

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

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4	CAROLYN HOOPER,)	
	Charging Party,)	Case No. 9809008523
5	-v-)	
6	BUTTE SILVER BOW COUNTY)	ORDER AFFIRMING AND
	GOVERNMENT,)	MODIFYING FINAL AGENCY
7	Respondent.)	DECISION
8			

9 The above-captioned matter came before the Montana Human Rights Commission
10 (Commission) on July 18, 2002 and on September 19, 2002. The Commission considered
11 Respondent's appeal from the Final Agency Decision entered on April 29, 2002. Oral argument was
12 requested. Appearing before the Commission were Tim Kelly and Joan Jonkel, attorneys for
13 Charging Party, Donald C. Robinson and Tina L. Morin, attorneys for Respondent.

14 After review and consideration of the entire record the Commission makes the following
15 determination: The Commission affirms and modifies the Final Agency Decision which held that
16 Respondent engaged in illegal retaliation and discrimination in employment on the basis of sex
17 against Charging Party. The Commission affirms the hearing examiner's conclusion that Respondent
18 illegally discriminated against Charging Party by reason of her sex and retaliated against her for
19 participation in protected activities when Respondent conducted an investigation into her entire
20 supervisory career, and when Respondent enlisted and approved the inappropriate participation and
21 assistance of others in investigating Charging Party. However, it is also the conclusion of the
22 Commission, after having reviewed the entire record pursuant to 24.9.1717(2), ARM that the
23 extensive culpability of the Charging Party as a manager of other employees mandates a reduction in
24 the award. Therefore, the Commission modifies the award to \$10,000.

25 Finding of Fact No.113 is modified to the extent that the substantial credible evidence
26 presented of Charging Party's extensive culpability as a manager does not support the initial amount
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1 awarded, but instead mandates a reduction in the award. The Commission hereby modifies Finding
2 of Fact No. 113 to entitle the Charging Party to recover \$10,000.

3 Conclusions of Law Nos. 1, 2, 4, and 5 are affirmed. Conclusion of Law No. 3 is modified to
4 reduce the award to \$10,000.

5 The Commission concurs with the Hearing Examiner's Order as to Nos. 1 and 3, but modifies
6 the Order as to No. 2 so as to reduce the award to \$10,000.

7 A party may appeal from this order by filing a petition for judicial review with the district
8 court no later than 30 days from the service of this order. § 2-4-701 *et. Seq*, MCA.

9 THEREFORE, the Human Rights Commission AFFIRMS and MODIFIES the Final
10 Agency decision, specifically reducing the amount awarded to Charging Party by modifying
11 Finding of Fact No. 113, Conclusion of Law No. 3, and No. 2 of the Order so as to reduce the
12 award to \$10,000.

13 IT IS HEREBY ORDERED that Respondent's appeal from the hearing officer's Final
14 Agency Decision is DENIED, and the Final Agency Decision is AFFIRMED in favor of
15 Charging Party and against Respondent on the charge that Respondent illegally discriminated
16 against Charging Party by reason of her sex and retaliated against her for participation in
17 protected activities. The Commission MODIFIES the award to Charging Party to the sum of
18 \$10,000.

19 IT IS FURTHER ORDERED that Respondent comply with all provisions of Conclusions
20 of Law Nos. 4 and 5 of the Final Agency Decision, and that Respondent pay the sum of \$10,000
21 immediately to Charging Party. Interest accrues on the award in this Order as a matter of law
22 until satisfaction of this order in accord with its terms.

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24 Dated this _____ day of September, 2002

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Gary Hindoien, Chair,
Montana Human Rights Commission

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing ORDER was served to the following persons via US Mail, postage prepaid, on the ____ day of September, 2002.

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Human Rights Bureau