



BUREAU of LABOR & INDUSTRIES

BEFORE THE COMMISSIONER OF THE BUREAU OF LABOR AND INDUSTRIES OF THE STATE OF OREGON

In the Matter of:

**MID OREGON BUILDERS, LLC,
JOSEPH RUSSI, also known as
JOSEPH FRANCIS RUSSI, JR., an
individual, and as an aider or
abettor, DAVE DUNCAN, also
known as DAVID PERRY DUNCAN,
an individual, and as an aider or
abettor, SHEA CAMBRIDGE, also
known as SHEA LYNN
CAMBRIDGE, an individual, and as
an aider or abettor.**

Respondents.

Case No. 88-22

FINDINGS OF FACT
CONCLUSIONS OF LAW
OPINION
ORDER

SYNOPSIS

The forum concluded that Respondent Mid Oregon Builders, LLC violated ORS 659A.030(1)(a), (b) when it failed to take sufficient action to prevent unlawful harassment by an officer of the corporation and constructively discharged the Complainant based on her sex and Respondents Russi, Duncan, and Cambridge were subject to liability under ORS 659A.030(1)(h) for that violation. The forum also concluded that Respondent Mid Oregon Builders, LLC violated ORS 659A.030(1)(g) and ORS 659A.199(1) when it subjected Complainant to adverse treatment for opposing an unlawful practice and reporting what she believed to be evidence of a violation of state or federal law. Respondents Russi and Duncan were found to be subject to liability under ORS 659A.030(1)(h) for those violations. The forum awarded Complainant \$750,000 in damages for mental and emotional distress and \$48,444.70 for lost wages and required training and policy changes.

1 The above-entitled case came on regularly for hearing before Caroline Holien,
2 designated as Administrative Law Judge by the Commissioner of the Bureau of Labor
3 and Industries for the State of Oregon. The hearing was held on September 9-13,
4 2024, via the Zoom video conference application.

5 The Bureau of Labor and Industries ("BOLI" or "the Agency") was represented by
6 Administrative Prosecutor Anita Smith, an employee of the Agency. Complainant
7 Kimberly Krebs ("Krebs") was present throughout the hearing.

8 Respondent Mid Oregon Builders, LLC ("Mid Oregon") was represented by David
9 Duncan ("Duncan"), who was present throughout the hearing as Respondent Mid
10 Oregon's authorized representative. Respondents Duncan, Joseph Russi ("Russi") and
11 Shea Cambridge ("Cambridge") were also present.

12 The Agency called Krebs; Tyler Stokes ("Stokes"), BOLI's Civil Rights Division
13 Senior Investigator; Khaila Tollefson ("Tollefson"); and John Murphy ("Murphy") as
14 witnesses. The Respondents called Gerald Duncan ("G. Duncan"); Luke VanAcker
15 ("VanAcker"); Louis Martinez ("Martinez"); Kolton Coryell ("Coryell"); Alonzo Morales
16 ("Morales"); Edward Plummer ("Plummer"); Jennifer Tellone ("Tellone"), D. Duncan,
17 Russi and Cambridge as witnesses.

18 The forum received into evidence Administrative Exhibits X1-X50 and Agency
19 Exhibits A1-A40. The parties agreed to seal Agency Exhibit A11 to protect the privacy
20 interests of non-parties referenced whose privacy rights exceed the public's right to
21 access that information.

22 The parties agreed to submit post-hearing briefing in lieu of offering closing
23 statements at the conclusion of the evidentiary portion of the hearing. After requesting
24 and receiving extensions of the deadlines, the forum received the last brief on
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1 December 31, 2024.

2 Having fully considered the entire record in this matter, I, Caroline Holien,
3 Administrative Law Judge, hereby makes the following Proposed Findings of Fact
4 (Procedural and on the Merits), Ultimate Findings of Fact, Conclusions of Law, Opinion,
5 and Order.¹

6 **FINDINGS OF FACT – PROCEDURAL**

7 1) On March 4, 2021, the Complainant filed a verified complaint² with the
8 Agency’s Civil Rights Division (“CRD”) in which she alleged that Respondent Mid
9 Oregon unlawfully discriminated against her “based on [her] sex/gender and marital
10 status, and for opposing unlawful practices in that Respondent subjected [her] to
11 different terms, conditions, or privileges of employment, and severe and pervasive
12 sexual harassment; failed to take corrective action; and constructively discharged [her]
13 from employment.” (Testimony of Complainant; Ex. A2)

15 2) On March 4, 2022, after investigation, the CRD issued a Notice of
16 Substantial Evidence Determination in which it found:

17 “ * * * substantial evidence of an unlawful employment practice based on
18 sex/gender and marital status, in that Respondents subjected
19 Complainant to different terms, conditions, or privileges of employment
and severe and pervasive sexual harassment, failed to take corrective
action and constructively discharged Complainant from employment.”

20 (Ex. A12)

24 ¹ The Proposed Ultimate Findings of Fact required by OAR 839-050-0370(1)(b)(B) are subsumed within
the Proposed Findings of Fact – The Merits.

25 ² An amended complaint was filed the same day changing the case number from “STEMSH210304-
50412” to “STEMSH210304-90412.” See Ex. A3.

3) On January 26, 2024, the forum issued a Notice of Hearing to Respondent, the Agency, and the Complainant stating the hearing was to be held via the Zoom video meeting application on May 14, 2024, at 9 a.m. Together with the Notice of Hearing, the forum sent a copy of the Agency's Formal Charges, a document entitled, "Summary of Contested Case Rights and Procedures," containing the information required by ORS 183.413, a document entitled "Servicemembers Civil Relief Act (SCRA) Notification," a multi-language notice explaining the significance of the Notice of Hearing, and a copy of the forum's contested case hearings rules, OAR 839-050-000 to 839-050-0445. (Exs. X2-X2i)

4) The Formal Charges included the following allegations:³

“Unlawful Discrimination Based on Sex: Hostile Work Environment

43.

“Agency alleges Respondent Mid Oregon committed an unlawful employment practice by discriminating against Complainant in the terms, conditions or privileges of employment based on Complainant's sex in violation of ORS 659A.030(1)(b); OAR 839-005-0030(1)(b), (2), (3), (5)(a), (b)(A)(B).

44.

“Agency alleges that Respondent Russi aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).

45.

“Agency alleges that Respondent Duncan aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).

³ The statutes referenced in Finding of Fact No. 4 were renumbered effective September 26, 2025. The Final Order refers to the current numbering of ORS 659A.030.

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46.

“Agency alleges that Respondent Cambridge aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).

UNLAWFUL DISCRIMINATION BASED ON SEX:
CONSTRUCTIVE DISCHARGE

47.

“Agency alleges Respondent Mid Oregon committed an unlawful employment practice by constructively discharging Complainant because of Complainant's sex in violation of ORS 659A.030(1)(a); OAR 839-005-0011(1),(2),(3),(4); OAR 839-005-0030(1)(b), (2), (3),(4)(a).

48.

“Agency alleges that Respondent Russi aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).

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“Agency alleges that Respondent Duncan aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).

50.

“Agency alleges that Respondent Cambridge aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).

“UNLAWFUL DISCRIMINATION: OPPOSING AN UNLAWFUL
PRACTICE

51.

“Agency alleges Respondent Mid Oregon committed an unlawful employment practice by subjecting Complainant to adverse treatment and/or discharging Complainant for opposing an unlawful practice, in violation of ORS 659A.030(1)(g) and OAR 839-005-0125(2)(a)(A), (b), (c).

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52.

“Agency alleges that Respondent Russi aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).”

53.

“Agency alleges that Respondent Duncan aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).”

54.

“Agency alleges that Respondent Cambridge aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).”

UNLAWFUL DISCRIMINATION: WHISTLE BLOWING

55.

“Agency alleges Respondent Mid Oregon committed an unlawful employment practice by retaliating against Complainant for reporting in good faith what Complainant believed to be evidence of a violation of a state or federal law, rule or regulation, in violation of ORS 659A.199(1) and OAR 839-010-0100(1).”

56.

“Agency alleges that Respondent Russi aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).”

57.

“Agency alleges that Respondent Duncan aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).”

58.

“Agency alleges that Respondent Cambridge aided or abetted Respondent Mid Oregon in discriminating against Complainant in violation of ORS 659A.030(1)(g).”

(Exs. X2b, A3)

1 5) The Formal Charges sought “non-economic damages for physical, mental
2 and/or emotional distress in an amount to be proven at hearing, estimated to be at least
3 \$750,000.” The Formal Charges also sought damages for lost wages and benefits
4 “estimated to be at least \$48,444.70.” The Formal Charges also sought training on
5 preventing discrimination in the workplace based on sex for Mid Oregon’s owners,
6 members, managers, supervisors and human resources personnel to be completed
7 annually for a period of five years. (Exs. X2b, A3).

8 6) On January 29, 2024, the forum issued an Interim Order Requiring Case
9 Summaries to be Filed and Setting Case Deadlines. The interim order was sent to
10 Christopher Peterman (“Peterman”), Attorney at Law, who was listed as the attorney of
11 record for the Respondents, via email and the U.S. mail. (Exs. X3, X4)

12 7) On February 15, 2024, Peterman filed a Notice of Representation –
13 Limited Scope indicating that he represented Respondents “* * * Mid Oregon and Russi
14 by preparing and filing an Answer on behalf of Russi an Answer on behalf of Mid
15 Oregon in response to the Formal Charges filed therein.” (Ex. X7)

16 8) On February 15, 2024, Peterman filed an Answer to Formal Charges in
17 which Respondents Mid Oregon and Russi denied the allegations set forth in the Formal
18 Charges. Included in the Answer was a request for “a period of time of not less than 60
19 days to file an Amended Answer” citing Respondents need for time to retain alternative
20 counsel. The Answer also included a request for the dismissal of the matter with
21 prejudice and any other relief deemed equitable. (Exs. X9, X10, X12, X13)
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1 9) Accompanying the courtesy copies of the Notice of Representation –
2 Limited Scope and Answers filed by Respondents Mid Oregon and Russi was an email
3 from Keith D. Ropp, Attorney at Law, an associate attorney with Peterman’s law office,
4 stating that the representation of Respondents Mid Oregon and Russi was complete
5 upon the filing of the documents with the forum. Ropp sent another email stating that
6 Peterman’s firm did not represent either Respondent Duncan or Cambridge. (Ex. X11)

7 10) On February 21, 2024, the Forum received Answers to the Formal
8 Charges from Respondents Duncan and Cambridge. The answers received were
9 substantially similar to the answers filed on behalf of Respondents Mid Oregon and
10 Russi and included a request for a 60-day extension to file an Amended Answer. (Exs.
11 X16, X17)

12 11) On February 21, 2024, the Agency filed its Objection to Respondents Mid
13 Oregon Builders, LLC and Joseph F. Russi Requests for Extensions to File Amended
14 Answers. The Agency filed the same objection to the request for extensions included in
15 the answers filed by Respondents Duncan and Cambridge. (Exs. X18-X20)

16 12) On February 23, 2024, the forum issued an interim order denying
17 Respondents’ request for a 60-day extension to file an Amended Answer without
18 prejudice, noting OAR 839-050-0140(3), which provides, “For good cause shown to the
19 [ALJ], a party may amend its answer at any time before the hearing commences. Any
20 new facts or defenses alleged in the amended answer will be deemed denied by the
21 Agency.” (Ex X21)
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1 13) On February 23, 2024, the forum re-issued the interim order setting the
2 deadline for filing case summaries due to confusion surrounding the representation of
3 the various Respondents. The interim order was sent to Peterman and the four listed
4 Respondents. (Ex. X25)

