

From: Lofy, Bill
Sent: Tuesday, October 30, 2012 2:27 PM
To: London, Sarah
Subject: FW:
Attachments: Seven Days redacted documents request for 2011 settlement agreements.pdf; Seven Days employee settlement agreements public records response 8-3-12 pdf.pdf; Krauss confidential HRC complaint.pdf

From: <Collier>, Steven <Steven.Collier@state.vt.us>
Date: Thursday, October 25, 2012 2:14 PM
To: Bill Lofy <bill.lofy@state.vt.us>
Cc: "Duffy, Kate" <Kate.Duffy@state.vt.us>
Subject: FW: FW:

ATTORNEY-CLIENT AND WORK PRODUCT PRIVILEGED COMMUNICATION

Bill, please find attached our August 2012 response to Heintz—there were four that exceeded 20k, I forgot about the Rosenberger game warden one when we spoke this morning. That's a long story, but a good one for us.

Please also find Krauss' HRC charge attached.

Thanks very much.

Steve

Steven Collier
General Counsel
Department of Human Resources
110 State Street
Montpelier, VT 05620
(802) 828-1264

This email message may contain privileged and/or confidential information. If you are not the intended recipient(s), you are hereby notified that any dissemination, distribution, or copying of this email message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this email message from your computer.

From: Collier, Steven
Sent: Friday, August 03, 2012 10:01 AM
To: 'Paul Heintz'
Subject: RE: FW:

Dear Mr. Heintz:

Thank you again for your patience. Please find the following attached: a letter explaining our response and fee, and the requested settlement agreements. Thanks very much, and please do not hesitate to contact me with questions or concerns. Enjoy the weekend.

Steve

Steven Collier
General Counsel
Department of Human Resources
110 State Street
Montpelier, VT 05620
(802) 828-1264

This email message may contain privileged and/or confidential information. If you are not the intended recipient(s), you are hereby notified that any dissemination, distribution, or copying of this email message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this email message from your computer.

From: Paul Heintz [<mailto:paul@sevendaysvt.com>]
Sent: Friday, July 27, 2012 3:52 PM
To: Collier, Steven
Subject: Re: FW:

Great. Thanks! You too—

Paul

On Fri, Jul 27, 2012 at 3:46 PM, Collier, Steven <Steven.Collier@state.vt.us> wrote:

Dear Mr. Heintz:

It was good talking with you today. In accordance with our discussion, we will limit your request and our search to any responsive payments made during calendar year 2011. As also discussed, I expect this will limit staff time to approximately 6-8 hours, and we will provide the first two hours free of charge. We will continue to work on your request, and will respond next week.

Thanks very much, and enjoy the weekend.

Steve

Steven Collier

General Counsel

Department of Human Resources

110 State Street

Montpelier, VT 05620

[\(802\) 828-1264](tel:8028281264)

This email message may contain privileged and/or confidential information. If you are not the intended recipient(s), you are hereby notified that any dissemination, distribution, or copying of this email message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this email message from your computer.

From: Collier, Steven
Sent: Wednesday, July 25, 2012 6:14 PM
To: 'paul@sevendaysvt.com'
Subject:

Dear Mr. Heintz:

I hope all is well with you. Please find attached our initial response to your below public records request. Thanks very much, and please do not hesitate to contact me with any questions or concerns.

Steve

From: Paul Heintz [<mailto:paul@sevendaysvt.com>]
Sent: Friday, July 20, 2012 1:57 PM
To: Duffy, Kate
Subject: public records request for DHR Commissioner Kate Duffy

Hi Kate,

Copied below is a public records request I'm directing to your office. Please confirm receipt of this e-mail and let me know when you might be able to fulfill this request. Let me know if you have any questions.

Many thanks,
Paul Heintz

// SEVEN DAYS //
:: Paul Heintz
:: Staff Writer
:: <http://sevendaysvt.com>
:: [802.865.1020 ext. 30](tel:802.865.1020)
:: twitter: @paulheintz

Kate Duffy

Vermont Department of Human Resources

110 State Street
Montpelier, VT 05620-3001

July 20, 2012

Dear Kate:

In accordance with Vermont law 1 VSA §§ 315-320, I request that the following information be provided to me within the time frame ascribed by statute: A list of all current and former Vermont state employees who received from the state a severance payment, settlement or other non-salary compensation in excess of \$20,000 from January 2010 to the present.

For each such severance/settlement/compensation, I request the following: the individual's name, position, amount of payment and reason for payment.

I would prefer electronic copies of these documents to minimize printing or copying costs. Please notify me if the records are not available electronically before proceeding with filling this request.

If you are not the custodian of these records, please forward this request to that individual, and identify to me that individual so I can follow-up with them directly.

For all information you withhold which falls under the purview of this request, please describe the nature of that information and the statutory basis for which you are denying access.

Please let me know when this information will be available to review. If you have any questions, feel free to contact me directly at [\(802\) 865-1020, ext. 30](tel:8028651020), or at paul@sevendaysvt.com

Sincerely,

Paul Heintz

Steven Collier

General Counsel

Department of Human Resources

110 State Street

Montpelier, VT 05620

[\(802\) 828-1264](tel:8028281264)

This email message may contain privileged and/or confidential information. If you are not the intended recipient(s), you are hereby notified that any dissemination, distribution, or copying of this email message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this email message from your computer.

--

// SEVEN DAYS //

:: Paul Heintz

:: Staff Writer

:: <http://sevendaysvt.com>

:: 802.865.1020 ext. 30

:: twitter: @paulheintz

STIPULATION AND AGREEMENT

NOW COME the State of Vermont, the Vermont Department of Liquor Control ("DLC"), the Vermont State Employees' Association, Inc. ("VSEA"), and David Jacobs ("Mr. Jacobs"), (collectively known as "the Parties") to enter into a Stipulation and Agreement ("Agreement") as set forth below:

WHEREAS, Mr. Jacobs (Employee No.) was employed by DLC as a Liquor Control Investigator;

WHEREAS, DLC dismissed Mr. Jacobs from his position, and Mr. Jacobs currently has two pending grievances before the Vermont Labor Relations Board concerning his employment with DLC (VLRB Docket No. 2010-20 and No. 2011-31);

WHEREAS, the Parties desire to enter into a settlement and compromise of all claims and concerns related to this matter that were raised or could have been raised;

WHEREAS, this Agreement is entered into for the mutual convenience of the Parties in recognition of the costs and risks associated with litigation;

WHEREAS, the Parties agree that this Agreement shall not constitute an admission of fact, wrongdoing, or contractual interpretation or violation except as specified herein, and shall not be offered as evidence or constitute precedent for any pending or future labor relations matter, except for an alleged breach of this Agreement or to enforce its terms; and

WHEREAS, the Parties agree that this Agreement is supported by good and binding consideration in the form of the promises and obligations set forth below:

NOW THEREFORE, the Parties agree as follows:

1. Concurrent with the execution of this Stipulation and Agreement, Mr. Jacobs will execute (a) A General Release And Covenant Not To Sue, and (b) a Waiver and Release of Claims under the Age Discrimination in Employment Act, copies of which are attached and incorporated;

2. This Agreement shall be effective upon the expiration date of the seven (7) day revocation period specified in the attached Waiver and Release of Claims under the Age Discrimination in Employment Act, provided that Mr. Jacobs has not timely invoked his right of revocation. For purposes of the Agreement, this date shall be referred to as the "Effective Date;"

3. Within five (5) days of the Effective Date of this Agreement, Mr. Jacobs agrees to provide the State with a letter indicating that he voluntarily resigns from his position as a Liquor Control Investigator for DLC, effective at the close of business on the Effective Date of this Agreement. If Mr. Jacobs fails to provide the letter, he agrees his below signature constitutes official notice of his resignation. Mr. Jacobs further agrees he cannot grieve or otherwise challenge his resignation;

4. DLC agrees to irrevocably accept Mr. Jacobs' resignation. DLC further agrees to waive the requirement that an employee separating from State service shall give two weeks' notice prior to his resignation.

