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EQUAL OPPORTUNITY
CHARTER OFFICE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

DARRELL E. ELMORE

Plaintiff,

vs.

CITY OF GAINESVILLE and WAYNE
BOWERS, in his official capacity as City
Manager and Individually.

Defendants.

CASE NO: 1:01 CV 35 SPM

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, DARRELL E. ELMORE (hereinafter "ELMORE"), by and through the undersigned counsel, files this Complaint against Defendants, CITY OF GAINESVILLE (hereinafter "CITY"), and WAYNE BOWERS (hereinafter "BOWERS"), in his official capacity as City Manager and individually, and states:

GENERAL ALLEGATIONS

1. ELMORE is a citizen of the United States and at all times relevant to this complaint was a resident of Gainesville, Alachua County, Florida.
2. At all times material, defendant BOWERS is and was the City Manager for the defendant CITY and, as such, was ELMORE's direct supervisor with sole discretion to hire and fire him.

3. Defendant CITY is an employer as defined by 28 U.S.C. §§ 1981 and 1983, *et seq.*, and the Civil Rights Act of 1964, as amended in 1991.

4. This is an action for damages brought under the provisions of 42 U.S.C. §§ 1981 and 1983 and the Civil Rights Act of 1964, as amended in 1991. This Court has jurisdiction under 42 U.S.C. § 1343.

5. Venue is proper in this Court pursuant to the provisions of 28 U.S.C. § 1391(b) in that this is the judicial district in which a substantial part of the events or omissions giving rise to the claims occurred.

STATEMENT OF FACTS

6. ELMORE is a 39-year-old, African-American male citizen of the United States.

7. At all times material, defendant BOWERS is and was the City Manager for the defendant CITY.

8. From February 5, 1998, to October 12, 2000, ELMORE was employed as the Equal Opportunity Director for the defendant CITY, under the direct supervision of the defendant BOWERS.

9. The Equal Opportunity Program of the defendant CITY had been dormant for the four years preceding the hiring of ELMORE. ELMORE was hired to revive the program and he immediately drafted the First Equal Opportunity Employment Policy Handbook for defendant CITY. The handbook was adopted by the City Commission in July 1999, and it

clearly outlined that the investigation of discrimination charges filed by City employees would be under the direction and authority of the Equal Opportunity Director.

10. Because it was not a charter office, the Equal Opportunity Director reported directly to the City Manager, as opposed to the City Commission. In January 2000, the City Commission voted to make the Equal Opportunity Director a Charter Officer, but failed to gain the required approval from the Florida Legislature.

11. In April 2000, the City's Affirmative Action Officer filed a sworn complaint against defendant CITY with the Equal Opportunity Department. The complaint alleged race, national origin, color discrimination and retaliation against the Human Resources Director for the defendant CITY.

12. On several occasions, defendant BOWERS addressed inquiries to ELMORE about the complaint filed by the City's Affirmative Action Officer and implied that there should be no investigation of the allegations.

13. In approximately late July 2000, ELMORE scheduled interviews with the defendant BOWERS and other officers in an attempt to investigate the complaint filed by the Affirmative Action Officer.

14. In October 1999, the defendant BOWERS sent ELMORE a memorandum stating, "in the future, please provide to me in advance any written information that will be distributed from the Equal Opportunity Department to any board, committee, or member of the City Commission."

15. Pursuant to the defendant BOWERS's October 1999, memo, ELMORE provided an advance copy of a July 31, 2000, memorandum to defendant BOWERS prior to distributing it to the City Commission.

16. On August 23, 2000, the defendant BOWERS sent ELMORE a memorandum, in which defendant BOWERS accused ELMORE of ignoring his October 27, 1999, directive by not gaining prior approval of the distribution and further accused ELMORE of insubordination. Until this time, the only requirement of which ELMORE had been informed was that he must provide an advance copy of his distributions to the defendant BOWERS.

17. In the last week of August 2000, ELMORE continued his attempts to investigate the complaint of discrimination filed by the City's Affirmative Action Officer, notwithstanding the opposition of defendant BOWERS. During that same period, defendant BOWERS presented ELMORE with an agreement to terminate his employment effective September 1, 2000. After ELMORE refused to sign the agreement, defendant BOWERS promptly suspended him without pay and eventually terminated his employment, citing insubordination and misconduct.