5 14) On March 4, 2024, the forum received Notice of Termination of Limited
6 Scope from Peterman. (Ex. X28)

7 15) On March 5, 2024, the ALJ issued a Second Interim Order Denying
8 Respondents' Request for Extension of Time to File an Amended Answer finding the
9 Respondents had failed to show good cause for extending the time to file an Answer.
10 (Ex. X26)

11 16) On April 30, 2024, the Agency and Respondents Cambridge, Duncan, and
12 Russi filed their Case Summaries and exhibits as required under the Interim Order
13 Requiring Case Summaries to be Filed and Setting Case Deadlines issued on March 5,
14 2024. (Exs. X30-X31)

15 17) On May 7, 2024, the forum issued an Interim Order Scheduling a
16 Prehearing Conference to be held at 10 a.m. on Monday, May 13, 2024, via Zoom. The
17 interim order was mailed to the Respondents at their last known addresses. The forum
18 scheduled the prehearing conference to address procedural issues that may affect the
19 efficiency of the contested case proceeding. (Ex. X32)

20 18) On May 9, 2024, Respondents Russi and Duncan filed written requests for
21 a postponement of 60 days for the contested case hearing scheduled to begin on May
22 14, 2024, on the grounds that "[a] diligent search for a qualified law firm with experience
23 litigating BOLI cases is not and has not been available given their current case
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1 commitments.” Respondents Russi and Duncan note that they “were given instructions
2 to seek an extension on the hearing set for May 14th, 2024 @ 9:00 AM in order to allow
3 one of the firms we have contacted to get our group in so the attorney can properly
4 prepare and review our evidence and thus represent us in this matter.” Respondent
5 Cambridge did not file a similar written request for a postponement. (Ex. X34)

6 19) On May 10, 2024, the Agency filed its objection to the postponement
7 request for Respondents Russi and Duncan arguing that they had failed to show good
8 cause for the postponement and their request failed to comply with the requirements set
9 forth in OAR 839-050-0150. (Exs. X35-X36)

10 20) On May 10, 2024, Russi sent an email to the forum that same day with the
11 tracking information for the postponement request of Respondents Russi and Duncan
12 sent to the forum via the U.S. Mail. Russi’s email included what appeared to be email
13 addresses for Duncan and Cambridge. (Ex. X37)

14 21) On May 13, 2024, the ALJ conducted a prehearing conference.
15 Cambridge, Russi, and Duncan appeared, as did Administrative Prosecutor Anita Smith.
16 Cambridge indicated that she joined in the request for a 60-day postponement filed by
17 Russi and Duncan. Duncan confirmed during the conference that he would be acting as
18 the authorized representative for Mid Oregon.⁴ Following the conference, both
19 Cambridge and Duncan submitted a lengthy list of attorneys Respondents claimed to
20 have contacted after receiving the Notice of Hearing. (Ex. X38-X39a)
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25 ⁴ Duncan sent an email to the forum following the conference confirming in writing that he was the
authorized representative for Mid Oregon.

1 22) On May 13, 2024, the ALJ issued an Interim Order Granting
2 Postponement Requests of Russi and Duncan. The interim order also granted
3 Cambridge's request for a postponement that she offered at the time of the conference.
4 (Ex, X41)

5 23) On May 15, 2024, the ALJ issued an Interim Rescheduling Hearing and
6 Setting Prehearing Deadlines that set the hearing to begin September 9, 2024. The
7 interim order set August 2, 2024, as the deadline for filing motions, with August 9, 2024,
8 as the response deadline. The deadline for filing case summaries was set to August 26,
9 2024. (Ex. X42)

10 24) On June 6, 2024, Respondents filed a motion to extend the deadline for
11 responding to the Agency's second informal discovery request that was served on
12 Respondents on March 15, 2024, citing difficulties in securing counsel, amongst other
13 issues that they argued prevented them from timely responding to the Agency's
14 discovery request. The Agency filed its objection to the Respondent's request on June
15 11, 2024. (Exs. X43, X44)

16 25) On June 17, 2024, after receiving several emails from the Respondents
17 and the Agency, the ALJ informed the parties that she was treating the request of the
18 Respondents for an extension as having been withdrawn. (Ex. X45)

19 26) On August 2, 2024, the Agency filed a motion in limine seeking to exclude
20 "all evidence of Complainant's alleged past sexual behavior." The Agency contended
21 that the Respondents' case summaries identify nine witnesses, all of whom are
22 anticipated to testify as to Complainant's "inappropriate behavior towards male co-
23 workers and subcontractors" or "unwanted sexual advances." The Agency also noted
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1 that Respondents' case summaries also included photographs of Complainant at a
2 Christmas party, sponsored by Respondents for their employees, and identified a video
3 of Complainant at the same party, which allegedly show Complainant "engaging in
4 sexual or inappropriate behavior." (Ex. X46)

5 27) On August 2, 2024, the ALJ sent an email to the parties reminding the
6 Respondents that a participant wishing to file a response to any motion must do so
7 within seven days after service of the motion pursuant to OAR 839-050-0150. (Ex. X46)

8 28) On August 14, 2024, the ALJ issued an Interim Order Denying the
9 Agency's Motion in Limine on the basis that the ALJ had a duty pursuant to ORS 183-
10 417(8) to conduct a full and fair inquiry into the facts necessary for consideration of the
11 issues before the forum, which may include evidence of the Complainant's behavior in
12 the workplace to determine whether the conduct alleged was unwelcome. (Ex. X47)

13 29) On August 26, 2024, the participants timely filed their Case Summaries.
14 (Exs. X48-50)

15 30) At the start of the hearing, the ALJ orally advised the Agency and
16 Respondent of the issues to be addressed, the matters to be proved, and the
17 procedures governing the conduct of the hearing. (Statement of ALJ)

18 31) After requesting additional time for filing their written closing arguments,
19 the forum received the final written argument on December 31, 2024. (Exs. X51-X56)

20 32) On July 8, 2025, the ALJ issued a proposed order that notified the
21 participants they were entitled to file exceptions to the proposed order within ten days of
22 its issuance. The Agency and the Respondents timely filed their Exceptions to the
23 Proposed Order.
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33) On January 27, 2026, BOLI's Commissioner issued a memorandum to Administrative Law Judge Caroline Holien delegating the authority to enter a final order in this proceeding, pursuant to ORS 183.411, 651.060(3) and OAR 839-050-0420(6). (Forum File)

FINDINGS OF FACT – THE MERITS

Mid Oregon and its Members

1) During all relevant periods, Mid Oregon was a domestic limited liability company in Oregon that operated as a residential construction builder in the Roseburg and Sutherlin areas in Oregon. Mid Oregon was dissolved in 2021 and has not been reinstated. (Testimony of Duncan, Russi, Cambridge; Ex. A13)

2) Peterman served as Mid Oregon's Registered Agent according to the Oregon Secretary of State's Business Registry. (Testimony of Duncan, Russi, Cambridge; Ex. A13)

3) Russi, Cambridge, and Duncan were the sole members of Mid Oregon. Russi and Duncan each held a 45% interest in Mid Oregon, and Cambridge held the remaining 10% interest.⁵ (Testimony of Duncan, Russi, Cambridge; Ex. A13)

4) Cambridge began working for Russi in approximately 2012, when her mother was managing a mobile home park owned by Russi near Lake Tahoe, California. Cambridge later assisted Russi in the sale of the Lake Tahoe business. Russi often gave Cambridge and her children gifts and cash. Cambridge moved to Oregon with her family in 2017. (Testimony of Cambridge and Russi)

⁵ Cambridge was not listed as having an ownership interest in Mid Oregon until April 18, 2019. (Ex. A13)

1 5) Cambridge began working as Mid Oregon's office manager in 2017.
2 Cambridge was primarily responsible for managing the daily operations of the office and
3 had limited responsibilities regarding the financial aspects of Mid Oregon, including
4 payroll and bookkeeping. Cambridge's partner at the time worked as a subcontractor
5 for Mid Oregon after Cambridge began working for Mid Oregon. (Testimony of
6 Cambridge and Russi)

7 6) Duncan was a craftsman working in the Roseburg and Sutherlin area
8 when he joined Russi in operating Mid Oregon. Duncan's son, G. Duncan, began
9 working for Mid Oregon shortly after Duncan joined Mid Oregon. Duncan was primarily
10 responsible for supervising work at the jobsites and performed other duties related to
11 the construction projects. Duncan served as a construction subcontractor for Mid
12 Oregon and was working on Russi's home when Cambridge began working for Mid
13 Oregon. (Testimony of Duncan, G. Duncan, and Cambridge)

14 7) At various points in 2018 and 2019, Mid Oregon had as many as 97
15 homes under construction. Some Mid Oregon workers lived in homes owned by Mid
16 Oregon, including G. Duncan. (Testimony of Cambridge, G. Duncan and Russi)

17 Russi Approaches Krebs

18 8) In early 2018, Krebs was living in her family home in Fairway Estates in
19 Sutherlin, which was under development. Krebs and her husband at the time were part
20 owners of the golf course where Fairway Estates was located and where he served as
21 the golf pro. Krebs's home was for sale as a result of their pending divorce. Krebs
22 planned to find less expensive housing, including renting, after the sale of the family
23 home. (Testimony of Krebs)
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1 9) In the spring of 2018, Krebs began seeing a Cadillac Escalade with
2 Washington license plates parked near the "for sale" sign in her front yard several times
3 a week. Krebs observed the same man in the vehicle each time she saw the vehicle
4 parked in front of her home. It appeared to Krebs that the man was staring directly into
5 the window of her home. (Testimony of Krebs; Ex. A11)

6 10) The owner of a tanning salon located in a nearby community that Krebs
7 frequented contacted Krebs shortly after Krebs first observed the Cadillac Escalade
8 parked near her home. The business owner asked Krebs if they could provide her
9 contact information to a male customer, who they described as being "a multi-millionaire
10 from California" who had recently purchased a mansion in a nearby community and who
11 was interested in purchasing the empty lots in Krebs's neighborhood. Krebs agreed to
12 have her contact information provided to the man believing that he was interested in
13 purchasing her home. (Testimony of Krebs; Ex. A11)

14 11) Krebs later learned that Russi was the man seated in the vehicle parked in
15 front of her home and requesting her contact information. Russi was purchasing a six-
16 acre parcel at the end of Krebs's property. Russi frequently met with surveyors and
17 other individuals in the area related to his purchase. (Testimony of Krebs; Ex. A11)

18 12) Russi called Krebs shortly after she agreed to allow the business owner to
19 share her contact information with Russi. Russi represented to Krebs during their initial
20 telephone conversation that he was concerned about easements he held that could
21 adversely affect a future sale of her property. Russi suggested that they meet at
22 Krebs's home so they could discuss the situation. Krebs and her mother ultimately met
23 with Russi at Krebs's home. (Testimony of Krebs; Ex. A11)

1 13) Russi described himself to Krebs as a successful and wealthy
2 businessman who had just completed construction on his home near Tyee, Oregon, as
3 part of several residential developments he was working on in the area. Russi told
4 Krebs that the easements he held cut through significant portions of her property and
5 could make selling her property difficult. (Testimony of Krebs; Ex. A11)

6 14) Russi asked Krebs increasingly personal questions during their initial
7 meeting. Russi questioned Krebs about her ex-husband and asked why they were
8 getting divorced. Russi asked Krebs how she had been faring during the separation
9 and divorce proceedings. (Testimony of Krebs; Ex. A11)

10 15) Russi asked Krebs if she was looking for work and told her that his
11 business had an administrative position available at the construction office. Krebs told
12 Russi that she was interested in the position, because she needed to return to work
13 after being a stay-at-home mother for several years. Russi told Krebs that the position
14 offered a starting hourly wage of \$15. (Testimony of Krebs; Ex. A11)