5. Mr. Jacobs agrees that at no time in the present or future will he apply for, or accept, an offer of employment with the State of Vermont, or any of its Agencies or Departments, (collectively the "State"), in any capacity, including but not limited to, working as a permanent, limited, exempt, or temporary employee, or on a contractual basis. Mr. Jacobs further agrees that the State shall have the right to reject any and all applications submitted by him, or anyone else on his behalf, seeking employment with the State, and further agrees to forego and relinquish any claims, suits, or grievances relating to any rejection of such applications. In addition, if Mr. Jacobs should violate this provision and gain employment with the State, he acknowledges and concedes that his breach will constitute "just cause" for termination, that the State will have the right to immediately discharge him, and that he will not have a right to grieve his termination, or seek other legal recourse;

6. Within five (5) days of the Effective Date of this Agreement, Mr. Jacobs agrees to withdraw his pending grievances (VLRB Docket No. 2011-31 and VLRB Docket No. 2010-20) with prejudice;

7. In consideration, the State will compensate Mr. Jacobs with a lump sum payment in the amount of \$40,000.00, to be paid through the State payroll, with all normal deductions within thirty (30) days of the Effective Date of this Agreement.

8. The State further agrees to pay its share of retirement contributions from the date of Mr. Jacobs' initial termination (April 23, 2010) through August 7, 2011, in concert with Mr. Jacobs' payment of the employee's share of retirement contributions. In other words, the State agrees to make the State contributions to the Retirement System to restore Mr. Jacobs' retirement service credit so he will not have a break in service for retirement purposes through August 7, 2011. To satisfy Mr. Jacobs' share of his retirement contribution, the State will deduct his contribution (the amount Mr. Jacobs would have paid as an active employee) directly from the lump sum payment (\$40,000) referenced in Paragraph 7 above, and deposit it into his retirement account;

9. The State also agrees to pay five percent (5%) compounded interest to Mr. Jacobs' retirement account based on the retirement contributions which would have been made from the date of his initial termination through August 7, 2011;

10. Additionally, the State agrees to remove all disciplinary actions and/or prior references to those actions from Mr. Jacobs' official personnel file, and to place Mr. Jacobs' voluntary resignation letter (referenced in Paragraph 3) in his official personnel file. The State explicitly reserves its right, however, to evaluate and/or discuss Mr. Jacobs' employment in any way it deems appropriate in any and all circumstances;

11. Mr. Jacobs acknowledges that he shall not receive any other form of benefit, compensation, or relief, other than that which is expressly stated herein;

David Jacobs
Stipulation and Agreement
Page 3 of 6

12. This Agreement resolves any and all legal issues and disputes regarding Mr. Jacobs' employment with the State of Vermont;

13. This Agreement sets forth all the terms of the Parties' understanding and there are no other promises or obligations other than what is specifically stated herein. All prior agreements, representations, statements and understandings shall have no effect;

14. The Parties freely and voluntarily agree to all terms of this Agreement. Mr. Jacobs certifies he understands all the terms contained in this Agreement, that his decision to sign this Agreement is voluntary, and that it has been made knowingly, without coercion or undue influence, that he is not under any conservatorship or guardianship, and agrees to the terms after having had the opportunity to consult with his representative and/or legal counsel and having had the terms explained to him by his representative and/or legal counsel to the extent necessary;

15. The Parties agree the agreements in this case will not be referred to or used as precedent in any matter of a similar nature. Specifically, it is agreed that the resolution of this case is due to the unique circumstances of this case and shall not be used as evidence or precedent in any other grievance, claim, case, or labor relations matter;

16. This Agreement may not be amended or modified except by written instrument executed by all of the Parties; and

17. This Agreement may be executed in counterparts, which together shall constitute one agreement. This Agreement is fully enforceable with signatures provided by facsimile and/or transmission by electronic mail.

For the State
Michael J. Hogan 9/27/11
Michael J. Hogan
Commissioner
Department of Liquor Control
Date:

[Signature] 9/27/11
Steven Collier
General Counsel
Department of Human Resources
Date:

For the Employees
David Jacobs 9/26/11
David Jacobs
Employee
Date:

[Signature]
Abigail Winery
VSEA Associate General Counsel
Date: 9/26/11

GENERAL RELEASE & COVENANT TO NOT SUE

1. David Jacobs (), on behalf of himself, his heirs, executors, administrators, successors, and/or assigns, for the valuable consideration described above, and for other good and valuable consideration, agrees to relinquish, release and hold harmless DLC and/or the State of Vermont, all departments, agencies, and boards thereof, and all present and former employees, officers, agents, representatives, board members, contractors, successors, and assigns of DLC and/or the State, for all claims, causes of action, and matters whatsoever arising from the beginning of time through the date of the execution of this release, for all claims and causes of action, whether known or unknown, in any forum, judicial or administrative, that relate in any manner at all to Mr. Jacobs' employment with DLC and/or the State of Vermont, including but not limited to, contractual violations, claims of discrimination or defamation, employee's humiliation or other injuries related thereto, and all disputes existing with respect to the matters giving rise to this Agreement, all of which are hereinafter called the "Released Claims." The Released Claims include, without limitation, any causes of action arising under the common law, collective bargaining agreements, 42 U.S.C § 1983, the federal or state Constitution, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act (ADA), The ADA Amendments Act of 2008, the Family and Medical Leave Act, as amended, Vermont's Parental and Family Leave Act, and Vermont's Fair Employment Practices Act, or arising under any other federal, state or local laws or regulations prohibiting employment discrimination. The Released Claims also include, without limitation, any claims for attorneys' fees, court costs, or expert witness fees. Mr. Jacobs also covenants and agrees not to sue DLC and/or State of Vermont, all departments and agencies thereof, and all present and former employees, officers, agents, representatives, contractors, successors, and assigns of the State, in any capacity whatsoever, including both individual and official capacities, for any of the Released Claims.

2. This release includes the three exceptions that appear in this paragraph and no other exceptions:

(a) Mr. Jacobs does not waive his right to request representation under 3 V.S.A. §§ 1101 and 1102, or to seek indemnification under 12 V.S.A. § 5606, in the event he is sued for acts arising from his employment. Mr. Jacobs agrees that the inclusion of this exception shall not be considered a promise or an indication that representation will be provided by the State or that he will be indemnified;

(b) Mr. Jacobs does not waive his right to any grievance or other claim of legal liability against the State of Vermont, its officers, agents, employees, or assigns, which may arise from the alleged breach of the terms of this agreement when recourse is necessary to enforce such terms; and

(c) Mr. Jacobs does not waive his right to continue and/or pursue any Workers' Compensation claims he is or may become entitled to under Vermont's Workers' Compensation statutes, 21 V.S.A. §§ 601 *et seq.*

David Jacobs
Stipulation and Agreement
Page 3 of 6

3. Mr. Jacobs acknowledges that he has granted this General Release voluntarily with the advice of his representative and/or legal counsel.



David Jacobs



Date

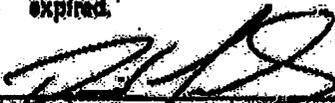
David Jacobs
Stipulation and Agreement
Page 6 of 6

**WAIVER AND RELEASE OF CLAIMS
UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT**

WHEREAS, the Parties have agreed to the terms outlined in the preceding Stipulation of Agreement and General Release and additionally agree to the following terms;

David Jacobs on behalf of himself, his heirs and his estate, hereby knowingly and voluntarily waives and releases any and all legal claims, known or unknown, under the Age Discrimination in Employment Act, 29 U.S.C.A. §§ 621, *et seq.*, that relate in any way to his employment with DLC and/or the State of Vermont, against the State of Vermont, its departments, agencies, boards, officers, employees, board members, agents, and assigns, that have arisen at any time up to and including the instant at which he signs this Agreement, providing the following:

- a. Mr. Jacobs does not waive rights or claims that may arise after the date this waiver is executed;
- b. Mr. Jacobs is hereby advised to consult with an attorney prior to executing this Agreement and Mr. Jacobs acknowledges that he has been advised in writing to consult with an attorney before signing this Agreement;
- c. Mr. Jacobs has read this agreement, understands its content, and has been given a copy of this Agreement. Mr. Jacobs has been given twenty-one (21) days from receipt to review and consider this Agreement, ask questions and have problems resolved, but may elect to sign it before that period has expired;
- d. For a period of seven (7) days following the execution of this Agreement, Mr. Jacobs may revoke this waiver of claims under the Age Discrimination in Employment Act, and this Agreement shall not become effective or enforceable until this revocation period has expired.


