Response at Page 1 ("This summary ... does not constitute an affidavit and is not intended to be used as evidence in any administrative proceeding or court proceeding of any kind."). In short, Port Resources now admits that it treated Ms. Nelthropp differently and did not follow its own protocol, admits in its termination letter that this different treatment and termination were for "bringing her personal [religious] beliefs into the workplace," and offers no evidence that it had any legitimate reason to fire her or to abandon protocol with respect to its investigation.

Disturbingly, Port Resources has materially changed its justification for firing Ms. Nelthropp in light of her complaint. In its termination letter, Port Resources says that Ms. Nelthropp violated Port Resources' Code of Ethics "on *several occasions* by bringing her personal beliefs into the work place." Complaint, Exhibit A (emphasis added). Realizing that the given reason for termination is completely unsupported by its own supervision log or any form of contemporaneous documentation, Port Resources now claims that the reason *given in her termination letter* is not the reason she was terminated. Instead, Port Resources claims it was only because of the events of November 9, 2019. *See* Answer 12 ("Port Resources terminated Complainant's employment because she subjected a co-worker to a hostile work environment based on the co-worker's sexual orientation."). Indeed, Port Resources now denies that it fired Ms. Nelthropp for her personal beliefs at all, despite citing them *twice* in its two-sentence reason for termination. *Compare* Answer 19, ¶ 11 ("Port Resources denies it terminated Complainant because of her personal beliefs.") *with* Complaint, Exhibit A.

It is understandable that Port Resources would want to disclaim that its newly proffered narrative is intended to be evidence—its narrative is completely contradicted by the contemporaneous accounts provided. Port Resources claims that it coached Lisa on several occasions, but no such coaching appears in her supervision log. Complaint, Exhibit C. To show prior coaching, Port Resources relies on an email written *after* Port Resources had terminated Ms. Nelthropp. Response, Exhibit E. Moreover, although Port Resources suggests without support that Ms. Nelthropp’s performance was deficient, any such argument is a red herring. Port Resources claims its reason for terminating Ms. Nelthropp was “because she subjected a co-worker to a hostile work environment based on the co-worker’s sexual orientation.” *Id.*, Answer 12. Additionally, any claims of deficiency are contradicted by Port Resources sending trainees to shadow Ms. Nelthropp on November 9. It would make no sense for Port Resources, a company of over 200 employees, to ask an employee it considered deficient to train others.<sup>1</sup>

Port Resources’s changing justifications make its lack of corroboration for any justification for firing Ms. Nelthropp all the more suspect. As Ms. Nelthropp testified in support of her complaint, Ms. Nelthropp did not force or impose her beliefs on anyone. Nelthropp Declaration at ¶¶ 9, 12. Instead, Ms. Nelthropp discussed her religious beliefs as a part of a mutual conversation among employees (which Port Resources acknowledges is not a violation). Ms. Nelthropp fully denies making any comparisons between

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<sup>1</sup> Port Resources erroneously suggests that Ms. Nelthropp has indicated that it “should not have assigned a gay employee to shadow her direct support work.” Response, Answer 19 ¶ 3. Ms. Nelthropp made no such statement and there is no mention of sexual orientation in the referenced paragraph. As the context of the paragraph, which mentions Ms. Nelthropp’s qualifications and certifications, makes clear, the reference to Port Resources giving Ms. Nelthropp training responsibilities indicates that she was qualified and performing adequately at the time she was fired.

homosexuality and pedophilia, and nothing in the contemporaneous accounts ascribes such language to her specifically. To create some inference of imposition, Port Resources relies on a single allegation (which it admits is not evidence) to suggest that the conversation was not mutual—“SG went so far as to tell Complainant that individuals commit suicide because of comments similar to the comments Complainant was making to her.” *See* Answer 19, ¶ 7. Amazingly, SG did not “go so far” as to mention that in her immediate correspondence to Port Resources where she “[j]ust wanted to get everything out.” Response Exhibit F. Nor did she mention it the next day when she “had time to process yesterday [*sic*] events.” *Id.* Nor did she mention it on November 12, 2019 when she was interviewed as a part of Port Resources’s “investigation.” Response Exhibit F. Nor did Chadia, a witness to the day’s events, mention it as a part of her interview in which the primary topic of interest was what was discussed. *Id.* The simplest explanation for such a significant statement not being mentioned at any of these points is that *such statement was never made*. Ms. Nelthropp will testify and, indeed, *has testified under penalty of perjury* that no such statement was made. Nelthropp Declaration at ¶ 14. Not only is there no reference to comments about suicide in the contemporaneous accounts, there is no indication that SG objected or complained in any way.

In fact, several contemporaneously recorded facts support Ms. Nelthropp’s contention that the conversation was mutual. SG’s initial correspondence indicates that the employees were “very engaged” in the conversation. Response Exhibit F. SG indicates that “at one point it was insinuated I was asking stupid questions.” *Id.* This statement necessarily admits that SG was asking questions and participating in the conversation. Chadia also testified as to a conversation among the three employees. Response Exhibit F

(noting that SG was answering questions about her sexuality). When interviewing Lisa, Port Resources repeatedly framed the conversation with SG as a “discussion,” indicating that they understood at the time that the conversation was mutual. *Id.* These facts support, rather than refute, Ms. Nelthropp’s testimony that SG was mutually engaged in the conversation. Nelthropp Declaration at ¶ 14.

The contemporaneous accounts also support Ms. Nelthropp’s claim that she was fired for her religious beliefs. SG’s initial complaint to Port Resources was about Ms. Nelthropp’s “overwhelming religious commitment.” Although it does reference Ms. Nelthropp’s views about family, it also expresses concern with “Christian music,” “amens,” and simply being “asked if they could pray for me.” Response Exhibit F. Indeed, the interview with SG focuses primarily on these things. Apart from a single reference to “LBGT [*sic*] is a sickness,” the interview focuses on “Christian music,” “talk about Jesus and God,” and Ms. Nelthropp’s belief in “traditional marriage.” Response Exhibit F. Likewise, the interview notes with Chadia focus on Ms. Nelthropp’s offer to pray with SG and views on “traditional family.” *Id.*

Most tellingly, Port Resources’s interview with Ms. Nelthropp focuses *solely* on her belief in traditional marriage. Port Resources’s inquisitors asked Ms. Nelthropp whether the employees “spoke about religion.” When they asked Lisa “what was discussed about a traditional family,” she responded, “A man and a woman is a traditional family – that is what I believe.” Response Exhibit F. The inquiry ends there. There are no questions about whether Ms. Nelthropp harassed SG, none about what was said to SG other than Ms. Nelthropp’s belief that marriage is between a man and a woman. That is all Port Resources

wanted to hear—all it needed to hear. Ms. Nelthropp was immediately terminated for “bringing her personal beliefs into the workplace.”

The Commission should find that Ms. Nelthropp’s Complaint is well supported by the evidence, that Port Resources’ rebuttal “evidence” is insubstantial and unsupported by the contemporaneous accounts, and that Ms. Nelthropp should be issued a right to sue letter.

Respectfully,



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