15 16) Krebs accepted Russi's offer of employment. Krebs liked that Russi's
16 construction office was near her home so she could walk to work since she was without
17 a vehicle as a result of the divorce. Krebs was also intrigued by the idea that she may
18 be able to work on getting her real estate license, which Russi had suggested was a
19 possibility during their conversation. (Testimony of Krebs; Ex. A11)

20 17) Krebs understood that she would be starting the job with Mid Oregon soon
21 after her meeting with Russi. Instead, after several weeks, Russi asked to meet with
22 her again to discuss her future employment at Mid Oregon. Krebs suggested meeting
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1 at the Starbucks near her home because she was uncomfortable at the thought of
2 meeting Russi alone at her home. (Testimony of Krebs; Ex. A11)

3 18) Russi asked Krebs several personal questions about her family and
4 pending divorce during their meeting at Starbucks. Russi asked about the vehicle
5 Krebs was driving, which was her son's vehicle – an older Toyota 4Runner. Russi
6 asked why she did not purchase her own vehicle, and Krebs was embarrassed to admit
7 she could not do so for financial reasons. Russi then described all of the things that he
8 did for his wife and daughter, including purchasing expensive vehicles and clothing as
9 gifts. Russi also described vacationing in Dubai and buying Rolex watches and other
10 expensive items for his wife and children. Russi told Krebs that he had worked security
11 for Kim Kardashian and other celebrities. Russi asked Krebs several times about her
12 financial situation and if she and her kids needed anything like food or gas. Krebs had
13 the impression that Russi was trying to impress her but seemed unwilling to provide
14 specific information about the job that he had represented to her was available with Mid
15 Oregon. (Testimony of Krebs; Ex. A11)

17 19) Krebs waited to hear from Russi as to a start date for the job that he had
18 offered her. Krebs contacted Russi approximately two weeks after their meeting at
19 Starbucks and told him that she would have to look for a different job if she did not start
20 work soon. Russi told Krebs to report to the construction office located at Fairway
21 Estates ("Fairway office") to meet with Cambridge. (Testimony of Krebs; Ex. A11)

1 Krebs's Employment with Mid Oregon

2 20) On or about June 28, 2018, Krebs reported for work at the Fairway office
3 and met Cambridge for the first time. Cambridge appeared surprised at Krebs's hiring
4 and seemed unprepared to meet with Krebs that day. Tollefson, who Russi and
5 Cambridge had hired approximately two weeks earlier, was also in the office. It
6 appeared to Krebs that Tollefson was already performing the job duties described to her
7 as being part of the job offered to her by Russi. (Testimony of Krebs; Ex. A11)

8 21) Krebs was not required to complete an application or submit a resume
9 prior to her hiring at Mid Oregon. Krebs did not receive an employee handbook or any
10 policy manual setting forth Mid Oregon's sexual harassment or other employment
11 policies. The only policy manual Krebs saw during her employment at Mid Oregon was
12 a safety manual that Mid Oregon began providing to laborers several months after the
13 start of Krebs's employment. (Testimony of Krebs; Ex. A11)

14 22) Krebs typically worked from 10 a.m. to 4 p.m. during the week. She also
15 worked most weekends when home tours were conducted. Krebs did not learn until
16 after she received her first paycheck from Mid Oregon that her hourly wage was \$12,
17 rather than \$15, as Russi had represented during their conversations. Krebs continued
18 working for Mid Oregon because she needed a job to support her family. (Testimony of
19 Krebs; Ex. A11)

20 23) Krebs had a strained working relationship with Cambridge during the early
21 weeks of her employment with Mid Oregon. Krebs felt that Cambridge did not like her
22 or the circumstances surrounding her hire. Krebs also felt Cambridge favored Tollefson
23 and tried to exclude her from conversations and other office activities. Krebs was
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1 friendly with Tollefson, with whom she had a good working relationship. (Testimony of
2 Krebs; Ex. A11)

3 24) The Fairway office was a manufactured building used as an office.
4 Krebs's desk was located near the main entry and waiting area. Cambridge's office was
5 behind the front desk. The window in Cambridge's office that faced the hallway leading
6 from the reception desk was covered. Cambridge did not have a clear view of the
7 reception area from her office. (Testimony of Krebs; Exs. A11, A14)

8 25) Russi's office was down the hallway from Krebs's workspace and located
9 between Krebs's desk and Tollefson's office. Russi's office door was typically locked
10 and the window blinds shut. Krebs understood, based upon comments made by Russi,
11 that he stored at least one firearm in a locked closet located within his office.
12 (Testimony of Krebs; Exs. A11, A14)

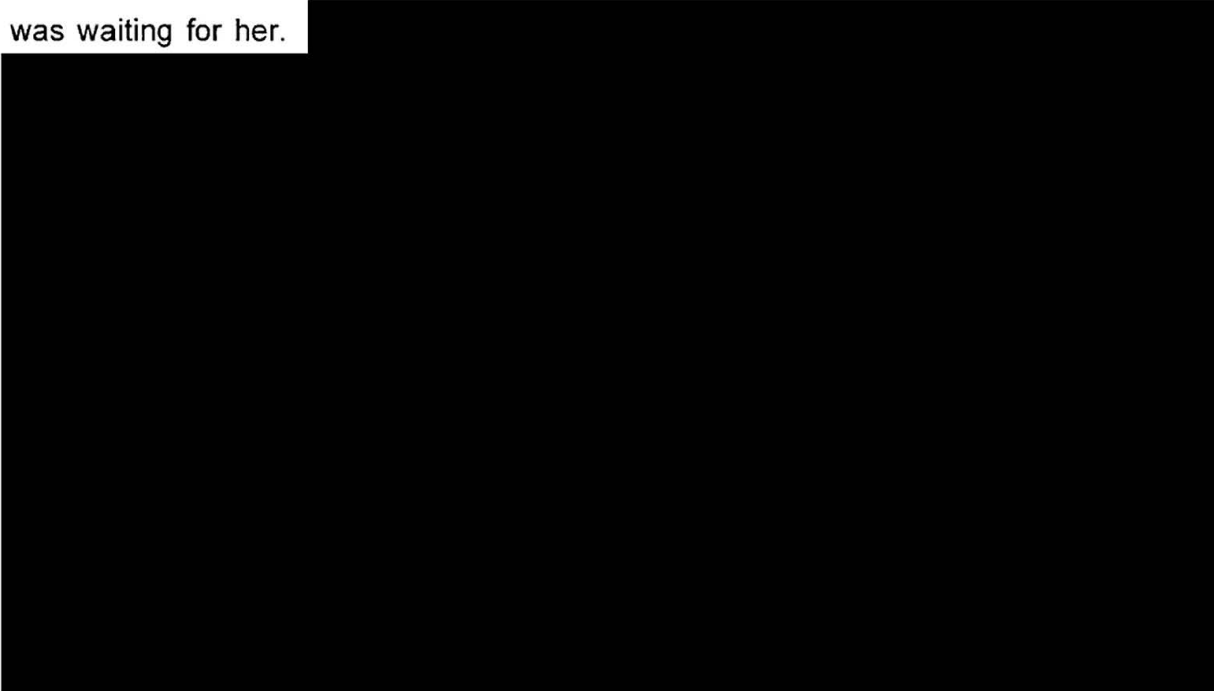
13 26) Russi rarely used his office and usually sat at the conference table located
14 near Krebs's desk when he was in the office. (Testimony of Krebs; Ex. A11)

15 27) Duncan spent the majority of his time supervising construction work at the
16 various work sites and was rarely in the office. (Testimony of Krebs, Duncan)

17 28) Cambridge typically worked Monday through Friday, and she did not work
18 weekends. Cambridge was in the office more often than either Duncan or Russi during
19 the beginning of Krebs's employment with Mid Oregon. Cambridge often ran work-
20 related errands during the day. Cambridge began working remotely in February 2020,
21 Cambridge had little to no contact with any Mid Oregon employees, including Krebs,
22 after she began working remotely. (Testimony of Cambridge)

Russi's Unwanted Sexual Conduct Directed at Krebs

29) On or about July 7, 2018, Russi was in the supply room at the Fairway office when he called for Krebs to join him. Krebs went to the supply room where Russi was waiting for her.



30) Krebs called Murphy, a family friend, shortly after Russi left the office. Krebs told Murphy what Russi had done and how upset she was at his behavior toward her. Murphy encouraged Krebs to report the incident and to quit the job and get away from Russi. Murphy noted to himself during his phone conversation with Krebs that she sounded upset as she described the incident with Russi. (Testimony of Krebs, Murphy; Ex. A11)

31) Russi's conduct was unwelcome by Krebs. Russi's comments and physical touching upset and scared Krebs, who struggled to maintain her composure as she returned to the front office area. Russi approached Krebs several times during the remaining part of the day asking if she was okay. (Testimony of Krebs; Ex. A11).

1 32) Krebs began to cry while she was still at the office later that day. Krebs
2 felt shock, sadness, confusion, and “gross and nauseous,” because of Russi’s
3 unwelcome conduct. Krebs felt she had to submit to Russi’s offensive conduct in order
4 to continue in the employment. (Testimony of Krebs; Ex. A11)

5 33) Krebs had been happy and relieved to have found employment following
6 her divorce. Russi’s unwelcome sexual conduct caused Krebs greater upset, because
7 Krebs had hoped the new job, which was close to her home and allowed her time to
8 care for her children, would work out and result in long-term employment for her. Krebs
9 was also upset at the fact that she lived in the area so, even if she were to quit her
10 employment, there would be no way to avoid Russi while construction was happening in
11 the development. (Testimony of Krebs; Ex. A11)

12 34) Russi approached Krebs shortly after she arrived at the Fairway office the
13 day after the supply room incident. Russi asked Krebs if she was okay several times
14 that day. Russi asked Krebs for a hug before he left the office that day. Krebs
15 suspected Russi would not leave the office if she did not hug him as he asked. Russi
16 rubbed Krebs’s back and waistline as he firmly hugged her. When Krebs struggled to
17 pull away, Russi again asked her if she was okay. (Testimony of Krebs; Ex. A11)

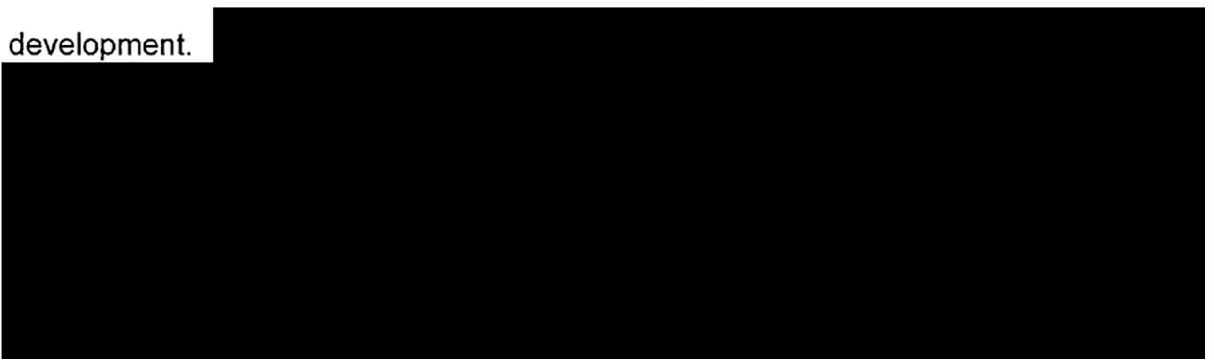
18 35) During the week of July 9, 2018, Russi asked Krebs to accompany him to
19 retrieve a rental car that Krebs understood that she and Tollefson would use to run
20 errands related to a special event hosted by Mid Oregon scheduled for later in the
21 month. After picking up the rental vehicle - a Lincoln Navigator - Russi told Krebs the
22 vehicle was hers to use as she wished. Russi directed Krebs to tell no one that he was
23 renting the vehicle for her and warned her not to tell Cambridge. Despite Krebs’s
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1 protests that she did not want or need the vehicle, Russi insisted on renting the vehicle
2 for Krebs's personal use. (Testimony of Krebs; Ex. A11)

3 36) Krebs was upset and embarrassed after learning that other employees
4 were questioning the circumstances of her driving the rented Lincoln Navigator. Several
5 construction crew workers asked if she was Russi's wife or girlfriend. Krebs felt as
6 though the arrangement had upset Cambridge and exacerbated the rift between her
7 and Cambridge. (Testimony of Krebs; Ex. A11)

8 37) Russi contacted Krebs the day after he gave her use of the Lincoln
9 Navigator and directed her to meet him at a parking lot in Roseburg so they could tour
10 the Rose Village residential development in the area. Russi suggested that it would be
11 best for Krebs to be out of the office, since Cambridge was upset with Krebs's presence
12 in the office. Russi directed Krebs to tell Cambridge that she would be late for work that
13 day to run some personal errands. (Testimony of Krebs; Ex. A11)

15 38) Shortly after Krebs arrived at the parking lot, Russi directed her to join him
16 in his vehicle. Krebs was nervous and unsure why Russi had asked her to join him.
17 Russi drove Krebs to a dead-end road in a sparsely developed part of the Rose Village
18 development.