David Jacobs


Dated

On this 26 day of Sept, 2011, before me personally appeared David Jacobs, known to me (or satisfactorily proven) to be the person whose name he subscribed to the foregoing agreements, general release, and ADEA release, and acknowledged he executed the agreements for the purposes therein contained as his own free act and deed.


Notary Public

My commission expires 2/10/15

STIPULATION AND AGREEMENT

NOW COME the State of Vermont, the Vermont Department of Public Safety ("DPS"), and Jeanne Johnson ("Ms. Johnson") (collectively known as "the Parties") to enter into the following Stipulation and Agreement ("Agreement"):

WHEREAS, Ms. Johnson (Employee No. _____) is employed by DPS as a Highway Safety Program Chief in Waterbury, Vermont;

WHEREAS,

WHEREAS,

WHEREAS, the Parties desire to enter into a settlement and compromise of all claims and concerns related to this matter that were raised or could have been raised;

WHEREAS, this Agreement is entered into for the mutual convenience of the Parties in recognition of the costs and risks associated with litigation;

WHEREAS, the Parties agree that this Agreement shall not constitute an admission of fact, wrongdoing, or contract violation or interpretation except as specified herein, and shall not be offered as evidence or constitute a precedent for any pending or future labor relations matter, except for an alleged breach of this Agreement or to enforce its terms; and

WHEREAS, the Parties agree that this Agreement is supported by good and binding consideration in the form of the promises and obligations set forth below:

NOW THEREFORE, the Parties agree as follows:

1. Concurrent with the execution of this Stipulation and Agreement, Ms. Johnson will execute (a) A General Release And Covenant Not To Sue, and (b) a Waiver and Release of Claims under the Age Discrimination in Employment Act, copies of which are attached and incorporated;
2. This Agreement shall be effective upon the expiration date of the seven (7) day revocation period specified in the attached Waiver and Release of Claims under the Age Discrimination in Employment Act, provided that Ms. Johnson has not timely invoked her right of revocation. For purposes of the Agreement, this date shall be referred to as the "Effective Date;"
3. The Parties agree that Ms. Johnson's last day of State employment will be August 31, 2011, and she will retire from her position as a Highway Safety Program Chief for DPS effective

**Jeanne Johnson
Stipulation and Agreement
Page 3 of 6**

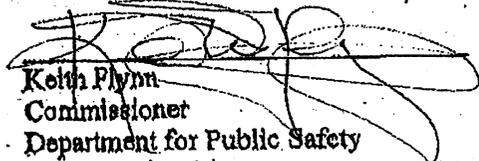
influence, that she is not under any conservatorship or guardianship, and agrees to the terms after having had the opportunity to consult with her representative and/or legal counsel and having had the terms hereof explained to her by her representative and/or legal counsel to the extent necessary;

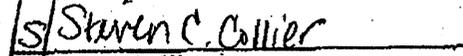
12. The Parties agree the agreements in this case will not be referred to or used as precedent in any matter of a similar nature. Specifically, it is agreed that the resolution of this case is due to the unique circumstances of this case and shall not be used as evidence or precedent in any other case;

13. This Agreement may not be amended or modified except by written instrument executed by all of the Parties hereto; and

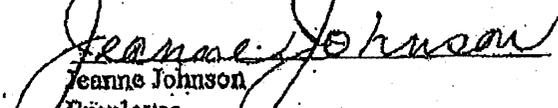
14. This Agreement may be executed in counterparts, which together shall constitute one agreement. This Agreement is fully enforceable with signatures provided by facsimile and/or transmission by electronic mail.

For the State:


Keith Flynn
Commissioner
Department for Public Safety
Date: 8/9/11


Steven C. Collier
General Counsel
Department of Human Resources
Date:

For the Employee:


Jeanne Johnson
Employee
Date: July 29, 2011

Paul Gillies, Esq.
Employee's Counsel
Date:

Jeanne Johnson
Stipulation and Agreement
Page 3 of 6

influence, that she is not under any conservatorship or guardianship, and agrees to the terms after having had the opportunity to consult with her representative and/or legal counsel and having had the terms hereof explained to her by her representative and/or legal counsel to the extent necessary;

12. The Parties agree the agreements in this case will not be referred to or used as precedent in any matter of a similar nature. Specifically, it is agreed that the resolution of this case is due to the unique circumstances of this case and shall not be used as evidence or precedent in any other case;

13. This Agreement may not be amended or modified except by written instrument executed by all of the Parties hereto; and

14. This Agreement may be executed in counterparts, which together shall constitute one agreement. This Agreement is fully enforceable with signatures provided by facsimile and/or transmission by electronic mail.

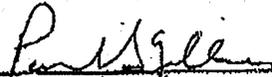
For the State:

For the Employee:

Keith Flynn
Commissioner
Department for Public Safety
Date:

Jeanne Johnson
Employee
Date:

Steven C. Collier
General Counsel
Department of Human Resources
Date:


Paul Gilles, Esq.
Employee's Counsel
Date: 7/29/11

Jeanne Johnson
Stipulation and Agreement
Page 4 of 6

GENERAL RELEASE & COVENANT TO NOT SUE

1. Jeanne Johnson (DOB: _____), on behalf of herself, her heirs, executors, administrators, successors, and/or assigns, for the valuable consideration described above, and for other good and valuable consideration, agrees to relinquish, release and hold harmless DPS and/or the State of Vermont, all departments and agencies thereof, and all present and former employees, officers, agents, representatives, contractors, successors, and assigns of DPS and/or the State, for all claims, causes of action, and matters whatsoever arising from the beginning of time through the date of the execution of this release, for all claims and causes of action, whether known or unknown, in any forum, judicial or administrative, that relate in any manner at all to Ms. Johnson's employment with DPS and/or the State of Vermont, including but not limited to, contractual violations, claims of discrimination or defamation, employee's humiliation or other injuries related thereto, and all disputes existing with respect to the matters giving rise to this Agreement, all of which are hereinafter called the "Released Claims." The Released Claims include, without limitation, any causes of action arising under the common law, collective bargaining agreements, 42 U.S.C. § 1983, the federal or state Constitution, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act (ADA), The ADA Amendments Act of 2008, the Family and Medical Leave Act, as amended, Vermont's Parental and Family Leave Act, and Vermont's Fair Employment Practices Act, or arising under any other federal, state or local laws or regulations prohibiting employment discrimination. The Released Claims also include, without limitation, any claims for attorneys' fees, court costs, or expert witness fees. Ms. Johnson also covenants and agrees not to sue DPS and/or State of Vermont, all departments and agencies thereof, and all present and former employees, officers, agents, representatives, contractors, successors, and assigns of the State, in any capacity whatsoever, including both individual and official capacities, for any of the Released Claims.

2. This release includes the three exceptions that appear in this paragraph and no other exceptions:

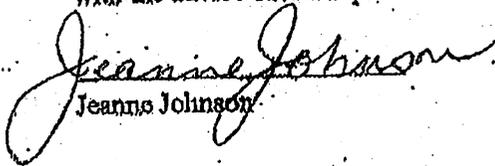
(a) Ms. Johnson does not waive her right to request representation under 3 V.S.A. §§ 1101 and 1102, or to seek indemnification under 12 V.S.A. § 5606, in the event she is sued for acts arising from her employment. Ms. Johnson agrees that the inclusion of these exceptions shall not be considered a promise or an indication that representation will be provided by the State or that she will be indemnified;

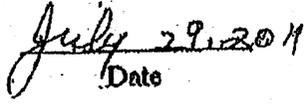
(b) Ms. Johnson does not waive her right to any grievance or other claim of legal liability against the State of Vermont, its officers, agents, employees, or assigns, which may arise from the alleged breach of the terms of this agreement when recourse is necessary to enforce such terms;

Jeanne Johnson
Stipulation and Agreement
Page 5 of 6

(c) Ms. Johnson does not waive her right to continue and/or pursue any Workers' Compensation claims she is or may become entitled to under Vermont's Workers' Compensation statutes, 21 V.S.A. §§ 601 *et seq.*

3. Ms. Johnson acknowledges that she has granted this General Release voluntarily with the advice of her representative and/or legal counsel.


