

DEPARTMENT OF CIVIL RIGHTS
EQUAL OPPORTUNITIES DIVISION
CITY OF MADISON
210 MARTIN LUTHER KING, JR. BOULEVARD, ROOM 523
MADISON, WISCONSIN 53703

FILE COPY

Natalee Cruse
7890 Dairy Ridge Rd
Verona WI 53593

Complainant

vs.

Nordic Consulting
740 Regent St Ste 400
Madison WI 53715

Respondent

INITIAL DETERMINATION
PROBABLE CAUSE

EOD Case No. 20142065
EEOC Case No. 26B-201400033

I. THE EQUAL OPPORTUNITIES COMMISSION DECIDED

There is **probable cause** to believe that Nordic Consulting violated Section 39.03, Madison General Ordinance, the Equal Opportunities Ordinance, in regard to terms and conditions of employment (sexual harassment) because of the Complainant's sex and discharge (termination) in retaliation.

II. THIS MEANS

This complaint of discrimination will go to conciliation. If conciliation is not successful or either party chooses not to conciliate, it will go to a public hearing.

III. THE NEXT STEP IS

Conciliation. A letter inviting you to conciliate is enclosed. Please reply to this invitation by contacting your Conciliator immediately.

IV. THE CHARGE

In complaint filed on April 14, 2014, the Complainant alleges she was sexually harassed by her supervisor, Drew Madden, the President and co-owner of Nordic Consulting and then discharged in retaliation (make a complaint) for reporting the harassment in violation of Section 39.03, Madison General Ordinances, the Equal Opportunities Ordinance.

V. POSITION OF THE COMPLAINANT

The Complainant asserts that throughout her employment at Nordic she was

harassed by her supervisor, Drew Madden, and that the sexual harassment was unwelcome and had the effect of creating an offensive and intimidating work environment and after reporting the behavior she was terminated.

VI. POSITION OF THE RESPONDENT

The Respondent asserts that there is no evidence that the alleged improper conduct was unwelcome and that the Complainant welcomed and encouraged the conduct. The Respondent further asserts that the Complainant's termination was due unsatisfactory performance in her role as Vice-President of Nordic's Marketing Department.

VII. ISSUES

- A. Did the Respondent subject the Complainant to different terms and conditions of her employment because of her sex?
- B. Did the Respondent discharge the Complainant in retaliation?
- C. Did the Respondent discriminate against the Complainant in regards to terms and conditions of employment (sexual harassment) because of her sex and discharge (termination) her in retaliation (make a complaint) in violation of Section 39.03, Madison General Ordinance, the Equal Opportunities Ordinance?

VIII. INVESTIGATOR'S FINDINGS

- A. The Complainant is a member of the protected classes: sex and retaliation.
- B. The Respondent, Nordic Consulting, is employer within the meaning of the Equal Opportunities Ordinance.
- C. The Complainant asserts that throughout her employment at Nordic, she was sexually harassed by her supervisor Drew Madden, President and Co-owner. The Complainant provided numerous examples of the sexual harassment such as making comments of sexual nature in person and via text message dating back to December 14, 2012. This investigator will consider all alleged actions that suggest an ongoing pattern of behaviors that would constitute sexual harassment.
- D. The Complainant asserts that Mr. Madden engaged in conduct/behavior that was both pervasive and severe enough that it created a hostile, intimidating and abusive work environment.
- E. The Complainant asserts that Mr. Madden took a picture up her skirt "upskirt" without her knowledge, which he reference to repeatedly in his emails and text message to her and also implied that another such photo was a condition of her promotion. The Complainant asserts that Mr. Madden made other sexually explicit comments and remarks including comments about the size of

her breast, her pregnancy status, her boyfriend hitting her "sweet spot" and suggesting that she dump her boyfriend and date Dennis because "he could really screw in your shelves too?" Mr. Madden also made comments about the Complainant getting a massage and a goat wax, using her cleavage to maximize the company's sales and comments regarding the color and breathability of her bras as well as commenting that a non-white bra should be worn with a white shirt and due to her wardrobe choices, the guys in the office were able to look at her nipples that day.