1 39) Russi told Krebs not to tell anyone what had occurred several times as
2 they drove back to the Fairway office. Russi kept asking Krebs if she was okay and told
3 her that he “could not help it.” Russi drove to another development approximately 15
4 minutes away and quickly drove through the development without stopping the vehicle.
5 Krebs became concerned that Russi was intending to take her to a remote location and
6 was scared for her safety. (Testimony of Krebs; Ex. A11)

7 40) As they drove back to Krebs’s parked vehicle, Russi asked Krebs if she
8 was intending to return to work that day. Russi directed Krebs not to tell anyone about
9 the tour because it would upset Tollefson and Cambridge that he had not taken them on
10 a similar tour. (Testimony of Krebs; Ex. A11)

11 41) Cambridge approached Krebs after she returned to the office and asked if
12 she had been with Russi. Cambridge questioned why Krebs needed to accompany
13 Russi on a tour and why she could not have done the tour on her own time. Krebs felt
14 Cambridge was upset with her for having spent time alone with Russi. (Testimony of
15 Krebs; Ex. A11)

16 42) A short time after the Roseburg incident, Krebs learned that she would no
17 longer be allowed to use the Lincoln Navigator rented for her by Russi. Krebs was
18 never told why she was no longer allowed use of the vehicle. (Testimony of Krebs; Ex.
19 A11)

20 43) On or about July 13, 2018, Mid Oregon hosted an event for subcontractors
21 and realtors at the Roseburg Country Club. Krebs and Tollefson drove together in the
22 Lincoln Navigator. Krebs and other Mid Oregon employees consumed alcohol at the
23 event, which Mid Oregon made available as part of the event. It appeared to
24
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1 Cambridge, Russi and others at the event that Krebs was intoxicated. (Testimony of
2 Krebs, Cambridge, Russi, and Duncan)

3 44) Tollefson drove Krebs back to the office after the event so Tollefson could
4 retrieve her vehicle. Krebs intended to walk home from the office. Russi arrived at the
5 office shortly after they arrived at the office. Russi sent Tollefson to show homes to a
6 couple who had asked for a home tour. After Tollefson left, Russi locked the office door
7 and sent Krebs to the kitchen area near the sales office. 



13 stopped after hearing a noise coming from the front of the office. (Testimony of Krebs;
14 Ex. A11)

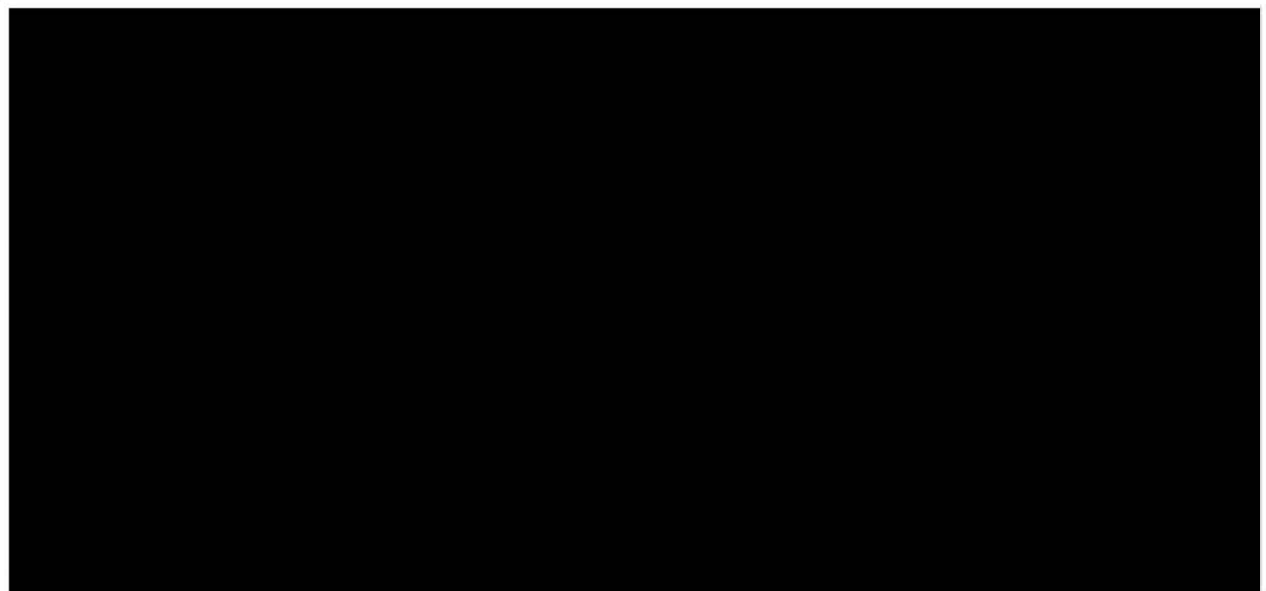
15
16 45) Tollefson had returned to the office and discovered the office door was
17 locked. As Tollefson struggled with the front door, Russi left the supply room and went
18 to unlock the office door for Tollefson. Russi left shortly after Tollefson entered the
19 office. Krebs appeared upset and Tollefson asked Krebs if she was okay. Krebs went
20 home without telling Tollefson what had happened. (Testimony of Krebs, Tollefson; Ex.
21 A11)

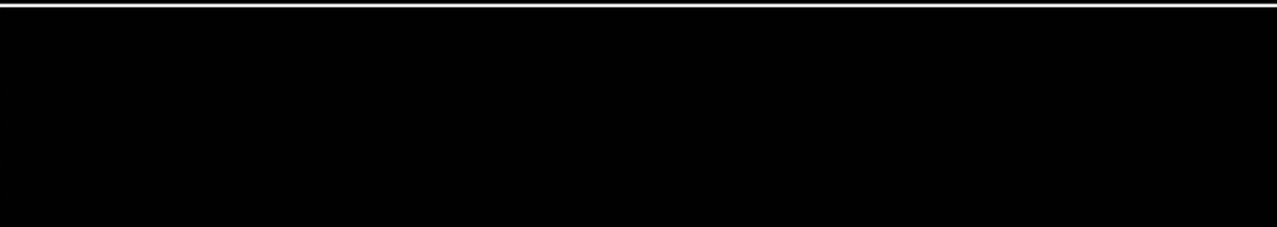
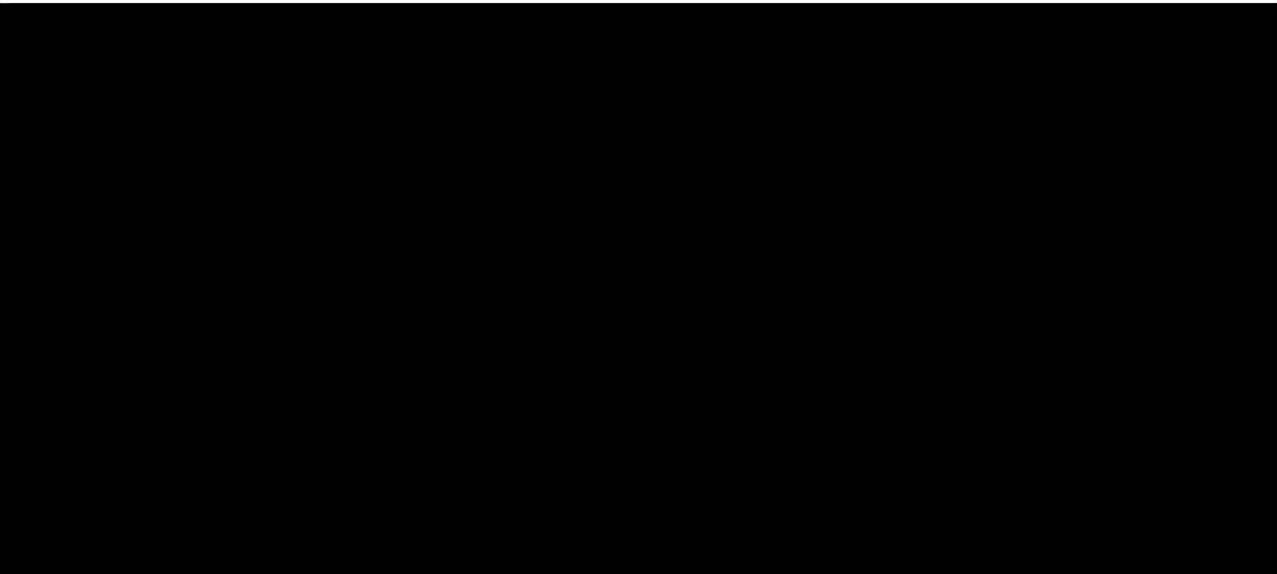
22 46) Russi "blew up" Tollefson's phone that night with repeated text and voice
23 mail messages asking if Krebs was okay. Tollefson did not respond to any of Russi's
24 messages. (Testimony of Krebs; Ex. A11)
25

1 47) Krebs reported to work the next day and was working alone in the Fairway
2 office when Russi arrived. Russi asked Krebs several times if she was okay. Russi
3 also asked Krebs several times how much she had to drink the previous night. Before
4 leaving the office, Russi insisted on hugging Krebs. Russi grabbed Krebs's buttocks
5 and rubbed her back during his embrace of Krebs. Russi left the office shortly
6 thereafter. (Testimony of Krebs; Ex. A11)

7 48) Krebs became upset and started crying after Russi left the office. Krebs
8 felt helpless and trapped by Russi. Krebs left work early that day because she was so
9 upset as a result of Russi's conduct. (Testimony of Krebs; Ex. A11)

10 49) In August 2018, Russi asked Krebs to accompany him on a work errand.
11 Russi asked Krebs to sit in the backseat so "no one would see her." Russi drove to a
12 Super 8 motel and parked his vehicle in a remote area of the parking lot that was not
13 near the front door of the motel. Russi directed Krebs to wait in the vehicle and watch
14 her phone because he would call her to tell her what room to go to. Russi had a plastic
15 bag with him that he carried into the hotel with him. (Testimony of Krebs; Ex. A11)





(Testimony of Krebs; Ex. A11)