Jeanne Johnson


Date

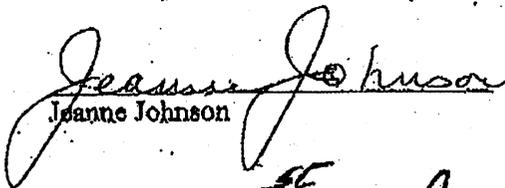
Jeanne Johnson
Stipulation and Agreement
Page 6 of 6

**WAIVER AND RELEASE OF CLAIMS
UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT**

WHEREAS, the parties hereto have agreed to the terms outlined in the preceding Stipulation of Agreement and General Release and additionally agree to the following terms;

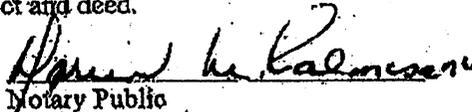
Jeanne Johnson on behalf of herself, her heirs and her estate, hereby knowingly and voluntarily waives and releases any and all legal claims, known or unknown, under the Age Discrimination in Employment Act, 29 U.S.C.A 621, et seq., that relate in any way to her employment with the Department of Public Safety, against the State of Vermont, its officers, employees, agents, and assigns, that have arisen at any time up to and including the instant at which she signs this Agreement, providing the following:

- a. Ms. Johnson does not waive rights or claims that may arise after the date this waiver is executed;
- b. Ms. Johnson is hereby advised to consult with an attorney prior to executing this Agreement and Ms. Johnson acknowledges that she has been advised in writing to consult with an attorney before signing this Agreement;
- c. Ms. Johnson has read this agreement; understands its content, and has been given a copy of this Agreement. Ms. Johnson has been given twenty-one (21) days from receipt hereof to review and consider this Agreement, ask questions and have problems resolved, but may elect to sign it before that period has expired;
- d. For a period of seven (7) days following the execution of this Agreement, Ms. Johnson may revoke this waiver of claims under the Age Discrimination in Employment Act, and this Agreement shall not become effective or enforceable until this revocation period has expired.


Jeanne Johnson

August 1, 2011
Dated

On this 1st day of August, 2011, before me personally appeared Jeanne Johnson, known to me (or satisfactorily proven) to be the person whose name she subscribed to the foregoing agreements and acknowledged she executed the agreements for the purposes therein contained as her own free act and deed.


Notary Public

My commission expires 7/15/15

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

STIPULATION AND AGREEMENT RE PROVISIONAL REINSTATEMENT

NOW COME the State of Vermont, Department of Fish and Wildlife ("DF&W"), the Vermont State Employees Association ("VSEA"), and Lawrence Rosenberger, Jr. ("Rosenberger") and enter a Stipulation and Agreement Re Provisional Reinstatement ("Agreement") as set forth below:

- I. WHEREAS, DF&W had employed Rosenberger as a Game Warden III assigned to its Burlington, Vermont district;
- II. WHEREAS, DF&W dismissed Rosenberger from employment on August 23, 2005;
- III. WHEREAS, Rosenberger filed a Grievance at the Vermont Labor Relations Board ("VLRB") challenging his dismissal as improper, which Grievance was assigned VLRB Docket No. 2005-034;
- IV. WHEREAS shortly after his dismissal from DF&W, Rosenberger obtained employment with ;
- V. WHEREAS on March 13, 2007, the VLRB entered an order sustaining Rosenberger's Grievance, and ordering reinstatement, backpay; and benefits;
- VI. WHEREAS the VLRB has not yet issued its final order regarding payment of backpay and benefits or a final judgment in the Grievance proceeding;
- VII. WHEREAS DF&W intends to appeal to the Vermont Supreme Court various orders issued by the VLRB during the course of the Grievance, and has the legal right to seek a stay of Grievant's reinstatement and any award of backpay pending the appeal;

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

VIII. WHEREAS the Parties shall refer to all litigation arising out of Rosenberger's Grievance — including any appeals to the Vermont Supreme Court and any matters remanded by the Supreme Court to the VLRB as a result of such appeals — as the "Grievance Litigation";

IX. WHEREAS the Parties acknowledge that this Agreement is supported by good and binding consideration in the form of the promises and obligations set forth below;

NOW THEREFORE the Parties agree to the following:

1. **Stipulated Stay of Backpay Award.** Within five (5) business days of the Effective Date of this Agreement (as defined in Paragraph 13 below), or within five (5) business days of the entry of the VLRB's forthcoming award regarding payment of backpay and benefits, whichever is later, the Parties shall file with the VLRB a Joint Stipulation to stay such order.
 - a. **Duration of Stay.** The stay shall remain in place until the conclusion of the Grievance Litigation.
 - b. **Accrual of Interest During Stay.** During the stay, those portions of the VLRB's backpay award that are subject to interest shall continue accruing interest at the legal rate.
 - c. **No Other Backpay.** Other than the interest described in Paragraph 1(b) above, there shall be no other backpay earnings or accruals during the term of the stay.
2. **Provisional Reinstatement.** Within five (5) business days of the Effective Date of this Agreement (as defined in Paragraph 13 below), DF&W shall provisionally

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

reinstate Rosenberger to the position of Game Warden III pursuant to the terms set forth below.

3. Duration of Provisional Reinstatement. Rosenberger shall remain provisionally reinstated as follows:

a. **Premature Termination.** Prior to the conclusion of the Grievance Litigation, Rosenberger's provisional reinstatement shall terminate if Rosenberger (i) resigns from DF&W; (ii) retires; or (iii) is terminated by DF&W in accordance with the terms of the applicable collective bargaining agreement ("CBA"). Such termination shall be referenced in this Agreement as "Premature Termination."

b. **Conclusion of Grievance Litigation.** Absent any Premature Termination, Rosenberger shall remain provisionally reinstated until the conclusion of the Grievance Litigation. His status upon the conclusion of the Grievance Litigation shall be as follows:

i. If the Grievance Litigation concludes with an order and judgment sustaining Rosenberger's grievance of his August 2005 dismissal, the provisional reinstatement shall immediately cease and Rosenberger shall be fully reinstated in accordance with the terms of Paragraph 8 below.

ii. If the Grievance Litigation concludes with an order and judgment denying Rosenberger's grievance of his August 2005 dismissal, DF&W shall immediately dismiss Rosenberger. DF&W shall provide Rosenberger with his final paycheck within ten (10) business days of

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

his dismissal. The Parties agree that an adverse result for Rosenberger in the Grievance Litigation shall not give rise to any obligation by Rosenberger to reimburse DF&W or the State of Vermont for any payments or other consideration he had received pursuant to this Agreement, including, but not limited to contributions made to the Vermont State Employee's Retirement Plan on Rosenberger's behalf.

4. Retirement / Pension And Insurance. Immediately upon Rosenberger's provisional reinstatement the following shall apply:

a. Retirement/Pension.

- i. Rosenberger and DF&W shall pay to the Vermont Employees Retirement System their respective contributions in order to restore Grievant's service credit to the level it would be at had he not been dismissed. Each shall also pay the Retirement System their respective shares of contributions to Rosenberger's retirement account that shall be calculated as though Grievant had not been dismissed.
- ii. Rosenberger shall be permitted to retroactively opt in to the State of Vermont Employee Retirement Group C Plan and make appropriate contributions to the Plan in the same manner as if he had not been dismissed, unless prohibited by law.
- iii. Parties agree that payments made by or on behalf of Rosenberger to the State of Vermont Employee Retirement Plan, and all time accrued by Rosenberger in the State of Vermont Employee Retirement Plan from the date of his dismissal through the end of the Grievance

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

Litigation Period shall, regardless of the outcome of the Grievance Litigation, be vested and non-forfeitable to the fullest extent permitted by law.

- b. **Insurance Benefits.** Rosenberger shall be eligible to re-enroll in employee medical, dental, and life insurance plans in accordance with applicable legal, CBA, and plan requirements. DF&W represents that it is not aware of any impediments to Rosenberger's re-enrollment in any of the Plans should he decide to do so.

5. **Paid Administrative Leave During Provisional Reinstatement.** Rosenberger shall remain on paid administrative leave for the entirety of his provisional reinstatement.