18. On October 5, 2000, defendant BOWERS conducted an evidentiary hearing into the propriety of his decision to terminate ELMORE. Subsequent to the hearing defendant BOWERS issued a termination letter to ELMORE on October 12, 2000.

COUNT I

19. The allegations contained in paragraphs 1 through 18 of this Complaint are incorporated by reference as set forth herein.

20 Title 42 U.S.C. § 1981 is the proper vehicle for bringing claims against the defendants CITY and BOWERS, in his official capacity as City Manager and individually, as the direct supervisor of the ELMORE with the authority to hire and fire employees.

21. As a direct and proximate result of these violations of ELMORE's rights, he has sustained economic damages, lost potential income, educational opportunities, sustained emotional pain and suffering, humiliation, anxiety, embarrassment, and distress.

22. Because of the discriminatory conduct of the defendants, ELMORE has been forced to hire an attorney and is entitled to recover reasonable attorney fees and costs.

23. Based on the willful and discriminatory conduct of the defendants, as set forth herein, ELMORE is entitled to a substantial award of punitive damages as provided by law.

COUNT II

24. The allegations contained in paragraphs 1 through 23 of this Complaint are incorporated by reference as if set forth herein.

25. Title 42 U.S.C. § 1981 is the proper vehicle for bringing claims against the defendant CITY as ELMORE's employer.

26. As a direct and proximate result of these violations of the ELMORE's rights, he has sustained economic damages, lost potential income, educational opportunities, sustained emotional pain and suffering, humiliation, anxiety, embarrassment, and distress.

27. Because of defendant CITY's discriminatory conduct, ELMORE has been forced to hire an attorney and is entitled to recover reasonable attorney fees and costs of bringing this action.

28. Based on the willful and discriminatory conduct of the defendant CITY, as set forth herein, ELMORE is entitled to a substantial award of punitive damages as provided by law.

COUNT III

29. The allegations contained in paragraphs 1 through 18 of this Complaint are incorporated by reference as if set forth herein.

30. Title 42 U.S.C. § 1983 is the proper vehicle for bringing claims against the defendants, CITY and BOWERS, in his official and individual capacity.

31. ELMORE enjoyed a property interest in his job and professional reputation as Equal Opportunity Director for the defendant CITY.

32. ELMORE's rights to his property are guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution.

33. Defendant CITY, under the color of state law, violated ELMORE's rights and denied him the enjoyment of his employment for racially discriminatory reasons. To ensure that the pattern of discrimination of the defendant CITY was not properly investigated, defendant BOWERS used the pretext of insubordination to terminate ELMORE from his position.

34. As a direct and proximate result of these violations of ELMORE's rights, he has sustained economic damages, lost potential income, educational opportunities, sustained emotional pain and suffering, humiliation, anxiety, embarrassment, and distress.

35. Because of the discriminatory conduct of defendants CITY and BOWERS, ELMORE has been forced to hire an attorney and is entitled to recover the reasonable costs of his attorney.

36. Based on the willful and discriminatory conduct of the defendants CITY and BOWERS, as set forth herein, ELMORE is entitled to a substantial award of punitive damages as provided by law.

WHEREFORE, Plaintiff DARRELL E. ELMORE demands judgment against defendants and prays this court:

A. Grant ELMORE judgment for economic damages, lost potential wages, back pay, front pay, employment benefits, pain and suffering, humiliation, and loss of enjoyment of life;

B. Award ELMORE nominal, general, compensatory, punitive and actual damages;

C. Grant ELMORE reasonable attorney fees and other costs of this action;

D. Award the ELMORE such other relief as be deemed just and equitable.

Plaintiff, DARRELL E. ELMORE, respectfully requests a trial by jury in this matter.

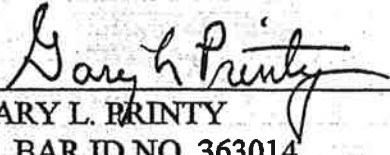
Verification

I affirm under the penalty of perjury that the foregoing document is true and correct to the best of my personal knowledge, information, and belief



Darrell E. Elmore

Respectfully submitted,



GARY L. PRINTY
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Attorney for Plaintiff
Darrell E. Elmore

City of Gainesville

✓
OK

ADMINISTRATIVE SERVICES
MAIL STATION 7
352/334-5013; 334-3119 (fax)