53) In early 2019, Russi approached Krebs in the office and asked her to step into Tollefson's office. [REDACTED] He then gave her five \$100 bills. (Testimony of Krebs; Ex. A11)

54) In October 2019, Russi sent Krebs the following text messages:

"I couldn't help it...You can't blame me for trying...I wish you could see your way to just keep it between you and I one time now that all my dramas over with" [sic]

I could make it worth your while"

(Ex. A16)

Russi's Conduct in the Office

55) Russi often subjected Krebs to unwelcome physical contact that began within days of her beginning work with Mid Oregon and continued throughout her

1 employment. This unwelcome physical conduct included including Russi rubbing up
2 against Krebs in the hallway; Russi rubbing Krebs's shoulders and back; Russi putting
3 his hands inside of Krebs's shirt and along the sides of her bra and pulling on Krebs's
4 bra straps. (Testimony of Krebs; Ex. A11)

5 56) Russi made frequent comments about Krebs's physical appearance and
6 how she was dressed. Russi regularly referred to Krebs and other women in the office
7 as "honey," "sweetheart," "baby," "good girl," and "sugar." Russi often told Krebs that
8 she "was hotter" than other females in the office and in the community. (Testimony of
9 Krebs; Ex. A11)

10 57) Russi directed Krebs and Tollefson to walk in front of him at the office.
11 Krebs and Tollefson did as Russi directed despite neither wanting to engage in the
12 behavior requested by Russi. Russi frequently commented on their appearance. Russi
13 also asked if Krebs and Tollefson would use a "stripper pole" if he installed one on the
14 conference table. Russi confirmed that he was serious and that he would pay to watch
15 the women dance. (Testimony of Krebs; Ex. A11)

17 58) Russi often questioned Krebs about her personal life, particularly who she
18 was dating. Russi meddled in the sale of Krebs's home to individuals who had become
19 unhappy with Russi due to a failed home sale with Mid Oregon. Russi also asked
20 intrusive questions about the care of Krebs's father, who was battling Stage IV cancer at
21 the time, and made frequent derogatory comments about his oncologist. Russi
22 suggested several times that Krebs's father would soon pass away. Russi's inquiries
23 and comments about the health of Krebs's father distressed Krebs and caused her to
24 break down in tears at work. (Testimony of Krebs; Ex. A11)

1 59) Russi often commented on Krebs's divorce and her life as a single mom
2 throughout Krebs's employment with Mid Oregon. Russi often told Krebs that she and
3 her children could not make it without the help of a man like him. (Testimony of Krebs;
4 Ex. A11)

5 60) Krebs began dating a man to whom she is now engaged and living with
6 while she was still working at Mid Oregon. Russi frequently questioned her about her
7 relationship with the man, who worked in law enforcement. Russi commented that law
8 enforcement officers were often violent in their personal relationships and repeatedly
9 asked if the man was good to her. (Testimony of Krebs; Ex. A11)

10 61) Russi often offered Krebs money – sometimes hundreds of dollars at a
11 time – and told her not to tell anyone about the money he gave her. On one occasion in
12 early 2019, after Russi [REDACTED] Krebs told Cambridge that
13 Russi had given her \$500. Krebs told Cambridge that she tried to refuse Russi's offer of
14 money, but that he had made her take the money. Cambridge told Krebs that she
15 would note it in the payroll records. Russi later yelled at Krebs for telling Cambridge
16 about the money. (Testimony of Krebs; Ex. A11)

17 62) Krebs did not report Russi's conduct to Cambridge when she informed her
18 of the cash payment. Krebs understood that Cambridge and her family had been long
19 time friends of Russi. Cambridge had told Krebs about various gifts Russi had given to
20 Cambridge and her children over the years. Krebs believed that it would be futile to
21 report her concerns about Russi's conduct to Cambridge due to the apparent closeness
22 of Cambridge and Russi. (Testimony of Krebs; Ex. A11)
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1 63) Russi frequently told stories about working for “high profile foreign
2 families” and how he had made people disappear. Russi suggested he was associated
3 with the mob and had the ability to cause harm to people who had wronged him.
4 Russi’s stories regarding his past professional pursuits and personal ties caused Krebs
5 to be scared for her safety and the safety of her family. (Testimony of Krebs; Ex. A11)

6 64) In mid-November 2018, Russi asked Krebs when she was going to give
7 him a chance. Krebs understood that Russi’s question was intended to communicate to
8 her that he was interested in pursuing a sexual relationship with her. Krebs was
9 embarrassed by the question and suspected that it Russi’s intent to communicate to her
10 that her continued employment with Mid Oregon was dependent upon Krebs submitting
11 to Russi’s sexual advances. (Testimony of Krebs; Ex. A11)

12 Russi Housing Offers to Krebs and her Parents

13
14 65) In 2018 and 2019, Krebs’s parents were considering selling their home
15 due to the financial struggles related to Krebs’s father’s serious health issues. Russi
16 suggested to Krebs that he could arrange for her parents to buy a home built by Mid
17 Oregon at a discounted price. Russi’s made this suggestion to Krebs within one to two
18 weeks after asking Krebs after asking her to “give him a chance.” Krebs understood
19 that Russi’s offer of housing for her parents was contingent upon her engaging in sexual
20 activity with him based upon his having sked. Shortly after Russi’s offer, he again
21 suggested that he and Krebs engage in a sexual relationship. Krebs rejected Russi’s
22 sexual advance and expressed disgust at his suggestion. Within a week or two of
23 Krebs’s rejection of Russi’s sexual advance, Russi informed Krebs’s parents during a
24 meeting they were having with Duncan to finalize their plans to move into the home
25 offered by Russi, that they should rent from a third party who he knew who may be able

1 to buy the property at full price and rent it to them instead of the arrangement he had
2 initially offered to Krebs. (Testimony of Krebs; Ex. A11, A34)

3 66) In the late spring or early summer of 2019, Krebs and her children began
4 living in a residence owned by Mid Oregon that had been used for employee housing
5 and for open houses. Krebs offered to pay rent on the property, but Duncan told her to
6 “not worry about it.” Both Duncan and Cambridge told Krebs to consider the rent-free
7 housing as part of her wages from Mid Oregon. Krebs and her children moved into a
8 residence owned by Mid Oregon that had been used for open houses. Krebs eventually
9 swapped out the furniture in the unit with her personal furniture. Mid Oregon did not
10 require Krebs to pay rent, which had an estimated value of approximately \$2,000.
11 Krebs was only required to pay for utilities and garbage. Mid Oregon never reported the
12 value of the housing on Krebs’s payroll detail information or included the value when
13 calculating her gross wages. (Testimony of Krebs, Cambridge; Exs. A11, A31)

14 Mid Oregon Hires Katrina Ledbetter

15 67) In July 2019, Mid Oregon hired Katrina Ledbetter (“Ledbetter”) as its Chief
16 Financial Officer (“CFO”). Ledbetter reported to Duncan and Russi. Prior to Ledbetter
17 beginning work with Mid Oregon, Krebs had made a copy of Ledbetter’s resume, which
18 included a headshot of Ledbetter, for Russi. Russi commented, “Damn, she’s hot.
19 She’s hired already.” (Testimony of Krebs; Ex. A11)

20
21 68) In mid-July 2019, Mid Oregon moved into a new office space called the
22 “Green Office.” Krebs sat in the reception area that was in the center of the office.
23 Russi’s office was to the right of Krebs’s workspace. The upper level of the office
24 included living quarters for Duncan, Jeff Pigeon, a superintendent for Mid Oregon, and
25 other workers, as well as extra office space. (Testimony of Krebs; Ex. A15)

1 69) Krebs learned that Russi had security cameras installed in the office that
2 were focused on the area where she and Ledbetter were sitting. There were also
3 cameras posted on the outside of the building. The video was viewable on a computer
4 in Russi's office. (Testimony of Krebs, Cambridge; Exs. A11, A15)

5 70) During this period, Mid Oregon had difficulty meeting its payroll. Mid
6 Oregon issued payroll checks that were returned as insufficient funds ("NSF"). Krebs
7 learned that Mid Oregon was deliberately sending NSF checks to vendors and suppliers
8 during this period in an effort to mollify their creditors that were becoming increasingly
9 angry and aggressive in attempting to recover the debts. Krebs frequently had to
10 handle angry phone calls in which threats of physical violence were made. Krebs also
11 learned that garnishments, child support payments, and other withholdings were not
12 being properly paid, although Mid Oregon was withholding the amounts from workers'
13 paychecks. (Testimony of Krebs; Ex. A11, A19)

14 71) Krebs grew more suspicious about Mid Oregon's business practices when
15 Cambridge entered the office one day carrying a large canvas tote bearing a Victoria's
16 Secret logo. Krebs commented that the bag smelled like money when Cambridge
17 placed the bag on a desk. Cambridge informed Krebs and others that they were going
18 to be paid in cash that day because someone who owed money to Mid Oregon paid the
19 debt in cash. (Testimony of Krebs, Cambridge; Ex. A11)

20 72) Krebs became increasingly concerned about what appeared to her to be
21 "shady" business practices. Krebs was often sent home when investors came to the
22 office, and she learned that Mid Oregon was receiving loans from marijuana/hemp
23 office, and she learned that Mid Oregon was receiving loans from marijuana/hemp
24 office, and she learned that Mid Oregon was receiving loans from marijuana/hemp
25 office, and she learned that Mid Oregon was receiving loans from marijuana/hemp

1 growers in the area. Krebs observed a man she knew to be a cash lender in the area
2 come into the office and demand to talk to Russi. (Testimony of Krebs; Ex. A11)

3 73) In late 2019, Ledbetter discovered property sales agreements bearing
4 both Krebs's signature and Ledbetter's signature for homes being built by Mid Oregon.
5 Krebs had never seen the property sales agreements before and the signature on the
6 document was not her signature. (Testimony of Krebs; Exs. A11, A19, A22)

7 74) Ledbetter told Krebs that she had discovered several documents that
8 appeared to be altered to get lending or "draw" money from investors to complete
9 homes that were under construction. Krebs understood that an investment firm involved
10 with Mid Oregon had grown suspicious that Mid Oregon was not completing
11 construction as represented in the documents submitted to the investment firm. Krebs
12 overheard Duncan, Russi and Cambridge discussing how to complete the forms from
13 Mid Oregon's lender to ensure that Mid Oregon had sufficient funds to pay vendors and
14 suppliers. (Testimony of Krebs; Ex. A11, A19, A22)

15 75) Krebs reported her concerns about the forged sales document to Duncan.
16 Duncan told Krebs not to worry about it and that it was nothing. Duncan told Krebs that
17 Cambridge had created a sales agreement, and Russi had signed Krebs's name on the
18 sales agreement to support Mid Oregon's efforts to secure additional funding.
19 Cambridge had created the sales agreement for the sale of her own home and did not
20 know that it was being used by Russi or Duncan for any other purpose. (Testimony of
21 Krebs, Cambridge; Ex. A11, A22)

22 76) Krebs observed that Mid Oregon workers who were injured on the job
23 were often encouraged to not report the injury or seek medical help. Krebs was aware
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1 injured workers were directed to the Mid Oregon office and to “get checked.” Krebs
2 understood that injured workers were told to “walk it off.” Krebs also observed
3 employees being “yelled at” for having sought medical attention for on-the-job injuries.
4 (Testimony of Krebs; Ex. A11)

5 77) In mid- to late-2019, Krebs was directed to print, staple and distribute
6 safety manuals that were required by state and federal authorities after Mid Oregon was
7 found to be in violation of state and federal laws related to worker safety. Duncan and
8 Cambridge prepared the actual materials. (Testimony of Krebs)