- a. **No Duties / Participation.** While on administrative leave, Rosenberger shall not perform any duties for DF&W or participate in or attend any DF&W-sponsored or DF&W-administered programs or activities for DF&W employees or volunteers.
- b. **No Duty To Be Available For Work; Other Pursuits.** While on paid administrative leave, Rosenberger shall not be required to make himself available for DF&W work. Instead, Rosenberger may follow any professional pursuits (e.g., working for third parties such as or pursuing self-employment), or any personal pursuits (e.g., traveling, spending time with his family) he wishes — provided such pursuits are lawful and consistent with applicable DF&W and State policies, rules, and

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

guidelines. Furthermore, this Paragraph does not relieve Rosenberger of any duties or obligations arising from other portions of this Agreement.

- c. **Compensation.** Rosenberger shall receive the following compensation during the course of his paid administrative leave:
- i. **Hourly Wage / Contract Adjustment.** While on paid administrative leave, Rosenberger shall be paid wages for 92.5 hours per pay period at the rate of \$23.32 per hour. This hourly rate shall not be subject to any increase other than any across the board cost of living adjustment (COLA) applicable to Game Wardens that comes into effect on or after the Effective Date. (Thus, for example, Rosenberger's hourly rate during the term of the paid leave would not be subject either to (1) the 2.25% COLA adjustment that went into effect July 8, 2007 or (2) any non-COLA adjustments, such as step increases). In addition, Grievant shall also receive each pay period the applicable Game Warden contract adjustment (currently 3.51 hours per pay period).
 - ii. **Callouts / Overtime.** Rosenberger shall not receive any callout or overtime compensation (other than the contract adjustment referenced in the preceding subparagraph).
 - iii. **Telephone Expenses.** Rosenberger shall be reimbursed for his telephone expenses upon the same terms as if he never had been dismissed from DF&W.

DF&W / Rosenberger
Agreement Re Provisional Reinstatement

- iv. **Physical Fitness Testing.** Twice a year DF&W provides a physical fitness testing program in which officers are eligible to receive incentives based upon their test performance. Rosenberger shall not participate in such testing, but shall receive \$200 at the conclusion of each semi-annual testing program.
 - v. **Leave Benefits.** Rosenberger shall accrue leave benefits in accordance with CBA terms applicable to Game Wardens.
6. **No Other Compensation Or Benefits.** During the course of his provisional reinstatement and administrative leave Rosenberger shall not be entitled to any other compensation or benefits.
7. **Standards Of Conduct.** Except as may be specified herein, upon provisional reinstatement Rosenberger shall be subject to the same standards of conduct applicable to other DF&W Game Wardens.
8. **Full Reinstatement.** If the Grievance Litigation concludes in Rosenberger's favor as described in Paragraph 3(b)(i) above, DF&W shall fully reinstate Rosenberger immediately to the position of the Game Warden III for DF&W's Burlington District. Under such circumstances, DF&W shall promptly (a) provide Rosenberger with a State vehicle and any other equipment necessary for him to resume his duties as a law enforcement officer and (b) begin providing Rosenberger with the same pay and benefits applicable under the CBA to a Game Warden of his seniority as if he never had been dismissed. Upon such full reinstatement, Rosenberger would in turn resume work as a full-time Game Warden III for the

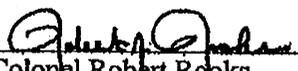
DF&W / Rosenberger
Agreement Re Provisional Reinstatement

Burlington District and be subject to the same standards and requirements as if he never had been dismissed.

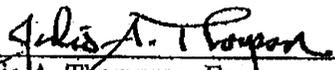
9. **Conflicts.** The parties acknowledge that a number of the subjects addressed by this Agreement (e.g., wages, leave benefits) may also be addressed by external sources, including, without limitation, (a) the CBA, (b) DF&W or State policies, rules, or guidelines, or (c) court or VLRB orders. The Parties agree that, unless otherwise prohibited by law, any conflicts between such external sources and this Agreement shall be resolved in favor of this Agreement.
10. **Final And Exclusive Agreement On Subject Matter.** This Agreement resolves all legal issues between the Parties concerning Rosenberger's employment status during the remainder of the Grievance Litigation period. Accordingly, it sets forth all the terms of the Parties' understanding regarding that subject, and there are no other promises or obligations regarding that subject other than what is specifically stated herein.
11. **Modification.** This Stipulation and Agreement may not be amended or modified except by written instrument executed by all of the Parties hereto.
12. **Counterparts.** This Stipulation and Agreement may be executed in counterparts, which together shall constitute one agreement. This Agreement is fully enforceable with signatures provided by facsimile or e-mail transmission.
13. **Effective Date.** This Agreement shall be effective only and immediately upon its full execution by the Parties and their representatives designated below. The date upon which such full execution occurs shall be known as the "Effective Date."

DF&W / Rosenberger
Agreement Re. Provisional Reinstatement

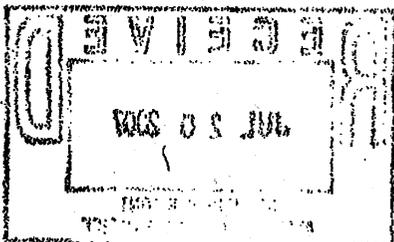
14. **Advice of Counsel; Voluntary Agreement.** By signing below, the Parties acknowledge that legal counsel has represented them during the course of negotiating and executing this Agreement. They also acknowledge that they have read, understand, and voluntarily enter into this Agreement.
15. The parties agree that the Vermont Labor Relations Board shall have jurisdiction to resolve any disputes arising under this Agreement, unless it is prohibited by law from doing so.

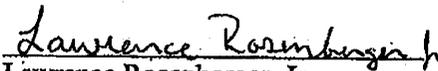

Colonel Robert Rooks
Vermont Dept. of Fish and Wildlife
Law Enforcement Division

7/18/07
Date

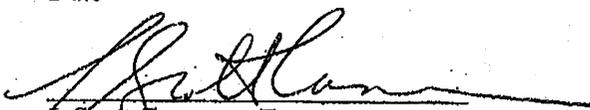

Julio A. Thompson, Esq.
Assistant Attorney General

7.18.07
Date

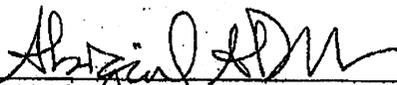



Lawrence Rosenberger, Jr.

7/18/07
Date


J. Scott Cameron, Esq.
Counsel for Lawrence Rosenberger, Jr.

7/20/07
Date


Abigail Doolittle, Esq.
VSEA Legal Counsel

7/18/07
Date

STIPULATION AND AGREEMENT

NOW COME the State of Vermont, the Vermont Veterans' Home ("VVH"), and Cheri Bull ("Bull") (collectively known as "the Parties") and enter into a Stipulation and Agreement ("Agreement") as set forth below:

- I. WHEREAS, Bull was employed by VVH as a Clinical Care Coordinator II;
- II. WHEREAS, Bull was
;
- III. WHEREAS,
- IV. WHEREAS,
- V. WHEREAS, the Parties desire to enter into a settlement and compromise of all claims and concerns raised, or that could have been raised, by Bull or in relation to her employment at VVH;
- VI. WHEREAS, this Agreement is entered into for the mutual convenience of the Parties in recognition of the costs and risks associated with litigation;
- VII. WHEREAS, the Parties agree that this Agreement is for their mutual convenience and does not constitute an admission of fact, wrongdoing or violation by either Party and shall not be offered as evidence or constitute a precedent for any pending or future labor relations matter, except for an alleged breach hereof;
- VII. WHEREAS, the Parties agree that this Agreement is supported by good and binding consideration in the form of the promises and obligations set forth below:

NOW THEREFORE the Parties agree to the following:

1. Concurrent with the execution of this Agreement, Bull and the State will execute a General Release and Covenant Not to Sue. In addition, Bull will execute a Waiver and Release of Claims under the Age Discrimination in Employment Act (ADEA Waiver). Copies of the General Release and Covenant Not to Sue and the ADEA Waiver are attached hereto and incorporated herein;
2. This Agreement shall be effective upon the expiration date of the 7-day revocation period specified in the ADEA Waiver attached hereto and incorporated herein, provided that Bull has not timely invoked her right of revocation. For purposes of the Agreement, this date shall be referred to as the "Effective Date."
3. Upon the Effective Date of this Agreement (as defined in Paragraph 2 above):
 - a. VVH shall:
 - i. remove any and all references to
from Bull's official personnel file;
 - ii. provide Bull with the attached letter of reference; and
 - iii. respond to all inquiries and/or reference checks regarding Bull's employment with VVH by 1) confirming that she was employed by VVH as a Clinical Care Coordinator II from September 28, 2009, until her voluntary resignation on June 18, 2010 and 2) upon request, providing a copy of the attached letter of reference. No other information will be given, provided that all such inquiries and/or reference checks are directed to the VVH Administrator or the Personnel Administrator assigned to VVH. This agreement does not limit any responses that may be provided by other employees.
 - b. Bull shall:
 - i. dismiss, with prejudice, any and all law suits, charges of discrimination, or any other claims of liability or other legal actions against the State of Vermont, and/or the Vermont Veterans' Home, including, without limitation,

- ii. resign from her position as Clinical Care Coordinator II, effective June 18, 2010. Bull's signature hereto shall reflect her notice of voluntary resignation effective at the close of business on June 18, 2010.

