

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST:
FOR REVIEW BY:

FREEDOM TO WORK,

Petitioner.

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Charge No.: **2013SN3503**
EEOC No.: **N/A**
ALS No.: **14-0204**

ORDER

This matter having come before the Commission pursuant to the Request for Review filed by Freedom to Work ("Petitioner") after the Illinois Department of Human Rights ("Respondent")¹ dismissed its perfected charge of discrimination for *Lack of Jurisdiction*; and Petitioner requesting that the Commission vacate the Respondent's dismissal and remand the matter to the Respondent; and the Respondent, in its Response to Petitioner's request, recommending that the Commission vacate its dismissal of the charge and remand the matter to the Respondent for further investigation and other proceedings, and the Commission having therefore determined that the Respondent is unopposed to the relief sought by Petitioner:

IT IS HEREBY ORDERED THAT:

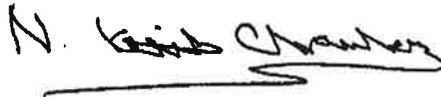
The Respondent's dismissal of Freedom to Work's charge is **VACATED** and Freedom to Work's charge is **REINSTATED** and **REMANDED** to the Respondent for **FURTHER INVESTIGATION** and other proceedings consistent with this Order and the Act.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 14th day of July 2014.



N. Keith Chambers
Executive Director

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent."

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

ALS NO(S): 14-0204
CHARGE NO(S): 2013SN3503

CASE NAME(S): Freedom To Work v. Exxon
Mobil Corporation

AFFIDAVIT OF SERVICE

Bricia Herrera, being first duly sworn, on oath states that on **July 14, 2014**, she served a copy of the attached **ORDER** on each person named below by depositing the same in the **U.S. Mail Box at 100 W. Randolph Street, Chicago, Illinois 60601**, properly posted for **First Class Mail**, addressed as follows:

Hand Delivered to:

Peter Romer-Friedman
Cohen, Milstein, Sellers & Toll, PLLC
1100 New York Ave., Suite 500 West
Washington, DC 20005

Gerald L. Maatman, Jr.
Seyfarth Shaw, LLP
131 S. Dearborn Street, Suite 2400
Chicago, IL 60603

Lon D. Meltesen
Chief Legal Counsel
Illinois Department of Human Rights
100 West Randolph Street, Suite 10-100
Chicago, IL 60601

Case Disposition Unit
Illinois Department of Human Rights
100 West Randolph Street, Suite 10-100
Chicago, IL 60601

Subscribed and sworn to

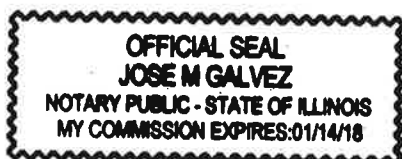
before me on July 14, 2014.



NOTARY PUBLIC



Signature



RECEIVED

JUL - 3 2014

HUMAN RIGHTS COMMISSION
HD USPS FX MM ID

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST)
FOR REVIEW BY:)

FREEDOM TO WORK)

CHARGE NO.: 2013SN3503

EEOC NO.: N/A

ALS NO.: 14-204

NOTICE OF FILING

TO: Peter Romer-Friedman
Cohen, Milstein, Sellers & Toll, PLLC
1100 New York Avenue, Suite 500
Washington, DC 20005

PLEASE TAKE NOTICE that on July 3, 2014, the attached Response to Request for Review was filed with the Human Rights Commission pursuant to Section 5300.430 of the Commission's Rules and Regulations, Title 56 Ill. Admin. Code, Chapter XI, Section 5300 et seq.

DEPARTMENT OF HUMAN RIGHTS
ROCCO J. CLAPS, DIRECTOR

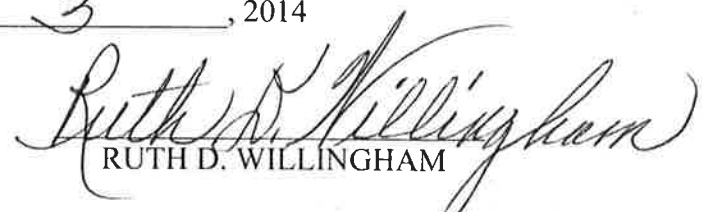
BY: 

Oral R. Bennett
Staff Attorney

Oral R. Bennett
Department of Human Rights
100 W. Randolph St., Suite 10-100
Chicago, IL 60601

PROOF OF SERVICE

Ruth D. Willingham, a non-attorney, being first duly sworn on oath, deposes and states that she served the foregoing Notice of Filing and Response to Request for Review upon the persons to whom it is directed, by placing copies of the same in envelopes, first class mail, proper postage prepaid, in the United States mail located at 100 West Randolph Street, Chicago, Illinois 60601, on July 3, 2014


RUTH D. WILLINGHAM

SUBSCRIBED and SWORN to before me
THIS 3rd DAY of July 2014.


NOTARY PUBLIC



STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

RECEIVED

JUL - 3 2014

HUMAN RIGHTS COMMISSION
HD USPS FX MM ID

IN THE MATTER OF THE REQUEST)
FOR REVIEW BY:)

FREEDOM TO WORK)

CHARGE NO.: 2013SN3503

EEOC NO.: N/A

ALS NO.: 14-204

RESPONSE TO REQUEST FOR REVIEW

Now comes the Department of Human Rights ("Department") by Oral R. Bennett, Staff Attorney, and files this Response to the Request for Review in the above matter pursuant to Commission Rule 5300.430, of Title 56 Ill. Admin. Code, Chapter XI, Section 5300 et seq.