9 Krebs Reports her Concerns to Duncan

10 78) On or about March 13, 2020, Duncan walked in at the end of a telephone
11 conversation between Krebs and a caller looking for Russi. The caller was swearing
12 and demanding to speak to Russi. Krebs told Duncan that she was “tired of this.”
13 Duncan asked Krebs not to quit and suggested that they could find a solution. Krebs
14 then “unloaded” on Duncan. Krebs told Duncan about her concerns regarding Mid
15 Oregon’s business practices, including the failure to pay garnishments and child support
16 payment withheld from workers’ wages; not paying vendors and suppliers in a timely
17 fashion; and Russi’s repeated demands that she handle packages received in the office
18 that Krebs suspected contained illegal drugs. Krebs told Duncan that Russi was a
19 creep and a predator who would not leave her alone and mentioned Russi doing
20 something at Rose Village without providing further details. Duncan’s response to
21 Krebs’s concerns sounded to her as though Duncan was trying to justify or to explain
22 away Russi’s behavior, which caused Krebs greater upset. (Testimony of Krebs,
23 Duncan; Exs. A10, A11)
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1 79) Krebs first spoke with Ledbetter about her concerns about Russi's
2 unwanted comments and physical touching shortly after Ledbetter began working as the
3 Chief Financial Officer for Mid Oregon. Krebs understood from her conversations with
4 Ledbetter that Ledbetter had shared her concerns about Russi's behavior toward Krebs
5 with Duncan. Krebs understood that Ledbetter's conversations with Duncan occurred
6 prior to Krebs "unloading" on Duncan in March 2020. (Testimony of Krebs, Duncan;
7 Exs. A10, A11)

8 80) Duncan thanked Krebs for "toughing it out" with Russi. Duncan told Krebs
9 that she was to leave the office immediately and go home with pay if she were to see
10 Russi in the office. (Testimony of Krebs, Duncan; Exs. A10, A11)

11 81) Duncan reported Krebs's concerns to Peterman, who was Mid Oregon's
12 attorney at the time, and also to Mid Oregon's lender. Duncan also spoke with Jeremy
13 Parmenter, a local realtor who was helping in the restructuring of Mid Oregon.
14 (Testimony of Duncan; Ex. A10)

15 82) Duncan told Russi that Krebs had reported concerns about his conduct
16 toward her. Duncan told Russi that Krebs thought he stood too close to her, and she
17 did not like having to submit to his frequent back and shoulder rubs. Duncan told Russi
18 that Krebs mentioned Rose Village but offered no details about what had occurred.
19 Russi agreed that he would not be alone with Krebs again. (Testimony of Duncan,
20 Russi; Ex. A10)

21 83) Neither Duncan nor Russi told Cambridge about Krebs's complaint
22 regarding Russi's conduct or her concerns about Mid Oregon's business practices.
23 (Testimony of Duncan, Cambridge)
24
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1 84) Russi continued to approach Krebs at the office even after Krebs reported
2 her concerns to Duncan. In March 2020, Russi approached Krebs in a room at the
3 Green Office that did not have any windows. Russi made comments about safety
4 concerns for single women and single moms. Russi then told Krebs that she
5 understood him and suggested that she would be better off with him. Russi then
6 ordered Krebs to return to the reception desk. Krebs perceived Russi's comments and
7 behavior to be threatening due, in part, to Russi's past comments about his work in
8 security and his ability to "make people disappear." (Testimony of Krebs; Ex. A11)

9 85) In late March 2020, Ledbetter left her employment with Mid Oregon due to
10 her concerns about Mid Oregon's business practices. Shortly thereafter, Peterman
11 began investigation regarding Ledbetter's allegations of fraudulent business practices
12 by Mid Oregon. Peterman approached Krebs while she was working and asked about
13 various documents he was reviewing in Ledbetter's files. At one point, Peterman asked
14 Krebs about the forged documents, and Krebs told Peterman that she felt like he was
15 interrogating her. Krebs became angry and started crying. Krebs told Peterman that
16 Russi was a predator. (Testimony of Krebs; Ex. A11)

17 86) Cambridge was never informed of Krebs's complaints or of any
18 investigation conducted by Peterman or any other party associated with Mid Oregon.
19 (Testimony of Cambridge)

20 87) No one associated with Mid Oregon ever investigated Krebs's allegations
21 of sexual harassment by Russi. (Testimony of Krebs; Ex. A11)
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1 Krebs's Final Day of Employment at Mid Oregon

2 88) On June 16, 2020, Krebs was driving to work when she observed Russi's
3 vehicle parked in the parking lot of the Starbucks near her home. Krebs observed the
4 vehicle was parked in a manner in which Russi would be able to observe traffic on the
5 road. Russi arrived at the office shortly after Krebs. Krebs knew that Duncan was
6 working out of town that day and understood Russi knew that as well. (Testimony of
7 Krebs; Ex. A17)

8 89) Krebs panicked after Russi arrived at the office. Krebs contacted Jeff
9 Pigeon, a superintendent with Mid Oregon who was aware of Duncan's instructions that
10 Krebs leave the office if she was working alone with Russi. Pigeon, who had left the
11 office just before Russi's arrival, returned to the office and escorted Krebs to her
12 vehicle. Krebs left the office and never returned. (Testimony of Krebs; Exs. A11, A20)

13 90) On at least two occasions after reporting her concerns to Duncan, Krebs
14 had asked Pigeon to join her in the office due to Russi's presence. Pigeon was aware
15 of the allegations Krebs had made against Russi, and Pigeon would stay with Krebs
16 until Duncan, or another person arrived at the office, so Krebs did not have to be alone
17 with Russi. (Testimony of Krebs; Ex. A11)

18 91) Duncan sent Krebs several text messages after Krebs left the office.
19 Duncan's messages asked if Krebs was okay and included the following:
20

21 "Sorry I did not know he was coming to office. He was suppose [sic] to be
22 at title company. I was worried when I couldn't get ahold of you. Thought
23 a tweeker broke in."

24 (Ex. A17)
25

1 92) Krebs sent the following response to Duncan:

2 “I will not be in today. Joe’s continual need to sexually harass and stalk
3 me by waiting near the neighborhood then arriving to the office minutes
4 after me (especially when he knows you aren’t there/I’m alone), has left
5 me with anxiety and is very upsetting.”

6 (Ex. A17)

7 93) Cambridge did not learn that Krebs had left her employment until she was
8 processing payroll and discovered Krebs’s timecard was missing. Cambridge then
9 learned that Krebs had “quit” the employment. Krebs did not communicate to
10 Cambridge that she had left her employment with Mid Oregon. Mid Oregon did not
11 issue a final paycheck to Krebs. (Testimony of Krebs, Cambridge)

12 *Krebs’s Circumstances After Leaving her Employment with Mid Oregon*

13 94) Krebs did not receive her final paycheck from Mid Oregon for the pay
14 period ending June 10, 2020. A representative from Mid Oregon’s lender later
15 contacted Krebs and offered her money to vacate the Mid Oregon owned house where
16 she and her children were living because the property was being returned to the bank.
17 (Testimony of Krebs; Ex. A32)

18 95) On September 3, 2020, Krebs received a check from Mid Oregon’s
19 primary lender in the amount of \$5,000 as part of her agreement to vacate the property
20 owned by Mid Oregon where Krebs had lived with her children as part of her
21 employment compensation. (Testimony of Krebs; Ex. A32)

22 96) Krebs received \$9,825 in total wages from Mid Oregon in 2018. Krebs
23 received \$28,002.25 in gross wages from Mid Oregon in 2019. (Testimony of Krebs;
24 Exs. A26-A27)

1 97) Krebs applied for unemployment benefits following her separation from
2 Mid Oregon. Krebs received notice that the Unemployment Insurance Division had not
3 received wage reports from Mid Oregon showing Krebs had received wages during the
4 base period of her claim. Krebs later learned that Mid Oregon had not properly withheld
5 payroll taxes, which caused Krebs difficulties in filing her federal and state taxes.
6 (Testimony of Krebs; Ex. A11)

7 98) In April 2021, Krebs received a judgment from the Bureau of Labor and
8 Industries in the amount of \$3,920 for unpaid wages, which represented \$560 in unpaid
9 wages and \$3,360 in penalty wages. (Testimony of Krebs; Ex. A25)

10 99) Krebs applied for various jobs in the Sutherlin area, which is a small
11 community, following her separation from Mid Oregon. Krebs had difficulty obtaining
12 work due to several businesses being shut down due to the COVID-19 pandemic. Krebs
13 also encountered negative reactions based upon her employment with Mid Oregon.
14 (Testimony of Krebs)

15 100) Krebs subsequently obtained employment with Keller Williams Umpqua
16 Valley Real Estate, LLC, a local real estate firm, where she ultimately obtained her real
17 estate license. Krebs completed her first closing in May 2021. Krebs received
18 compensation related to that closing in the amount of \$31,738.22. (Testimony of Krebs;
19 Ex. A28)

20 101) Krebs received wages in the amount of \$3,180 from Umpqua Valley
21 Market Center, LLC and \$62,322.50 from Bob Lamonte Group, LLC, in 2022.
22 (Testimony of Krebs; Ex. A29)
23
24
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1 102) Krebs would have earned approximately \$113,286.25 in wages if she had
2 continued in her employment with Mid Oregon. Krebs had actual earnings of
3 approximately \$64,282.22 between January 2020 and January 31, 2022. Accounting
4 for her judgment for unpaid wages in the amount of \$560, Krebs suffered approximately
5 \$48,444.70 in lost wages during the period of January 2020 through January 31, 2022.
6 (Testimony of Krebs; Ex. A23)

7 103) Russi's unwelcome verbal and physical conduct has caused Krebs
8 experience feelings of sadness, anxiousness, and anger. Krebs continues to feel dirty
9 and scared and helpless. Krebs has lost sleep and experiences stomach aches when
10 she thinks of the incidents with Russi. (Testimony of Krebs; Ex. A11)

11 104) Krebs is hypervigilant with her sons and feels she is overly protective, or
12 at least more protective, than she was before her experience with Russi. Krebs is
13 distrustful of meeting new clients outside of the office, due to worries that she will
14 encounter a situation similar to that which she experienced with Russi. Krebs has had
15 panic attacks when driving outside of town to show a property due to concerns that
16 Russi may be at the property. Krebs is still fearful of Russi and concerned for her
17 safety, as well as the safety of her family. (Testimony of Krebs; Ex. A11)

18
19 Credibility of Witnesses

20 105) Stokes was a credible witness.