4. Within thirty (30) business days of the Effective Date (as defined in Paragraph 2 above):

a. In consideration of the promises and releases set forth in the Agreement, the State agrees to provide Bull with a settlement payment of one hundred fifty thousand dollars (\$150,000.00), which shall be paid as follows:

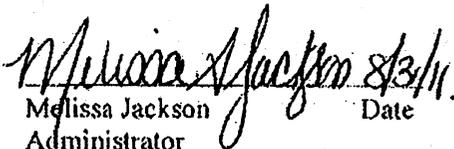
i. Forty-five thousand dollars (\$45,000), less applicable state and federal payroll withholdings, in settlement of disputed claims for lost back pay, shall be paid to Bull through the state's payroll system.

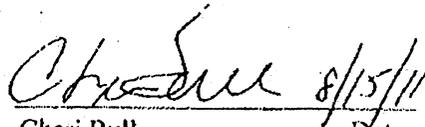
ii. One hundred and five thousand dollars (\$105,000), in settlement of disputed claims for compensatory damages.

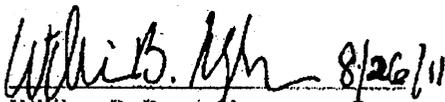
, attorneys fees and any other claims by Bull known or unknown, arising prior to the effective date, shall be paid by check payable jointly to Bull and her attorney, Brian Sawyer.

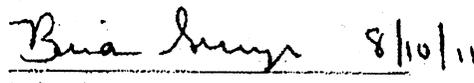
5. Bull acknowledges and agrees that she shall not receive any other form of benefit, compensation or relief other than that which is expressly stated herein;
6. Bull agrees that at no time in the future will she apply for work with the Vermont Veterans' Home or any successor department or entity, including, but not limited to, work as a permanent, exempt, temporary, or contractual employee. Pursuant to this prohibition, the Parties agree that the State of Vermont shall have the right to reject any applications filed by Bull for employment with VVH. Bull agrees to forego any claims or suits relating to the rejection of her applications for said employment by the State of Vermont and/or VVH.
7. This Agreement resolves all legal issues and disputes between the Parties concerning Bull's employment with VVH and the State of Vermont;
8. This Agreement sets forth all the terms of the Parties' understanding and there are no other promises or obligations other than what is specifically stated herein;

9. This Agreement may not be amended or modified except by written instrument executed by all of the Parties hereto;
10. This Agreement may be executed in counterparts, which together shall constitute one agreement. This Agreement is fully enforceable with signatures provided by facsimile or electronic transmission;
11. Bull freely and voluntarily agrees to all terms of this Agreement and acknowledges that she understands all the terms of this Agreement, has had ample time to consult with her attorney prior to signing this Agreement, is competent to sign this Agreement, and does so knowingly, voluntarily and without duress or undue influence.


Melissa Jackson Date
Administrator
Vermont Veterans' Home


Cheri Bull Date


William B. Reynolds Date
Assistant Attorney General


Brian Sawyer Date
Attorney for Cheri Bull

GENERAL RELEASE & COVENANT TO NOT SUE

1. Cheri Bull, on behalf of herself, her heirs, executors, administrators, successors, and/or assigns, for the valuable consideration described above, and for other good and valuable consideration, agrees to release and hold harmless the Vermont Veteran's Home (VVH) and/or the State of Vermont, all departments and agencies thereof, and all present and former employees, officers, agents, representatives, contractors, successors, and assigns of VVH and/or the State of Vermont, from all claims and matters whatsoever arising from the beginning of time through the date of the execution of this release, whether known or unknown, in any forum, judicial or administrative, that relate in any manner at all to Bull's employment with VVH and/or the State of Vermont, including but not limited to all disputes existing with respect to the matters giving rise to this Agreement, all of which are hereinafter called the "Released Claims." The Released Claims include, without limitation, any rights or claims arising under the common law, collective bargaining agreements, 42 U.S.C. § 1983, the federal or state Constitution, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act, the ADA Amendments Act, the Federal Family and Medical Leave Act of 1993, as amended, Vermont's Fair Employment Practices Act, or arising under any other federal, state or local laws and regulations. The Released Claims also include, without limitation, any claims for attorney's fees, court costs, or expert witness fees. Bull covenants and agrees not to sue the VVH and/or the State of Vermont, all departments and agencies thereof, and all present and former employees, officers, agents, representatives, contractors, successors, and assigns of the State, in any capacity whatsoever, including both individual and official capacities, for any of the Released Claims.
2. The State of Vermont, on behalf of itself, including but not limited to the Vermont Veterans' Home, covenants and agrees not to sue Cheri Bull her heirs, executors, administrators, successors and assigns, in any capacity whatsoever, including both individual and official capacities for all civil claims and matters whatsoever arising from the beginning of time through the date of the execution of this release, whether known or unknown, in any forum, judicial or administrative, that relate in any manner at all to Bull's employment with the VVH and/or the State of Vermont, including but not limited to, without limitation, any claims for attorney's fees, court costs, or expert witness fees. The State of Vermont covenants and agrees not to sue Cheri Bull her heirs, executors, administrators, successors and assigns, in any capacity whatsoever, including both individual and official capacities, for any of the above stated claims.

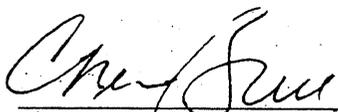
3. This release includes three exceptions that appear in this paragraph and no other exceptions:

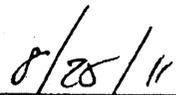
a. Bull does not waive her right to request representation under 3 V.S.A. §§ 1101 and 1102, or to seek indemnification under 12 V.S.A. § 5606, in the event she is sued for acts arising from her employment. Bull agrees that the inclusion of these exceptions shall not be considered a promise or an indication that representation will be provided by the State or that she will be indemnified;

b. Bull does not waive her right to any grievance or other claim of legal liability against the State of Vermont, its officers, agents, employees, or assigns, which has or may arise from the alleged breach of the terms of this Agreement when recourse is necessary to enforce such terms; and

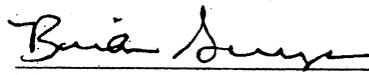
c. Bull does not waive her right to continue and/or pursue any Workers' Compensation claims she is or may become entitled to under Vermont's Workers' Compensation statutes, 21 V.S.A. §§601 *et seq.*

4. The Parties acknowledge that they have been represented by counsel and that they have granted this General Release and Covenant Not to Sue voluntarily and with the advice of counsel.


Cheri Bull


Date

Subscribed and sworn to before me at Manchester, Vermont this 25 day
of August, 2011.


Notary Public

My commission expires 2/10/15

Melissa Jackson
Melissa Jackson
VVH Administrator

8/31/2011
Date

Subscribed and sworn to before me at Bennington, Vermont this 31 day
of August, 2011.