- F. The Complainant asserts that during their weekly meeting on September 25, 2013, Mr. Madden began talking about his "favorites" in the office, all of whom were women, and emphasized that one of these employees was a beautiful person but she was physically unattractive and was someone he would have never looked at twice. Mr. Madden continued this conversation stating that the Complainant did not have anything to worry about, because she'd always be his one and only "true favorite" and that he would never forget when he first met her and that he could remember the details including what she was wearing.
- G. The Complainant states that after the meeting she ran into Peggy Bakken and broke down. She states that she told Ms. Bakken about Mr. Madden's inappropriate commentary on her attractiveness/physical appearance and other objectionable behavior. She further states that Ms. Bakken in return, reported the situation to her husband, Mark Bakken, Owner and CEO of Nordic Consulting.
- H. The Complainant states that she met with Mr. Bakken on September 27, 2013 and asserts that she was told by Mr. Bakken, that her experience was not an isolated occurrence and made reference to other situations where he had observed Mr. Madden acting inappropriate with other women.
- I. The Complainant states that she feared retaliation and asked Mr. Bakken not to escalate her complaint. She states that Mr. Bakken ignored her request and told Mr. Madden that she had accused him of sexual harassment.
- J. The Complainant asserts that prior to her complaint of sexual harassment that she was viewed as an excellent employee and on the fast track to higher positions and better income with the company. The Complainant asserts that a week before her complaint Mr. Bakken, told her that he envisioned someone for the next generation of leadership—like her, as a good fit for CEO when he leaves and added that she was a great leader and would be a great CEO.
- K. The Complainant states that after her complaint things changed. Mr. Madden was very angry with her and during a meeting in mid October 2013, and that she felt threatened when Mr. Madden told her, she had no idea how much he had protected her and the Marketing Department, as he was their support and shield, due to the Complainant being his favorite. Mr. Madden also stated the

Complainant had no idea how different things and much more difficult her job would be if he stopped making things easy for her and that the Complainant was about to find out as he wasn't going to protect her any longer.

- L. The Complainant states that Mr. Bakken's treatment of her also changed. He states that during a meeting in early November 2013 where he blamed her for Mr. Madden being a "wreck" and told her that she needed to "fix the situation with Madden...TODAY."
- M. The Complainant also states that it was at this meeting, Mr. Bakken for the first time shared he had concerns regarding the Marketing Department—what the Marketing Department was working on, how it was being perceived by the rest of the organization. The Complainant further states that when she asked Mr. Bakken for specifics, he was unable to identify any legitimate bases for his concerns.
- N. The Complainant states that after dealing with escalating hostility and retaliation she met with her new supervisor, Eric Sampson, on November 14, 2013 and offered her resignation. Mr. Sampson asked her to reconsider and expressed to her that it would be a mistake for leave, but understood why she would want to leave. The Complainant agreed. A week later the Complainant states that she spoke with Mr. Bakken about resigning, who told her that she couldn't resign, that it was crazy and would be the "beginning of the end" and others would follow. Again, the Complainant agreed to continue working for Nordic Consulting.
- O. The Complainant asserts that on or around January 14, 2014, she developed mono and was off work for about three weeks on medical leave and when she returned on February 3, 2014, she was discharged without warning. The reason she was given was that it "wasn't working out". The Complainant asserts that she was terminated because she opposed sex discrimination and sexual harassment in her workplace.
- P. The Respondent asserts that the Complainant was never sexually harassed nor was she retaliated against in any way.
- Q. The Respondent asserts that there is no evidence that Mr. Madden's alleged improper conduct was unwelcome. The Respondent further asserts that the Complainant both welcomed and encouraged the conduct that she now claims as improper and harassing.
- R. The Respondent states the Complainant's employment was terminated due to her unsatisfactory performance in her role as Vice-President of Nordic's Marketing Department.
- S. The Respondent asserts that the Complainant and Mr. Madden engaged in joking banter over text messages, sent various images and communicated with and to each other in this manner.

- T. The Respondent asserts that Mr. Madden jokingly brought two offer letters to the Complainant's office for her to sign. One that referenced the SUV "upskirt" picture and one without the reference and asserts, while Mr. Madden jokingly showed the Complainant both copies of the letter he only asked her to sign the copy that did not contain the "joke" printed on it.
- U. The Respondent asserts that Ms. Bakken informed Mr. Bakken about the bra incident after her conversation with the Complainant and Mr. Bakken proactively reached out to the Complainant to discuss what he had learned and any other concerns that she might have. Mr. Bakken also assured the Complainant that it was his job to make sure that Nordic had a culture and work environment where individual could feel safe and that this was a serious matter.
- V. The Respondent asserts that even after the Complainant spoke to Ms. Bakken, she and Mr. Madden continued to exchange collegial text messages and at no point during the Complainant's tenure, did Mr. Madden threaten the Complainant or say that "he wasn't going to protect her any longer."
- W. The Respondent states that the Complainant was transitioned to a new supervisor, Eric Sampson, and during their first meeting; the Complainant informed him that "the alleged bra incident was not an issue for her and was blown out of proportion."
- X. The Respondent states that Mr. Sampson met with the Complainant on November 13, 2013, to get a sense of what was on the Marketing Department's plate and offered to support the Complainant in prioritizing tasks that needed to be done, because it had become apparent that many of the department's critical tasks were not being completed. Within days of this meeting, the Complainant stopped by Mr. Sampson's office and shared that she was considering resigning. The Respondent indicates that Mr. Sampson encouraged the Complainant to stay and resolve the performance issues she was having and also when Mr. Bakken heard that the Complainant was considering resigning, he too reached out to her because he felt she was overwhelmed and unable to meet performance expectations and reiterated that the Complainant had the full support of the management team.
- Y. The Respondent asserts that Mr. Bakken met with the Complainant in early November 2013 to check-in with her and reassured her that he was taking her alleged concerns regarding the bra incident very seriously and genuinely felt badly about the situation and to discuss the issues and concerns regarding the lack of progress being made within the marketing department. The Respondent further asserts that Mr. Bakken also spoke with the Complainant about her lack of responsiveness and failure to complete tasks in a timely manner and offered his assistance, which the Complainant rejected.
- Z. The Respondents states that beginning on January 14, 2014, the Complainant was absent for about three weeks due to an alleged medical