To: Wayne Bowers
City Manager

Date: October 5, 2001

From: Glenda T. Currie
Administrative Services Director

Subject: Complaint Number: EO-I-2000-1

I have now completed the assigned investigation of complaint number EO-I-2000-1 filed by Steve Malu against Human Resources. On the complaint form, Mr. Malu checks discrimination on the basis of race, color, national origin and retaliation. The personal harm noted by Mr. Malu that he has suffered is "Extended probation for 90 days, loss of permanent status, loss of all benefits accrued to a permanent employee, and harassment at work". Attached to this two-page form is six pages of details, which Mr. Malu believes is information that substantiates his claim. (See Exhibit A.) In this attachment, he indicates that the complaint is for:

- 1) Retaliation for filing a complaint to the City Manager
- 2) Hostile Work Environment
- 3) Harassment
- 4) Disparate Treatment
- 5) Discrimination due to Race and National Origin

It is the five (5) items checked on the two-page form (Note: Retaliation is checked twice) and the five (5) items listed on the six-page attachment that this investigation attempted to research to determine if discrimination had occurred in any of these ways or forms. Due to some overlap and differences existing between the two (2) lists, I have chosen to combine them into the five (5) items listed below. This report will address each of the five (5) items individually and highlight any major findings in the following order:

- 1) Discrimination due to Race, Color and National Origin
- 2) Disparate Treatment
- 3) Harassment
- 4) Hostile Work Environment
- 5) Retaliation

1) DISCRIMINATION DUE TO RACE, COLOR, AND NATIONAL ORIGIN

Even though Mr. Malu does not give any specifics for the allegation of discrimination based on race, color and national origin, I researched the demographics of the Human Resources (HR) Department through the payroll system as of pay date of March 23, 2000. This was the payroll preceding the date the complaint was filed (3/30/00). The specific statistics were:

23 Total Employees on the HR Payroll
17 Females (74%)
6 Males (26%)
14 Whites (61%)
9 Minorities (39%)

The nine (9) minorities consisted of six (6) African-American employees, two (2) Hispanic employees, and one (1) Asian employee. (See Exhibit B.)

Finding #1:

These statistics reveal a department with an above average representation of both women and minorities. Furthermore, their hire or promotion dates, reveal that all nine (9) of these minority employees were either hired or promoted since May 8, 1995 when Mr. Motes became the Department Director. Additionally, thirteen of the seventeen female employees (76%) were hired under the auspices of Mr. Motes as the director. Of the four (4) remaining female employees, all have been promoted or re-classed to a higher position at some point since May 8, 1995.

2) DISPARATE TREATMENT

The clearest citation of disparate treatment in Mr. Malu's complaint occurs on page three (3) of the attachment wherein he states, . . . "Tom [Motes] gave me a four on Factor No. 7 (Following policies and procedures) This score should have been a definite 9, since I have never broken any City policy. What score does he give to other employees with one or more citation, if he gave me a four for no violation? This amounts to disparate treatment. He said he gives everyone a 5 on Factors 1, 2, 3, 17, 18. How is this true? Other employees evaluations need to be investigated to verify the truthfulness of this information, . . ."

While all of the evaluations for the individuals listed by Mr. Malu in the attachment were not pulled for verification, a sufficient number were reviewed. The evaluation scores assigned by Mr. Motes for Factor 7 and Factors 1, 2, 3, 17 and 18 were as follows:

Hanskat, Lynda (Evaluation Ending 03/02/99) (Factor 7 = Score 7) White Female (P)
(Factors 1, 2, 3, 17, 18 = All 5's)

Toser, Sonya	(Evaluation Ending 10/19/99)	(Factor 7 = Score 7) (Factors 1, 2, 3, 17, 18 = All 5's)	Hispanic Female (B)
Zumwalde, Rick	(Evaluation Ending 04/14/99)	(Factor 7 = Score 9) (Factors 1, 2, 3, 17, 18 = All 5's)	White Male (P)
McClary, Lynn	(Evaluation Ending 06/02/99)	(Factor 7 = Score 8) Factors 1, 2, 3, 17, 18 = All 5's)	White Female (P)
Lowry, Barb	(Evaluation Ending 06/27/99)	(Factor 7 = Score 6) (Factors 1, 2, 3, 17, 18 = All 5's)	White Female (B)
Taylor, Lianne	(Evaluation Ending 01/11/99)	(Factor 7 = Score 7) (Factors 1, 2, 3, 17, 18 = All 5's)	White Female (P)
Williams, Jimmie	(Evaluation Ending 10/18/99)	(Factor 7 = Score 9) (Factors 1, 2, 3, 17, 18 = All 5's)	Black Male (P)
Bernard, Cynthia	(Evaluation Ending 02/02/00)	(Factor 7 Score = 6) (Factors 1, 2, 3, 17, 18 = All 5's)	Black Female (B)
Manker, LaRose	(Evaluation Ending 01/23/00)	(Factor 7 = Score 6) (Factor 1, 2, 3, 17, 18 = All 5's)	Black Female (B)

(See Exhibit C.)