Joseph Howland
Notary Public

My commission expires 2/10/15

**WAIVER AND RELEASE OF CLAIMS
UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT**

WHEREAS, the parties hereto have agreed to the above terms;

CHERI BULL, on behalf of herself, her heirs and her estate, hereby knowingly and voluntarily waives and releases any and all legal claims, known or unknown, under the Age Discrimination in Employment Act, 29 U.S.C.A. 626, *et. seq.* that relate in any way to her employment with the Vermont Veterans Home and/or the State of Vermont, against the State of Vermont, its officers, employees, agents and assigns, that have arisen at any time up to and including the instant at which she signs this agreement, providing the following:

- a. Bull does not waive rights or claims that may arise after the date this waiver is executed;
- b. Bull is hereby advised to consult with an attorney prior to executing this Agreement;
- c. Bull has read this Agreement, understands its content, and has been given a copy of this Agreement. Bull has been given twenty-one (21) days from receipt hereof to review and consider this Agreement, ask questions and have problems resolved, but may elect to sign it before that period has expired; and,
- d. For a period of seven (7) days following the execution of this Agreement, Bull may revoke this waiver of claims under the Age Discrimination in Employment Act, and this Agreement shall not become effective or enforceable until this revocation period has expired.

Cheri Bull
Cheri Bull

8/25/11
Date

Witnessed: Brian Sawyer

Printed name: Brian Sawyer

Address: 283 Elm St Manchester Ctr, VT 05255

Telephone: 802-362-4712



State of Vermont
Vermont Veterans' Home
325 North Street
Bennington, VT 05201

[phone] 802-442-6353
[fax] 802-447-2757

Re: Letter of Reference

To whom it may concern:

Cheri Bull worked at the Vermont Veterans' Home as a Clinical Care Coordinator II from September 28, 2009 until her voluntary resignation on June 18, 2010.

As a Clinical Care Coordinator, Ms. Bull was in charge of a Vermont Veterans' Home North Unit and was responsible for all resident care needs including ensuring the physical, mental, and psychosocial well-being of the residents. Ms. Bull was also responsible for the supervision of staff assigned to the unit.

Ms. Bull was a conscientious and dedicated worker who "went above and beyond" the normal requirements of her duties in caring for the residents of North Unit, many of whom have significant mental disabilities. During Ms. Bull's tenure as a Clinical Care Coordinator on North Unit, the number of resident complaints decreased, which has been attributed to the rapport she established with the residents.

I recommend Ms. Bull to you for employment.

Sincerely,

Melissa Jackson
Administrator
Vermont Veterans' Home



State of Vermont
Department of Human Resources
110 State Street
Montpelier, VT 05620-3001
humanresources.vermont.gov

[phone] 802-828-1264
[fax] 802-828-3409

Agency of Administration

August 3, 2012

Paul Heintz
Staff Writer
Seven Days
paul@sevendaysvt.com

Delivered by E-mail

Re: Public Records Request

Dear Mr. Heintz:

I hope you are well. I am writing to respond to your July 20, 2012 public records request to Commissioner Duffy. During our subsequent discussion, you modified your request, and asked for employee settlement agreements where the State paid the employee more than \$20,000 in calendar year 2011.

As discussed, the Department of Human Resources (“DHR”) does not catalogue documents in the manner solicited, so we devoted considerable time to searching records to help ensure the accuracy of our production. I appreciate your willingness to collaborate, so we were not required to use more staff time than necessary. Although we spent considerably more time searching and reviewing records, we are limiting the total staff time allocation to eight hours. We are providing the first two hours free of charge, and will charge for the remaining six. In accordance with the Secretary of State’s fee schedule, the staff time is billed at \$.45 an hour, and totals one hundred and sixty-two dollars (\$162.00) (360 minutes x .45). We have the discretion to require pre-payment, but I know you are anxious for the records, trust you will pay, and appreciate your patience. Upon receipt, please send me a check for \$162 made payable to the “State of Vermont.”

Please find attached to the accompanying e-mail, the four responsive agreements in DHR’s control. We believe that settlement agreements expending taxpayer funds are public. Nevertheless, the State’s relationship with its employees can be confidential, and quite personal. As I am sure you recognize, things like medical conditions, allegations of harassment or discrimination, discipline, and performance reviews can be private. We encourage our employees to report discrimination and other forms of misconduct, and strive to protect the integrity of our fact-finding and review. In sum, we do our best to protect public assets, be accountable to the public, and protect our employees’ (including complainants and witnesses) privacy.

In light of the described considerations, we redacted some very limited information from the attached settlement agreements. The redactions do not benefit the State, but we believe, help preserve the privacy of employees. More specifically, we believe the redacted material constitutes “personal” information that could impinge the privacy interests of employees. *See* 1 V.S.A. §§ 315, 317(c)(7). In addition, the Bull redactions may be confidential by statute. *See* 1 V.S.A. § 317 (c)(1).

As we discussed, I believe many documents underlying the settlements—like investigations, privileged communications, and/or witness statements—are likely exempt. As Vermont’s Supreme Court noted, “many courts have held that [disciplinary] records may contain highly personal, embarrassing information exempt from disclosure,” and “[n]umerous courts have held...that...employment performance evaluations or disciplinary

records, even if favorable, may be ‘highly offensive’ and therefore properly withheld.” Norman v. Vermont Office of Court Administrator, 2004 VT 13, ¶ 9, citations omitted.

If you have questions about any of these issues, I will do my best to better explain our procedures and concerns. I will be on vacation starting Monday, so if you have immediate questions, please feel free to contact Commissioner Duffy. In addition, you have the right to appeal the limited redactions to the Commissioner.

Finally, two of the settlements—Larry Rosenberger and David Jacobs—involved litigation. Rosenberger and Jacobs both had Labor Board hearings, and the Supreme Court twice heard appeals about Rosenberger’s claims. When employees file a Labor Board complaint, they make their grievances public, so there is a substantial public record involving both employees. (Rosenberger’s settlement agreement was executed in 2007, after the Board ordered him reinstated. I included the agreement, because the State paid Rosenberger more than \$20,000 in 2011, pursuant to the 2007 agreement. The Supreme Court ultimately dismissed his claims around October 2011.)

Mr. Heintz, thank you your inquiry, and please do not hesitate to contact me if you have any questions or concerns. Have a great weekend, and enjoy the summer.

Sincerely yours,

/s/ Steven Collier

Steven Collier
General Counsel, DHR

VERMONT HUMAN RIGHTS COMMISSION
Charge of Employment Discrimination
E11-0011

CHARGING PARTY: Coleen Hogan Krauss
154 Sparrow Farm Road
Montpelier, Vermont 05602

RESPONDING PARTY: Agency of Administration
Attn: Jeb Spaulding - Secretary
109 State Street
Montpelier, VT 05609

Department of Finance & Management
Attn: James Reardon - Commissioner
109 State St.
Montpelier, VT 05609-0401

Department of Human Resources
Attn: Kate G. Duffy - Commissioner
110 State Street
Montpelier, VT 05620-3001

I charge the, with an unlawful discriminatory act in state government employment because of:

Race Color Religion National Origin Sex Sexual
Orientation Gender Identity Age Disability HIV related blood test
 Ancestry Place of Birth Retaliation Family/Parental Leave

1. From April 2009 until February 2011, I worked as a State of Vermont employee in the ARRA (American Investment and Recovery Act) office and concurrently in the Department of Finance and Management (F&M) of the Agency of Administration (AoA). I was terminated from State employment on February 25, 2011.
2. At the time of my termination in February 2011, I answered directly to James Reardon, the Commissioner of F&M. My duties were focused upon The American Recovery and Reinvestment Act (ARRA), as well as F&M duties including those of a Budget and Management Analyst although I was never given that title.
3. I was initially hired in 2007 as a classified state employee with the Agency of Commerce and Community Development (ACCD) as a Grants

Management Specialist, pay grade 23. I earned my classified status through the merit system.