condition though she never supplied the company with any medical documentation. During this time, the management team was made increasingly aware of the deficiencies in the Complainant's performance both externally and internally that was placing the marketing department at risk of failing because of the Complainant's mismanagement and non-responsiveness, and made the decision to terminate the Complainant's employment. On February 3, 2014, the Complainant was notified that her employment was being terminated in a meeting with Mr. Bakken and Mr. Sampson.

- AA. The Complainant submitted printed copies of text messages and email exchanges between her and Mr. Madden, and a copy of her separation agreement to support her claim.
- BB. The Respondent submitted a copy of their employee handbook, the Complainant's offer letter and a text message from the Complainant to Peggy Bakken.
- CC. The Complainant submitted a rebuttal response that disputed most of the Respondent's claims and asserts that the Complainant attempted to redirect the conversations and content of the text messages to work-related topics.
- DD. The Respondent also submitted a response to the Complainant's rebuttal that was received after the deadline and was not considered as a part of this investigation.
- EE. In this complaint, the Complainant asserts that she was subjected to hostile workplace discrimination by the President and Co-owner of Nordic Consulting during her tenure as an employee. The Complainant asserts that she was subjected to behaviors such as "leering, making and/or sending sexual jokes or sexual remarks or making sexual gestures." The alleged harasser is the President and Co-owner and therefore, the Respondent had been aware since the first inappropriate comment or action occurred and the duty to correct also began with that first action. The Respondent states that the behavior was welcome, however, Mr. Madden's actions given the nature of his position of authority, and the nature of his comments and/or remarks would qualify as hostile environment and violate the Respondent's harassment policy as well as the Equal Opportunities Ordinance. In addition, the Respondent did not provide any documentation such as written warnings, counseling notes, text messages or emails indicating that the Complainant was not performing her job duties effectively.

Based on the information submitted by the parties there is **probable cause** to believe discrimination occurred on the basis of the Complainant sex and in retaliation.

SUMMARY

In complaint filed on April 14, 2014, the Complainant alleges she was sexually harassed by her supervisor, Drew Madden, the President and co-owner of Nordic Consulting and then discharged in retaliation (make a complaint) for reporting the harassment violation of Section 39.03, Madison General Ordinances, the Equal Opportunities Ordinance.

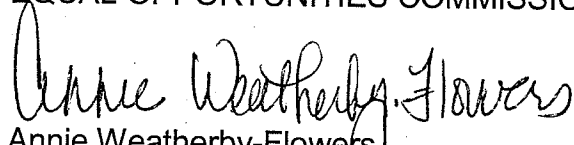
The Respondent asserts there is no evidence that alleged improper conduct was unwelcome and that the Complainant welcomed and encouraged the conduct. The Respondent further asserts that the Complainant's termination was due to repeated unsatisfactory performance in her role as Vice-President of Nordic's Marketing Department.

In this complaint, the Complainant asserts that she was subjected to hostile workplace discrimination by the President and Co-owner of Nordic Consulting during her tenure as an employee. The Complainant asserts that she was subjected to behaviors such as "leering, making and/or sending sexual jokes or sexual remarks or making sexual gestures." The alleged harasser is the President and Co-owner and therefore, the Respondent had been aware since the first inappropriate comment or action occurred and the duty to correct also began with that first action. The Respondent states that the behavior was welcome, however, Mr. Madden's actions given the nature of his position of authority, and the nature of his comments and/or remarks would qualify as workplace hostile environment harassment and violate the Respondent's harassment policy as well as the Equal Opportunities Ordinance. In addition, Respondent did not provide any documentation such as written warnings, counseling notes, text messages or emails indicating that the Complainant was not performing her job duties effectively.

There is **probable cause** to believe discrimination occurred.

Signed and dated this 16th day of JULY 2014.

EQUAL OPPORTUNITIES COMMISSION


Annie Weatherby-Flowers
Investigator/Conciliator

cc: Equal Employment Opportunities Commission
Wisconsin Equal Rights Division
Michael R. Fox, Complainant's Attorney
Katherine E. Kenny, Respondent's Attorney