21 106) Krebs was mostly a credible witness. The forum credited her testimony
22 regarding Russi's unwelcome verbal and physical conduct and Mid Oregon's failure to
23 remedy the situation after she reported her concerns to Duncan. Krebs's testimony was
24 consistent with previous writings she submitted to the Agency, as well as the testimony
25

1 of Tollefson and Murphy, both of whom testified about observing Krebs appearing to be
2 upset following an incident with Russi. Krebs's testimony was also consistent with
3 several text messages sent and/or received at or near the time of the alleged incidents.
4 Further, Krebs's testimony regarding those incidents was clear, direct and detailed.
5 (Testimony of Krebs; Exs. A4-A9, A16, A21, A22)

6 107) The forum was not persuaded by Respondents' attempt to impeach Krebs
7 with the testimony of G. Duncan, who claimed to have had a personal relationship with
8 Krebs when she was working at Mid Oregon. Respondents' arguments in their
9 respective closing statements that Krebs lied about not having a relationship with G.
10 Duncan are equally unpersuasive. The existence of a relationship between Krebs and
11 G. Duncan – or lack thereof – does not make the allegations set forth in the Formal
12 Charges any more or any less likely and is, therefore, not relevant to the issues before
13 the forum. Accordingly, the forum did not consider the testimony offered pertaining to
14 an alleged relationship between Krebs and G. Duncan.
15

16 108) Respondents' attempts to impeach Krebs with testimony suggesting Krebs
17 was intoxicated to the point of falling down at the event held on July 13, 2018, event
18 hosted by Mid Oregon was equally unpersuasive. The evidence appeared to be offered
19 in an effort to embarrass or to demean Krebs. Even assuming the evidence was
20 properly offered to challenge Krebs's ability to recall the events of that evening, Krebs's
21 testimony was clear, direct, and detailed about Russi sexually assaulting her at Mid
22 Oregon's Fairway office. The forum finds that Krebs's alleged intoxication that evening
23 did not adversely affect her ability to perceive the events of that evening.
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1 109) Krebs testified that Russi often directed her to receive and handle
2 suspicious packages on his behalf and to send large amounts of money to individuals
3 she believed to be involved in drugs. Krebs also testified regarding Russi's alleged drug
4 use and alleged criminal activity of Russi and Cambridge's former partner. Krebs's
5 testimony on these issues appeared to be based primarily on rumors and innuendo, as
6 well as a good deal of supposition on Krebs's part. Krebs's testimony on these issues
7 was credited only to the extent it was consistent with other credible evidence of record.

8 110) Tollefson and Murphy are friends of Krebs and, thus, could potentially
9 have a motive to be biased in favor of Krebs. Tollefson, as a former Mid Oregon
10 employee who was terminated, could also have a potential motive to be biased in favor
11 of Krebs. However, both Tollefson and Murphy were straightforward in their testimony
12 and neither appeared to be advocating an agenda on behalf of Krebs. Neither the
13 testimony of Tollefson nor Murphy was impeached by credible evidence. Tollefson and
14 Murphy were credible witnesses.
15

16 111) Cambridge was mostly a credible witness. However, much of
17 Cambridge's testimony focused on addressing statements made by Krebs during CRD's
18 investigation regarding Cambridge's personal life. Cambridge's testimony that she was
19 not aware of the incidents that occurred outside of the office is credible given Krebs's
20 testimony that Cambridge was not present for those incidents and she did not report
21 those incidents to Cambridge. However, it is not credible that Cambridge was not
22 aware of Russi's conduct inside of the office, including the use of demeaning names for
23 Krebs and other female employees and the unwanted back and shoulder rubs Russi
24 imposed on Krebs and other female employees.
25

1 112) Cambridge's testimony that she was not aware that Krebs had reported
2 her concerns regarding Russi's conduct toward her or Mid Oregon's business practices
3 to Duncan is credible given that it is consistent with Duncan's testimony that he did not
4 report Krebs's complaints to Cambridge. Further, Cambridge's testimony that she was
5 rarely physically present in the office during the final weeks of Krebs's employment with
6 Mid Oregon makes it more likely than not that Cambridge was unaware of Krebs's
7 report to Duncan or was involved in any discussions with Duncan and/or Russi about
8 changes to the terms and conditions of Krebs's employment. Therefore, Cambridge's
9 testimony that she was not aware of any instance in which Krebs opposed an unlawful
10 practice or made a good faith report of what she believed to be a violation of state or
11 federal law is credited.

12 113) Duncan's testimony was not credible. Duncan's testimony was stilted and
13 intended to disparage Krebs's personal character rather than address the allegations
14 set forth in the Formal Charges. Duncan was rarely in the office and would not have
15 been in a position to observe many of the incidents complained of by Krebs. Further, he
16 was not present for the incidents involving Russi that occurred outside of the office.
17 However, Duncan was the corporate officer to whom Krebs reported her concerns, and
18 he was the corporate officer who told Krebs that he would put safeguards in place to
19 ensure Krebs was safe from Russi. The forum credited Duncan's testimony only to the
20 extent that it was not contradicted by other credible evidence of record.

21 114) Russi's testimony was not credible. Russi's testimony was often vague
22 and self-serving. Russi appeared unwilling to provide direct answers to many of the
23 questions posed by the Agency during its cross examination. Russi's testimony was
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25

1 certainly less detailed and responsive than the testimony offered by Krebs. The forum
2 credited Russi's testimony only when it was consistent with other credible evidence of
3 record.

4 115) Tellone appeared to be a credible witness, but she lacked personal
5 knowledge of the interactions between Russi and Krebs.

6 116) Martinez, who worked as a finisher for Mid Oregon, testified he observed
7 what he believed to be a personal relationship between G. Duncan and Krebs. Martinez
8 lacked personal knowledge of the interactions between Russi and Krebs. The forum
9 credited the testimony of Martinez to the extent that it was relevant and not contradicted
10 by other credible evidence of record.

11 117) G. Duncan testified that he had a personal relationship with Krebs while
12 she worked at Mid Oregon. G. Duncan testified that he hosted a party following the
13 special event hosted by Mid Oregon on or about July 13, 2018. G. Duncan testified that
14 Krebs appeared at the party and appeared to be happy. G. Duncan worked for his
15 father and Russi. G. Duncan had sufficient reasons to fabricate his testimony to support
16 his father and the other Respondents. G. Duncan lacked personal knowledge of the
17 interactions between Russi and Krebs. The forum credited G. Duncan's testimony to
18 the extent that it was relevant and was not contradicted by other credible evidence of
19 record. As noted above, the forum does not find the testimony offered regarding any
20 alleged relationship between Krebs and G. Duncan relevant and has not considered
21 testimony on that issue.
22

23 118) Morales was a sander and painter for Mid Oregon during Krebs's
24 employment. Morales did not observe Krebs's interactions with Russi. Morales
25

1 appeared credible, but he lacked personal knowledge of the interactions between Russi
2 and Krebs.

3 119) Plummer was a plumbing sub-contractor of Mid Oregon. Plummer
4 testified that Krebs was always cheerful and had mentioned only once that “she felt
5 cornered by Joe [Russi].” Plummer denied Krebs elaborated on why she felt cornered.
6 Plummer testified that Krebs called him approximately two to three weeks prior to
7 hearing asking if he had been contacted to testify. Plummer told Krebs that he had not
8 heard and told her to call Duncan. Plummer testified he later spoke to Luke VanAcker,
9 who described Krebs to him as being a “floozy.”

10 120) VanAcker testified he left the July 18, 2018, party before Krebs left.
11 VanAcker testified that Krebs had a lot of “champagne in her” at the party. VanAcker
12 did finishing work for Mid Oregon and was later hired as a general contractor by a bank
13 involved in one of Mid Oregon’s properties.

14 121) Coryell was a framing team lead during Krebs’s employment. Coryell
15 testified he received a safety packet from Mid Oregon.

16 122) Plummer, VanAcker, and Coryell appeared to be credible witnesses, but
17 each witness lacked personal knowledge of the interactions between Russi and Krebs.
18 The testimony of Plummer, VanAcker, and Coryell was credited to the extent their
19 testimony was not contradicted by other credible evidence of record.

20 123) The forum has not considered the evidence pertaining to the legal issues
21 involving Cambridge’s former partner. Those allegations did not involve Krebs and did
22 not relate to the alleged conduct of Russi.
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CONCLUSIONS OF LAW

1
2 1) At all times material herein, Mid Oregon Builders, LLC was a company
3 doing business in Oregon and employed one or more employees, including the
4 Complainant. Mid Oregon Builders, LLC was an “employer” within the meaning of ORS
5 659A.001(4).

6 2) At all times material herein, Respondents Joe Russi, David Duncan, and
7 Shea Cambridge were members of Mid Oregon Builders, LLC. Each is a “person”
8 under ORS 659A.001(9)(a) and ORS 659A.030(1)(g).

9 3) Complainant is a woman, a member of a protected class protected by law
10 from discrimination, who was employed by Mid Oregon Builders, LLC. Complainant
11 was subjected to unwelcome verbal and physical conduct because of her sex in
12 violation of ORS 659A.030(1)(b).

13 4) Respondent Mid Oregon Builders, LLC, through the actions of
14 Respondent Joe Russi, an owner of Mid Oregon Builders, LLC, discriminated against
15 the Complainant based on her sex by subjecting the Complainant to harassment based
16 on her sex that was sufficiently severe or pervasive that it unreasonably interfered with
17 the Complainant’s work performance or created an intimidating, hostile and offensive
18 working environment in violation of ORS 659A.030(1)(b), OAR 839-005-0030(1)(b), (2),
19 (3), (5)(a),(b)(A)(B).

20 5) Respondents Joe Russi, David Duncan, and Shea Cambridge are subject
21 to liability under ORS 659A.030(1)(h) for Respondent Mid Oregon Builders LLC’s
22 violation of ORS 659A.030(1)(b).
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1 6) Respondent Mid Oregon Builders, LLC, acting through Joe Russi, an
2 owner of Mid Oregon Builders, LLC, constructively discharged Complainant because of
3 her sex in violation of ORS 659A.030(1)(a); OAR 839-005-0011(1),(2),(3),(4); OAR 839-
4 005-0030(1)(b), (2), (3), (4)(a).

5 7) Respondents Joe Russi, David Duncan, and Shea Cambridge are subject
6 to liability under ORS 659A.030(1)(h) for Mid Oregon Builders, LLC's violation of ORS
7 659A.030(1)(a).

8 8) Respondent Mid Oregon Builders, LLC, through the actions of
9 Respondents Joe Russi and David Duncan, committed an unlawful employment
10 practice by subjecting the Complainant to adverse treatment for opposing an unlawful
11 practice in violation of ORS 659A.030(1)(g) and OAR 839-005-0125(2)(a)(A), (b),(c).

12 9) The Complainant, acting in good faith and while employed by Mid Oregon,
13 reported information that she believed was evidence of a violation of a state law to
14 Respondent David Duncan, a member of Respondent Mid Oregon Builders, LLC. ORS
15 659A.199(1) and OAR 839-010-0100(1).

16 10) Respondents Joe Russi and David Duncan are subject to liability under
17 ORS 659A.030(1)(h) for Respondent Mid Oregon Builders, LLC's violation of ORS
18 659A.199(1) and ORS 659A.030(1)(g).

19 11) The Commissioner of the Bureau of Labor and Industries has jurisdiction
20 of the persons and of the subject matter herein. ORS 659A.800 – ORS 659A.865.
21

22 12) Pursuant to ORS 659A.850(4)(a)(B), the Commissioner of the Bureau of
23 Labor and Industries has the authority under the facts and circumstances of this case to
24 issue a cease and desist order based on Respondents' unlawful practices. The sum of
25

1 money awarded and the other actions required of Respondents in the Order below are
2 an appropriate exercise of that authority.

3 **OPINION**

4 The Agency's Formal Charges included the following allegations:

- 5 1. Mid Oregon engaged in unlawful discrimination based on sex against Krebs in
6 violation of ORS 659A.030(1)(b); OAR 839-005-0030(1)(b), (2),
7 (3),(5)(a),(b)(A)(B). Russi, Duncan and Cambridge aided or abetted Mid
8 Oregon in this unlawful practice in violation of ORS 659A.030(1)(h).
- 9 2. Mid Oregon subjected Krebs to adverse treatment and/or discharged Krebs
10 for opposing an unlawful practice in violation of ORS 659A.030(1)(g) and
11 OAR 839-005-0125(2)(a)(A), (b), (c). Russi, Duncan and Cambridge aided or
12 abetted Mid Oregon in this unlawful practice in violation of ORS
13 659A.030(1)(h).
- 14 3. Mid Oregon retaliated against Krebs for reporting in good faith what she
15 believed to be evidence of a violation of a state or federal law, rule or
16 regulation, in violation of ORS 659A.199(1) and OAR 839-010-0100(1).
17 Russi, Duncan and Cambridge aided or abetted Mid Oregon in this unlawful
18 practice in violation of ORS 659A.030(1)(h).
- 19 4. Mid Oregon constructively discharged Krebs because of her sex in violation of
20 ORS 659A.030(1)(a); OAR 839-005-0011(1), (2), (3), (4); and OAR 839-005-
21 0030(1)(b), (2), (3), (4)(a). Russi, Duncan and Cambridge aided or abetted
22 Mid Oregon in this unlawful practice in violation of ORS 659A.030(1)(h).

