

**BEFORE THE MONTANA DEPARTMENT  
OF LABOR AND INDUSTRY**

<b>Darrell Beauchamp,</b> Charging Party, vs. <b>Montana Waste Systems, Inc.,</b> Respondent.	) ) ) ) ) )	HRC Case No. 0031010397  <i>Nunc Pro Tunc Amendment to Final Agency Decision</i>
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The hearing examiner erred in adding the total damages due, omitting from the sum, in Conclusion of Law No. 3 and Final Order Paragraph No. 2, the amount of prejudgment interest. Both figures, as a result, are \$177.76 too low. Therefore, the hearing examiner, *sua sponte*, now orders the following amendments to the Final Agency Decision, *nunc pro tunc*, with the changes underlined in each paragraph:

*Amended Conclusion of Law No. 3*

3. The corporation owes Beauchamp \$3,540.04 for past lost wages, \$1,706.46 for past lost benefits, \$177.76 for prejudgment interest on the past lost earnings and \$25,000.00 for emotional distress endured by Beauchamp, for a total now due and payable of \$30,424.26. In addition, the corporation must either pay to an IRA created and owned by Beauchamp or (at his election if available, made in writing within 15 calendar days of this decision) pay into Beauchamp's vested account in the corporation's 401(k) plan the sum of \$4,249.27. From the date of this final order through September 19, 2007, the corporation will owe Beauchamp an additional \$420.23 each month, payable on the nineteenth day of each calendar month or the first regular business day thereafter when the nineteenth falls on a weekend or holiday, beginning on October 19, 2004, at the same time paying into Beauchamp's IRA or (if he elects) into his account with the corporation's 401(k) the sum of \$350.60. For the final payments on September 2007, the amounts shall be 88% of the above amounts. Mont. Code Ann. § 49-2-506(1)(b).

*Amended Final Order No. 2*

2. The corporation must immediately pay to Beauchamp \$30,424.26, to rectify harm to date for its illegal discrimination against him and must make the further payments mandated in Conclusion of Law No. 3. Interest accrues on this final order as a matter of law.

The hearing examiner does not believe that this order extends the time within which to appeal the Final Agency Order to the Human Rights Commission, since it is purely a matter of clerical error.

Dated: September 22, 2004.

/s/ TERRY SPEAR

Terry Spear, Hearing Examiner

Montana Department of Labor and Industry

Beauchamp nunc pro tunc