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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel. DAMON OATES,)
)
Complainant,)
)
v.)
)
NORCON, INC.,)
)
Respondent.)
_____)

ASCHR No. J-09-131

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Damon Oates, hereby alleges the following against Respondent Norcon, Inc.:

1. Respondent Norcon, Inc. (hereinafter Norcon), is an Alaska corporation that provides mechanical and electrical construction services to oil and gas producers on Alaska's North Slope.

2. Damon Oates, whose race is Black, was employed by Norcon at various times from November 1994 until May 2009.

3. Mr. Oates worked for Norcon as a pipefitter for several years. Throughout his employment with Norcon, while working at various locations on the North Slope, Mr. Oates commonly heard profanity used by Norcon personnel to describe their work, to address other Norcon personnel, and in casual conversation. Mr. Oates also used

1 profanity at times when addressing other Norcon employees. The use of profanity,
2 especially when used by a supervisor to criticize or counsel a subordinate employee, was
3 and is a common occurrence among Norcon construction personnel on the North Slope.

4
5 4. Throughout his employment with Norcon, Mr. Oates was an exemplary
6 employee. He received outstanding evaluations and was never disciplined for any of his
7 performance. Mr. Oates was never counseled about his use of profanity and was not
8 aware of anyone else ever being counseled for using profanity.

9
10 5. As a result of his outstanding work performance, Mr. Oates was promoted
11 to the position of Safety Proctor on May 9, 2009. A Safety Proctor is described by
12 Norcon as one who acts as a liaison between safety personnel and craft or trade workers.

13
14 6. On or about May 11, 2009, Mr. Oates attended safety meetings at Norcon
15 facilities on the North Slope during which he addressed other Norcon personnel about
16 safety-related issues. The purpose of his address was to stress the importance of
17 following safety-related protocol.

18
19 7. At various times during these meetings Mr. Oates used profanity when
20 stressing a particular point or to underscore or emphasize certain concerns.

21
22 8. Several Norcon supervisory personnel attended each of these meetings. At
23 no time during or after any of the meetings did any of the Norcon supervisory personnel
24 tell Mr. Oates that his use of profanity or any other manner of his speech was offensive,
25 improper, or not acceptable.

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27 9. After the safety meetings, and without Mr. Oates's knowledge, certain
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1 Norcon employees conspired to have Mr. Oates terminated from his position. In
2 particular, Scott Nelson, a Norcon general foreman, drafted and circulated a petition
3 complaining that Mr. Oates's use of profanity at the meetings created a hostile work
4 environment. Mr. Nelson did not attend any of the meetings.
5

6 10. Mr. Nelson presented the petition to a number of subordinate employees
7 and requested that they sign it. As a result, some employees felt they were required to
8 sign the petition, and did sign it, even though they did not agree that any of Mr. Oates's
9 actions or words were offensive or improper
10

11 11. After gathering signatures on the petition, Mr. Nelson presented it to John
12 Miller, Norcon's project manager, and Trent Farnsworth, Norcon's operations manager.
13 Mr. Nelson was then instructed to solicit additional individual statements from
14 employees.
15

16 12. On May 16, 2009, Mr. Oates was summoned to a meeting with Mr. Miller
17 and Mr. Farnsworth and was told that his employment was terminated based on the
18 allegations contained in the petition and the individual statements. Mr. Oates was not
19 given any opportunity to defend himself or explain his actions before being terminated.
20

21 13. Prior to making the decision to terminate Mr. Oates's employment, neither
22 Mr. Miller nor Mr. Farnsworth conducted any investigation into the allegations against
23 Mr. Oates. Nor did any other Norcon employee conduct any investigation of the
24 allegations before Mr. Oates's employment was terminated.
25

26 14. Other Norcon employees, who are not Black, have used profanity similar
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1 to that used by Mr. Oates and have not been counseled, disciplined, or terminated.

2 15. Other Norcon employees, who are not Black, have addressed coworkers in
3 a manner similar to the manner in which Mr. Oates addressed his coworkers and have not
4 been disciplined or terminated.
5

6 **CAUSE OF ACTION—TERMINATION BECAUSE OF RACE**
7 **VIOLATION OF AS 18.80.220(a)(1)**

8 16. Paragraphs 1-15 above are realleged and incorporated herein.

9 17. Damon Oates is a member of a protected class by virtue of his race, Black.

10 18. Mr. Oates was qualified for the position of safety proctor.

11 19. Mr. Oates was terminated from his position as safety proctor on May 16,
12 2009, for using profanity.
13

14 20. Other Norcon employees, who are not Black, have used profanity in a
15 manner similar to the way in which it was used by Mr. Oates, and have not been
16 disciplined or terminated.
17

18 21. Norcon terminated Mr. Oates's employment because of his race, Black.
19

20 **PRAYER FOR RELIEF**

21 Wherefore the Executive Director asks for the following relief:
22

23 1. That the Commission issue an order declaring that Respondent Norcon,
24 Inc., violated AS 18.80.220 by discriminating against Mr. Oates when it terminated his
25 employment.
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27 2. That the Commission order Respondent to adopt and disseminate a
28 policy of nondiscrimination under the Alaska Human Rights Law that includes a

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1 policy prohibiting discrimination against employees on the basis of race, and a policy
2 prohibiting retaliation for complaining about discrimination.

3
4 3. That the Commission order Respondent to obtain training of at least six
5 hours in length for its managers and supervisors on the provisions of the Alaska Human
6 Rights Law that prohibit discrimination in employment.

7
8 4. That the Commission order Respondent to eliminate from Mr. Oates's
9 personnel records all documents and entries relating to the facts and circumstances that
10 led to Mr. Oates's filing of the above-captioned charge of discrimination and any of the
11 related events occurring thereafter.

12
13 5. That the Commission order Respondent to refrain from penalizing Mr.
14 Oates in any way in future considerations for employment and, if rehired, for transfers,
15 promotions, or upgrading because Mr. Oates complained about discrimination or because
16 he filed a complaint with the Commission.

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18 6. That the Commission order Respondent to refrain from advising or
19 informing any other employer or potential employer of Mr. Oates of the facts or
20 circumstances involved in this case.

21
22 7. That the Commission order Respondent to pay back wages to Mr. Oates,
23 plus interest at the applicable legal rate, the exact amount of which will be proven at
24 hearing.

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26 8. That the Commission order Respondent to reinstate Mr. Oates to the
27 position from which he was terminated, and if such position is not currently vacant, to
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a comparable position for which Mr. Oates is qualified and which he is willing to perform.

9. That the Commission order Respondent to pay front pay to Mr. Oates, beginning with the date of the Commission’s final order and ending with the date on which Respondent reinstates Mr. Oates in accordance with the preceding paragraph or the date on which the statutory maximum front pay term expires, whichever occurs sooner.

Dated this 28th day of June 2010 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

/s/
Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070