Finding #2:

Based on the above, there appears to be consistency in the scoring by Mr. Motes on factors 1, 2, 3, 17, and 18 across position types, (i.e., bargaining (B) versus professional (P)) gender, and race. There is variability in the scoring of Factor 7. Of special note is that Lianne Taylor, who was the Affirmative Action Officer prior to Mr. Malu, received all five's on items 1, 2, 3, 17 & 18 but scored a 7 on Factor 7. Also, the Bernard and Manker evaluations were researched per Mr. Malu's request and both reveal similar scoring.

Another citation of disparate treatment occurs on page 6 lines 2 and 3 of the attachment where Mr. Malu states, "Requiring me to perform above the threshold expected of others is disparate treatment and a pretext for discrimination". This sentence comes after Mr. Malu indicates "that based on Tom's evaluation, I (Steve Malu) have met standards on 23 factors out of 27 total factors. This is eighty-five percent (85%) of overall performance. This is a 'B' Average. Even with all the bias, I do not see anyone extending an employees probation with a B average overall".

Finding #3:

Mr. Malu's calculation of a letter grade and percentage for his City evaluation has no relevance since these types of scorings (i.e., assignments of percentages and/or letter grades) are not done for employees' evaluations in the City.

3) HARASSMENT

The first citation of harassment occurs on page 3 when Mr. Malu states, "In his evaluation narrative he accused me for taking too much of a leading role as if I was a Director, and then almost immediately, as

if he forgot, says that I am not taking enough leading role. Which is it? This is deliberate and intentional harassment for the complaint and for improving minority and women hires after a three-year decline under his administration”.

The notes to the performance evaluation written by Mr. Motes more specifically state, “Steve was hired as a working professional and not as a Director. Steve has a tendency to want to director rather than getting in and doing the work. By his actions, he has viewed that the Recruitment and Employment division should carry the load for attending job fairs and making contacts with outside organizations. The reason they are making these efforts are for targeted recruitment, which is an Affirmative Action function. He needs to take a lead role in this area”. (See Exhibit D.)

Mr. Malu’s second citation of harassment occurs in the attachment to the complaint form in the middle of page four (4). Mr. Malu states, “Another instance where Billie Sturgeon was walking the HR hallway screaming on top of her lungs “That useless Steve Malu”. Jimmie Williams heard her, because she was walking to Jimmie in the hallway. I believe others heard her as well. I was in my office and never said a word. This is because Tom has allowed some staff members to harass me telling them that I am not a team player.”

The investigation into the specifics behind Mr. Motes’ evaluation comments to Mr. Malu and Billie Sturgeon’s comments to Mr. Malu deal primarily with one incident surrounding a job fair held at the University of Florida on February 18, 2000. According to Mr. Motes, he (Motes) had specifically instructed Mr. Malu to attend, but was told on the morning of the fair by Billie Sturgeon that Mr. Malu had told her that he (Malu) was not going. When Mr. Motes approached Mr. Malu at a little past ten, Mr. Malu said that he was going but told Mr. Motes that since it did not start until 1:00 PM, he planned to leave later. According to Mr. Malu, he left at 10:30 AM and went to the fair. However, according to Ms. Sturgeon, he provided no assistance in setting up or breaking down the booth, was rarely at the booth, and during the 30 minute period he was at the booth was talking to and looking at a young candidate in a provocative manner. As a result of these events, Ms. Sturgeon told Steve Malu after they returned to HR that he had been useless that whole day. (See Exhibit E.)

Finding #4:

Since many of the facts as recited by Ms. Sturgeon were verified by independent sources, it was appropriate for Mr. Motes to make the statements he did to Mr. Malu in the notes to his evaluation.