On May 22, 2013, Complainant, Freedom to Work, filed an unperfected charge, charge of discrimination with the Department, perfected on July 5, 2013, alleging that Respondent, Exxon Mobil Corporation, subjected Complainant to unequal terms and conditions of employment based on sexual orientation, homosexual (Count A); subjected Complainant to unequal terms and conditions of employment based on a perceived sexual orientation, homosexual (Count B); failed to hire Complainant based on sexual orientation (Count C); and failed to hire Complainant based on a perceived sexual orientation (Count D); in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On February 4, 2014, the Department dismissed Complainant's charge for Lack of Jurisdiction. On May 12, 2014, Complainant filed this timely Request for Review ("Request") with the Illinois Human Rights Commission ("Commission").

As to Counts A and B, Complainant, a national organization dedicated to banning and eliminating workplace discrimination against lesbians, gays, bi-sexual, and transgender individuals ("LGBT"), alleges that in December 2012, Respondent posted a vacancy for an administrative assistant in Patoka, Illinois. Complainant further alleges that a tester portraying a well-qualified LGBT applicant submitted a resume for the position. Complainant further alleges that another tester portraying a less-qualified non-LGBT applicant submitted a resume for the position. Further, Complainant alleges that Respondent subjected the LGBT tester to unequal terms and condition of employment because of her sexual orientation in that Respondent failed to contact her despite that she was more qualified for the position than the non-LGBT applicant. As to Count B, Complainant alleges that in December 2012, a tester portraying a well-qualified LGBT applicant submitted a resume for the aforementioned position. Complainant further alleges that another tester portraying a less-qualified non-LGBT applicant submitted a resume for the same position. Further, Complainant alleges that Respondent subjected the LGBT tester to unequal terms and condition of employment based on a perception that the less-qualified non-LGBT was heterosexual and the qualified LGBT was homosexual. Complainant alleges that based on Respondent's conduct, Respondent subjected the LGBT tester to unequal terms and conditions of employment based on an erroneously perception that she was homosexual. As to Count C, Complainant alleges that in December 2012, a tester portraying a well-qualified LGBT applicant submitted a resume for the aforementioned position. Complainant further alleges that another tester portraying a less-qualified non-LGBT applicant submitted a resume for the same position. Further, Complainant alleges that Respondent attempted to contact the non-

LGBT tester and made an attempt to hire the non-LGBT tester. Complainant alleges that based on Respondent's conduct, Respondent failed to hire the LBGT tester because of her sexual orientation. As to Count D, Complainant alleges that in December 2012, a tester portraying a well-qualified LGBT applicant submitted a resume for the aforementioned position. Complainant further alleges that another tester portraying a less-qualified non-LGBT applicant submitted a resume for the same position. Further, Complainant alleges that Respondent attempted to contact the non-LGBT tester and made an attempt to hire the non-LGBT tester. Complainant alleges that based on Respondent's conduct, Respondent failed to hire the LBGT tester based on an erroneous perception that she was homosexual.

As to Counts A and B, Respondent's articulated, legitimate, non-discriminatory reason is that Respondent did not subject Complainant's tester to unequal terms and conditions of employment based on her sexual orientation or based on an erroneous perception of the tester's sexual orientation. As to Counts C and D, Respondent's articulated, legitimate, non-discriminatory reason is that Respondent did not fail to hire Complainant's tester based on her sexual orientation or based on an erroneous perception of Complainant's tester's sexual orientation.

The Department recommends that the Commission enter an Order vacating the Department's dismissal and remanding the charge to the Department's Charge Processing Division for further investigation so that the Department can conduct a complete investigation of Complainant's charge of discrimination:

As to Counts A, B, C, and D, the Department determined that it lacked jurisdiction over Complainant's charge because there is no employer/employee

relationship between Respondent and Complainant. More specifically, the Department found that Complainant does not meet the definition of "Employee" because Complainant is an organization and not an employee within the meaning of the Act. However, under the Act, an "Aggrieved party" or a "Person" may file a charge of discrimination. 775 ILCS 5/1-103(B) defines an "Aggrieved party" as "A person who is alleged or proved to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3 that is about to occur." Further, under 775 ILCS 5/1-103(L) of the Act, a "Person" is defined as "One or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, the State of Illinois and its instrumentalities, political subdivisions, units of local government, legal representatives, trustees in bankruptcy or receivers."

As such, further investigation is required to determine whether Complainant meets the definition of an "Aggrieved party" or a "Person" under the Act. Therefore, the Department is requesting that Complainant's charge be remanded to the Department so that the Department can conduct an investigation of Complainant's charge pursuant to the requirements of the Illinois Human Rights Act. 775 ILCS 5/1-101 et seq.

Accordingly, the Department requests the Commission to enter an Order vacating the dismissal of Complainant's charge and remanding Complainant's charge to the Department's Charge Processing Division for further investigation.

Respectfully submitted,

DEPARTMENT OF HUMAN RIGHTS
ROCCO J. CLAPS, DIRECTOR

BY: 

Oral R. Bennett
Staff Attorney

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(312) 814-6273