4. When I began my involvement with the ARRA office in April of 2009, I was a classified employee on "long term" loan from the ACCD. All state employees who staffed this ARRA office were asked by state officials to join the ARRA effort with the clear understanding that they would return to their department and their classified positions when the ARRA tasks were completed.
5. Less than two months into my ARRA service, a dispute between the ACCD and AoA officials arose. I found out only after the fact that my employment status had been changed without my permission from classified to exempt. I learned of this change only after receiving my paycheck and saw that I was now an exempt employee. This change adversely affected many aspects of my job security, for example overtime pay and VSEA contractual RIF and representation rights.
6. I was then asked to agree to this change in employment status. I felt tremendous pressure to accept this change because of the power disparities - I was the newest ARRA employee, the lowest paid, the least senior and the lowest classified woman in the ARRA Office. (There was only one other woman in the ARRA office). I was being asked to do this by the two most powerful men in state government, then Secretary of AoA and the Commissioner of F&M.
7. I felt that a refusal to agree to this change would jeopardize my continued employment and future career. I asked for assurances that I would be returned to classified status. I was told that this change was "absolutely" necessary and that it was simply a "formality." I was told by Neale Lunderville that "I would be taken care of" and not to "worry." I felt I had no other choice than to agree to the change.
8. In contrast, none of the other seven employees in the ARRA Office were asked to change their employment status as a condition of employment in the ARRA Office, including the higher paid men, and all the classified employees remained classified employees for their entire ARRA tenure except for me.
9. I believe that this move by the AoA improperly and illegally changed my status under the Fair Labor Standards Act (FLSA), and that as a result, I was not compensated for any overtime I worked from that date forward.
10. I was given the title of "Principal Assistant" but assigned to the Department of Information & Innovation, (DII). However my new duties had absolutely nothing to do with DII. During my entire time as a newly exempt employee

working for the AoA, my only connection to DII, other than a position title placing me in that department, was that a DII supervisor signed my pay sheet, even though he had no idea how many hours I was working. I was never interviewed by the DII Commissioner, never discussed job duties or job expectations with him even though he was "my boss" on paper. I believe this was an effort to prevent me from claiming overtime.

11. My duties as assigned were not consistent with other Principal Assistant positions in the State of Vermont. Many Principal Assistant's operate as *de facto* Deputy Commissioners with broad policy impact. I do not believe my pay was comparable with other Principal Assistants. It is my belief that Deputy Commissioners and other Principal Assistants are paid in the \$65,000 - \$75,000/year range, which was \$20,000 to \$25,000 a year more than what I was paid.
12. Furthermore, while working in the F&M Department I performed a substantial number of duties assigned to a Budget and Management Analyst for the Agency of Human Services. I was referred to as an "analyst" by then Deputy Secretary of AoA Tom Pelham. There was a vacant Budget and Management Analyst position, however F&M Commissioner Reardon and F&M Deputy Commissioner Zeller not only told me on a frequent basis that they were not going to fill the vacancy, but that I should not apply for the vacant position when it was posted on December 15, 2010. I found out that Mr. Reardon then hired another male Budget and Management Analyst. There are now seven analysts, and only of them is female.
13. I had the lowest salary in comparison to all the other ARRA staff. I was most closely aligned with one woman and one man in terms of job duties. The pay differential between the aligned male and the other aligned female was \$21,653 a year. The pay differential between the aligned male and me was \$34,091 a year.
14. Once my status changed and I moved to AoA, I assumed a heavier and, more complex workload, and as a result, the number of hours I began to work increased tremendously. I came in early in the morning, stayed late, and worked almost every weekend. I worked as much as 60 hours per week. However, due to my now exempt status I was no longer eligible for overtime compensation.
15. As other ARRA classified employees were returned to their classified positions, I was assigned the duties of facilitating this transition. I was again asked by James Reardon and Susan Zeller to stay on in the ARRA office because I was the only employee qualified to do the job. Again I felt that I could not insist that I also wanted to return to my classified

position because of the power inequities and resulting pressure on me to agree to stay with ARRA.

16. From June of 2009 on, at various times, I "reminded" the Agency of Administration Secretary, Commissioner and Deputy Commissioner of F&M, and other high ranking state officials, including the Commissioner of Human Resources, of the earlier "promises" regarding my employment status, but to no avail.
17. In October of 2010, the DII Commissioner apparently told AoA officials that he needed to fill the DII position that I was then occupying. I felt this allowed me another opportunity to request a return to classified status. Molly Paulger, DHR Director of Classification and Compensation, worked out a solution to my circumstances that permitted my return to the classified service. She presented this proposal to both Neale Lunderville and James Reardon.
18. I was told by AoA Secretary Neale Lunderville that Mr. Reardon was going to work out the details of my return to classified service and that he had told Mr. Reardon to "get it done." However Mr. Reardon delayed my return and told me to "stop going to Neale" to discuss it and that he (Mr. Reardon) would "get it done."
19. However my discussions were to no avail. Mr. Reardon waited some four months after the completion of the 2010 Legislative session to move me, once again, this time to a position in Finance and Management. This move was made without my agreement or involvement. It further destabilized my employment situation as my new position was more politically vulnerable. I am not aware of any male employees in the ARRA Office or any male B&M analysts that have ever been treated in this fashion.
20. As it turned out, this move transitioned me into a work environment which proved to be threatening and intimidating. I believed that Mr. Reardon and Ms. Zeller were trying to force me to quit. I was asked "whether [I had] found another job yet" by both James Reardon and Susan Zeller.
21. These "inquiries" culminated with a request from the Secretary of Administration, Jeb Spaulding, on or about February 10, 2011, directing me to go to the Recruitment Services unit and to provide him with a list of the classified jobs I had applied for, the dates I applied, the job contacts, etc. I complied with this request. I am unaware of any other male employee of ARRA or F&M ever being asked to do this by their superior.
22. Although I was told by the Mr. Spaulding to do this, a complaint was made against me around February 15, 2011, by a Human Resources Recruitment employee for doing just what he asked me to do. I was

informed that I was seeking a job "too aggressively" when all I wanted was to do was return to a comparable position in classified service. I believe that this complaint set in motion events which eventually caused Mr. Reardon to terminate me.

23. I was subsequently terminated from State service not long after these events. I believe that I was retaliated against for trying to assert my rights and raise a number of issues about my job at ARRA, including inquiring about why I was receiving unequal pay, why I was not returned to classified status, and why I had not received a promotion. I made my concerns known both verbally and in writing.
24. In addition, I experienced an extremely hostile working environment on a frequent basis, as well as sexist and sexually inappropriate behavior by both Deputy Secretary of Administration Tom Pelham, and Commissioner of F&M James Reardon, both of whom were my supervisors.
25. Mr. Pelham would make comments such as telling me I was "too emotional," demeaning comments meant to make me feel like an outsider or "freeze" me out of conversations. He referred to me and other women in the office as "girls." Mr. Pelham would point his finger at me to make a point and tell me I could not attend "men's meetings." He was rude, abusive and bullying. I reported his behavior to both Mr. Reardon and Ms. Zeller and was told by both of them to "do what he says."
26. Mr. Reardon used profanity so often I asked for my office to be a "no swearing zone." He yelled at me, cursed at me and belittled me. He threw objects around his office and slammed doors and phones. His severe anger management problems made my workplace an incredibly stressful and hostile place. He told me at one point that women are not trustworthy or capable of giving accurate information.
27. The behavior of Mr. Pelham and Mr. Reardon resulted in depression, anxiety and illness and ultimately culminated with my termination from state service.

Upon information and belief that the Agency of Administration, the Department of Human Resources and Department of Finance & Management have discriminated against me on the basis of my sex and I have experienced retaliatory acts including termination, denial of promotion, being shifted to various exempt positions and then reprimanded for reporting and questioning many of the employment decisions made by my supervisors with regard to equal pay for equal work, classification status and hostile work environment. These events have caused me extreme physical and emotional distress.

I request that the Vermont Human Rights Commission file this charge with the EEOC as well. I will advise the Vermont Human Rights Commission and the EEOC if I change my address or telephone number, and I will cooperate fully with these agencies in the processing of my allegations according to their procedures.

I hereby swear under oath that I have read the above Charge and it is true to the best of my knowledge, information and belief. To the extent I am empowered to do so, I authorize the Agency of Administration, Department of Finance & Management, and the Department of Human Resources, the Respondent, to allow a representative of the Vermont Human Rights Commission to have access to and copies of any confidential personnel records it deems pertinent to this investigation.

By signing this Charge, I agree to fully cooperate with the investigation of these allegations that will be conducted by the Vermont Human Rights Commission, and to make myself available upon reasonable request to be interviewed by any representative of the Vermont Human Rights Commission in connection with this Charge.

Coleen Hogan Krauss
Coleen Hogan Krauss, Charging Party

Subscribed and sworn to before me this date:

March 23, 2011

NOTARY: Robin Guhaed

My commission expires: 2/10/15