4) HOSTILE WORK ENVIRONMENT

The first time Mr. Malu seems to indicate a hostile work environment is on page one (1) of the attachment to the complaint form wherein he describes a meeting on January 7, 2000 between Tom Motes, Jimmie Williams and himself. He writes, “On January 7, 2000 while in a meeting with Tom Motes and Jimmie Williams, I suggested to Tom that we should try the one for one policy, (Copy attached) to hire more minorities and women for those technical positions with affirmative action goals.

Tom’s reaction was abusive and disrespectful. He stood up in my face shouting and pointing to my face saying, “It is because of people like you that Ward Connerly is coming to Florida”. Ward Connerly

is the Anti-Affirmative Action Activist who killed Affirmative Action program in the state of California.

Tom went on to shout saying that He will join Ward Connerly's crusade against Affirmative Action. He became hostile, then banged the conference desk and left the room only to return back a little later screaming some more saying, "You know what"? You are not all that you think you are. I told you that I will give you an office, but now, I will not give you an office. I said to Tom "That's fine Tom, when Affirmative Action moves to the Charter office, I will get an office," and Tom said when Affirmative Action moves to the Charter Office, he is not going to cooperate with anyone because "it will then be you all's thing." Both Jimmie and I were shocked at Tom's behavior, and Jimmie said, "You guys let frustration get the best of you." "

Finding #5:

Mr. Motes' and Mr. Williams' recollections of the meeting, which were taken independently and on separate dates and times, are similar to each other and vastly different from Mr. Malu's. Per Mr. Motes and Mr. Williams, the conversation was an intense one with raised voices. However, according to both of them, Mr. Motes was never abusive, never disrespectful, nor did he bang the conference desk, nor did he stand up in Mr. Malu's face, nor did he point in Mr. Malu's face. Both indicated that Mr. Motes pointed his fingers when trying to make a point, but it was not done in Mr. Malu's face. Also, both were very decisive about the fact that Mr. Motes did not threaten to join Ward Connerly's crusade. However, they indicated that Mr. Motes had expressed great concerns over the legality of the one for one policy that Mr. Malu was advocating citing that his (Motes) preliminary research indicated such a policy was illegal. Mr. Motes further stated that organizations had to be careful whenever they initiated new and aggressive programs such as this one for one policy because they had to make sure it was legal so that they did not give individuals like Ward Connerly further ammunition for their campaigns. To reiterate, Mr. Williams confirmed the context of Mr. Motes' statement in reference to Ward Connerly.

The next example of a hostile work environment that Mr. Malu cites starts on the top of page two (2) of the attachment. He is referencing a HR staff meeting which occurred on March 17, 2000. Mr. Malu states, "Since then, Tom has embarked upon a crusade against me personally in Human Resources by inciting some HR employees against me. During a meeting, I simply asked questions relating to items on the agenda".

Finding #6:

Again, Mr. Malu's recollection of this staff meeting differs greatly from others in attendance. To use some of the HR employees' own words, it was Mr. Malu who was hostile, disrupted the meeting, displayed inappropriate and disrespectful behavior, was belligerent, was belittling of his co-workers, and was unprofessional and insubordinate. According to those interviewed, the meeting was such a traumatic experience that they felt they had to do something about Mr. Malu's behavior especially in light of the fact that Mr. Motes had done nothing to stop Mr. Malu. Only Jimmie Williams attempted to calm down Mr. Malu by repeatedly saying to Mr. Malu that this was not the proper forum to air these issues. Mr. Malu ignored Mr. Williams. Several of the HR employees took it upon themselves to make

LIST OF EXHIBITS

- Exhibit A: Copy of Complaint No. EO-I-2000-1 filed by Steve Malu
- Exhibit B: Copy of Payroll Records for the Pay Date of March 23, 2000 – Human Resources Department
- Exhibit C: Copy of Performance Evaluation for Hanskat, Toser, Zumwalde, McClary, Lowry, Taylor, Williams, Bernard and Manker
- Exhibit D: Copy of Notes to File for the Evaluation of Steve Malu dated March 16, 2000 written by Tom Motes
- Exhibit E: Copy of Career Fair Announcement and Statement from Billie Sturgeon dated March 1, 2000
- Exhibit F: Copies of Memos/E-mails written by Human Resources Employees after 3/17/00 Staff Meeting
- Exhibit G: Copy of Conflict of Interest Memo to City Manager from the Affirmative Action Officer (Steve Malu) dated February 21, 2000
- Exhibit H: Copy of Memorandum from Linda Keyton to Tom Motes of April 26, 2000
- Exhibit I: Copy of E-mail to Steve Malu from Tom Motes of February 18, 2000
- Exhibit J: Original Memo from Ron Combs of October 2, 2001, addressing legal issues raised by Mr. Gonzalez on behalf of Tom Motes
- Exhibit K: Copy of Respondent's Statement of Position prepared by Thomas M. Gonzalez on behalf of Tom Motes

Bowers, Wayne F.

From: Radson, Marion J.
Sent: Tuesday, October 09, 2001 12:49 PM
o: Bowers, Wayne F.
Subject: RE: Fire Merger Teams

My suggestion is that the city manager or county manager request certain staff to work with the city manager or county manager to fact find, and develop recommendations with the city manager or county manager. The managers then report to the Board (which can be done through certain designated staff). I would only refer to them as city manager or county manager staff teams. This office and the county attorneys office will provide legal counsel to you and staff, as necessary.
Marion

-----Original Message-----

From: Bowers, Wayne F.
Sent: Tuesday, October 09, 2001 7:35 AM
To: Radson, Marion J.
Subject: RE: Fire Merger Teams

I hope we can keep these teams out of the sunshine for numerous practical reasons. Please let me know what you and Dave decide. If we need to make some structural changes we can discuss with the Board on Monday.
WB

-----Original Message-----

From: Radson, Marion J.
Sent: Monday, October 08, 2001 12:59 PM
To: Bowers, Wayne F.
Cc: Hauck, Charles L.; Combs, Ronald D.; Hill, Monique; Murnahan, Alice F.; Williams, Suann; Higginbotham, R. Jenny
Subject: Fire Merger Teams

In the manner that these Teams have been constructed, I am concerned that these committees are subject to the application of the Government in the Sunshine Law. Under Florida case law, committees that are part of the decision making process are subject to the sunshine law. City or county managers can create committees that are subject to the sunshine law if they are charged with the duty of the city or county manager. This is in contrast to a committee that is purely fact finding for a city or county manager or staff that participate in a meeting with the city or county manager who then reaches decisions. I am further concerned that the future agendas provide for a report from these committees.

I have discussed this matter with Dave Wagner who will raise the same issue at the county staff meetings.

Marion J. Radson
City Attorney

City of Gainesville

Inter-Office Communication

Office of the City Manager

Mail Station 6

334-5010

TO: Glenda Currie
Administrative Services Director

DATE: October 26, 2001

FROM: Wayne Bowers
City Manager

SUBJECT: Equal Opportunity Department Complaint No. EO-I-2000-1

Thank you for your thorough investigation of the above-referenced complaint filed on March 30, 2000 by Affirmative Action Officer Steve Malu against the Human Resources Department. On October 23, 2001, you and I met to discuss your report. Based on your written report and our discussion of this case, I concur with your conclusion. The findings in your report support the conclusion that you "found no evidence to believe that the complaint of discrimination filed by Mr. Malu is valid." The extension of Mr. Malu's probationary period was a management decision made by the Human Resources Director and the evidence in your report indicates that this decision was not based on discrimination or retaliation.

As you are aware, the Affirmative Action Office was transferred on a temporary basis to the direct supervision of Assistant City Manager Carl Harness effective June 15, 2000. This transfer and the subsequent completion of performance reviews for Mr. Malu by the Assistant City Manager have eliminated several of the concerns mentioned in this complaint. As you indicated in your report, Mr. Malu has subsequently become a permanent employee and suffered no loss in pay or other benefits.

In your Finding # 5 you describe a meeting that included Steve Malu, Jimmie Williams, and Tom Motes in January 2000. In his complaint Mr. Malu states that during that meeting Mr. Motes was abusive and disrespectful. Your conclusion based on interviews with the participants was that the actions of Mr. Motes during the meeting did not constitute abusive behavior or creation of a hostile work environment. You do note, however, that based on your interviews the conversation at the meeting "was an intense one with raised voices." I will discuss this incident with Mr. Motes during my review of this complaint with him. I will remind him that during intense discussions with subordinates raised voices should be avoided in order to preserve professional decorum and avoid any misconception of creating hostile working conditions.

Should you have any questions concerning my response, please contact me.


Wayne Bowers
City Manager

WB/jh

Cc: City Attorney Marion Radson
Affirmative Action Officer Steve Malu
Human Resources Director Tom Motes
Assistant City Manager Carl Harness