23 The Agency seeks lost wages and emotional distress damages for Krebs and
24 requests an order requiring Respondents to undergo training regarding sexual
25 discrimination laws.

20 **Liability of Mid Oregon for Discrimination Based on Sex**

21 *Sexual Harassment Analysis*

22 It is an unlawful employment practice for "[a]n employer, because of an
23 individual's * * * sex * * * to discriminate against the individual in compensation or in
24 terms, conditions or privileges of employment." ORS 659A.030(1)(b). Employers are
25

1 prohibited from using sex as the basis for employment decisions with regard to the
2 "terms conditions or privileges of employment such as benefits and compensation."
3 OAR 839-005-0021(1). "Discrimination because of sex includes sexual harassment * *
4 *." OAR 839-005-0021(2).

5 Unlawful sexual harassment may take the form of *quid pro quo* harassment or
6 hostile work environment harassment. The allegations set forth in the Agency's Formal
7 Charges center on hostile work environment harassment.

8 OAR 839-005-0030(1)(b) defines hostile work environment sexual harassment as
9 including:

10 "Any unwelcome verbal or physical conduct that is sufficiently severe or
11 pervasive to have the purpose or effect of unreasonably interfering with
12 work performance or creating a hostile, intimidating or offensive working
environment."

13 The standard for determining whether harassment based on an individual's sex is
14 sufficiently severe or pervasive to create a hostile, intimidating or offensive working
15 environment is "whether a reasonable person in the circumstances of the complaining
16 individual would so perceive it." OAR 839-005-0030(2). The conduct must be based on
17 an individual's sex. *Id.*

18 The Agency's prima facie case in a hostile working environment case consists of
19 the following elements: (1) Mid Oregon was an employer subject to ORS 659A.001 to
20 659A.030; (2) Mid Oregon employed Krebs; (3) Krebs is a member of a protected class
21 (sex); (4) Krebs was subjected to unwelcome verbal or physical conduct because of her
22 sex; (5) the unwelcome conduct was sufficiently severe or pervasive to have the
23 purpose or effect of unreasonably interfering with Krebs's work performance or creating
24 a hostile, intimidating or offensive work environment for Complainant; and (6) Krebs was
25

1 harmed by the unwelcome conduct. *In the Matter of Dev's Burgers*, 39 BOLI 88, 97
2 (2023).

3 The evidence establishes that Mid Oregon was an employer in Oregon that
4 employed Krebs, a member of a protected class (sex). Accordingly, the first three
5 elements of the Agency's prima facie case have been established.

6 ***Element 4 – Unwelcome Conduct***

7 The Agency contends that Russi⁶ subjected Krebs to unwelcome verbal and
8 physical conduct because her sex. Respondents generally deny that the conduct
9 alleged by Krebs occurred. Both Cambridge and Duncan deny having observed several
10 of the incidents described in Krebs's testimony.

11 The forum finds that Russi subjected Krebs to unwelcome verbal conduct that
12 included commenting on Krebs's physical appearance and calling her "honey,"
13 "sweetheart," "baby," or other pet names and suggesting a stripper pole be installed in
14 Mid Oregon's conference room to be used by Krebs and another female employee for
15 his amusement. The forum further finds that Russi's repeated comments about and
16 inquiries into Krebs's personal life, including her divorce, children, and romantic
17 relationships, constituted a continuing pattern of unwanted verbal conduct directed at
18 Krebs by Russi based on her sex. This continuing pattern of unwanted verbal conduct
19 included repeated pleas by Russi that Krebs "give him a chance" and other suggestions
20 that they engage in a sexual relationship. See Findings of Fact 52 – 56, 59.

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25 ⁶ Russi's rank as a part-owner of Mid Oregon was sufficiently high that he served as a proxy for the
employer and is considered an agent for Mid Oregon for purposes of determining liability of Mid Oregon.
See ORS 659A.030(1)(b), OAR 839-005-0010(4)(c).

1 In addition to the unwanted verbal conduct described above, the forum finds that
2 Russi subjected Krebs to unwanted physical conduct based on her sex. Russi's
3 unwanted physical conduct began within days of Krebs's first day of employment and
4 included unwanted back rubs, grabbing at her bra straps, and touching her under her
5 clothing. Russi's escalating conduct included several sexual assaults, including one
6 assault that left Krebs with lasting physical pain and discomfort that caused her to miss
7 several days of work. Krebs credibly testified that she tried to avoid Russi in the office
8 and said "no" or "I don't want to," and tried to physically resist Russi during the physical
9 and sexual assaults she described in her detailed testimony. See Findings of Fact 32,
10 33, 36, 41, 44, 47, 48 and 50.

11 The credible evidence of record establishes that Mid Oregon, through the
12 deliberate and repeated actions of Russi, subjected Krebs to unwanted verbal and
13 physical conduct because of Krebs's sex. Accordingly, the Agency established Element
14 4 -Unwelcome Conduct.
15

16 ***Element 5 – Sufficiently Severe and Pervasive***

17 The standard for determining whether harassment based on an individual's sex is
18 sufficiently severe or pervasive to create a hostile, intimidating or offensive working
19 environment is "whether a reasonable person in the circumstances of the complaining
20 individual would so perceive it." OAR 839-005-0030(2); *Dev's Burgers*, 39 BOLI at 98.
21 In making that determination, the forum looks at the totality of the circumstances, *i.e.*,
22 the nature of the conduct and its context, the frequency of the conduct, its severity or
23 pervasiveness, whether it is physically threatening or humiliating, and whether it
24 unreasonably interferes with an employee's work performance. *Id.*
25

1 The evidence establishes that a reasonable person in Krebs's circumstances (a
2 woman) would have perceived Russi's conduct toward her as creating a hostile work
3 environment. The unwanted verbal and physical conduct began shortly after the start of
4 Krebs's employment with Mid Oregon and continued through her final day of
5 employment. Krebs credibly testified that she often cried at work and either left work or
6 did not report for work at all due to Russi's conduct. See Findings of Fact 31, 32, 48,
7 52. Krebs testified she felt uncomfortable or unsafe in the workplace as a result of
8 Russi's conduct toward her. See Findings of Fact 33.

9 The credible evidence of record establishes that Russi's conduct was sufficiently
10 severe or pervasive that it created a hostile, intimidating or offensive working
11 environment for Krebs. Accordingly, the Agency established Element 5 - Sufficiently
12 Severe and Pervasive.

13
14 ***Element 6 – Harm to Krebs***

15 Krebs credibly testified that Russi's unwanted verbal and physical conduct made
16 her feel "gross and nauseous." See Finding of Fact 32. Krebs described the physical
17 pain she suffered as a result of Russi's physical assaults, as well as the feelings of fear,
18 disgust, and hopelessness. See Findings of Fact 31, 32, 48, 52. Both Tollefson and
19 Murphy testified that Krebs was obviously upset after her encounters with Russi. See
20 Findings of Fact 30, 45. Krebs testified that she was particularly upset that Russi's
21 unwanted attention and physical touching had ruined what she considered to be a good
22 job that would help in her transition from being a stay-at-home mom to two boys. The
23 Agency has established Element Six – Harm to Krebs. The Agency has, therefore,
24 established its prima facie case.
25

1 **ORS 659A.030(1)(H) LIABILITY FOR MID OREGON’S VIOLATION OF ORS 659A.030(1)(B)**

2 ORS 659A.030(1)(h) provides that it is an unlawful employment practice “[f]or
3 any person, whether an employer or employee, to aid, abet, incite, compel or coerce the
4 doing of any of the acts of this chapter or to attempt to do so.”

5 The legislature did not define the terms “aid,” “abet,” “incite,” “compel,” or
6 “coerce.” The courts have provided little guidance as to how those terms should be
7 defined and applied when considering liability under ORS 659A.030(1)(h). Similarly,
8 little guidance can be found in federal employment discrimination law as there is no
9 parallel statutory provision creating “aider and abettor” liability for employment
10 discrimination under Title VII or other federal employment discrimination statutes.
11

12 The forum must therefore analyze ORS 659A.030(1)(h) according to the statutory
13 construction principles long used by Oregon courts. “The methodology that Oregon
14 courts follow in interpreting statutes is a distillation of settled interpretative principles,
15 some of which have been codified in Oregon statutes since early statehood and others
16 of which have been articulated in this court's case law for many years.” *State v. Gaines*,
17 346 Or 160, 164, 206 P3d 1042, 1046 (2009) citing *Mastriano v. Board of Parole*, 342
18 Or 684, 691, 159 P3d 1151 (2007). The court went on to state:

19 “The methodology, as outlined in *PGE v. Bureau of Labor and Industries*, 317 Or.
20 606, 610–12, 859 P.2d 1143 (1993), entails three sequential levels of analysis to
21 determine the legislature's intent. First, the court examines the text and context of
22 the statute. *Id.* at 610–11, 859 P.2d 1143. If the legislature's intent is obvious
23 from that first level of analysis, ‘further inquiry is unnecessary.’ *Id.* at 611, 859
24 P.2d 1143. ‘If, but only if,’ the legislature's intent is not obvious from the text and
25 context inquiry, ‘the court will then move to the second level, which is to consider
legislative history[.]’ *Id.* at 611, 859 P.2d 1143. If the legislature's intent remains
unclear after examining legislative history, ‘the court may resort to general
maxims of statutory construction to aid in resolving the remaining uncertainty.’ *Id.*
at 612, 859 P.2d 1143.”

Id.

1 In considering the text of ORS 659A.030(1)(h) and its context, the remedial
2 nature of the statute is clear. The legislature's intent in enacting chapter 659A is clearly
3 and unequivocally stated in ORS 659A.003, which provides:

4 "The purpose of this chapter is to encourage the fullest utilization of the available
5 workforce by removing arbitrary standards of race, color, religion, sex, sexual
6 orientation, gender identity, national origin, marital status, age or disability as a
7 barrier to employment of the inhabitants of this state, and to ensure the human
8 dignity of all people within this state and protect their health, safety and morals
9 from the consequences of intergroup hostility, tensions and practices of unlawful
10 discrimination of any kind based on race, color, religion, sex, sexual orientation,
11 gender identity, national origin, marital status, age, disability or familial status."

12 The remedial nature of chapter 659A is equally clear based on ORS
13 659A.003(2): "* * * * [T]he Legislative Assembly intends by this chapter to provide [a]n
14 adequate remedy for persons aggrieved by certain acts of unlawful discrimination
15 because of race, color, religion, sex, sexual orientation, gender identity, national origin,
16 marital status, disability or familial status, or unreasonable acts of discrimination in
17 employment based upon age."

18 ORS 659A.030(1)(h) has remained virtually unchanged since it was first enacted
19 in 1949. The legislature's commitment to providing an adequate remedy for individuals
20 who have experienced unlawful discrimination is clear and unequivocal.

21 However, because chapter 659A does not include definitions of "aid," "abet,"
22 "incite," "compel," or "coerce," the forum is left to assume that the legislature intended
23 those terms to be used in their ordinary senses. The forum must therefore look to the
24 dictionary definitions of the words used to give the words their "plain, natural, and
25 ordinary meaning." *Kohring*, 355 OR at 303, 325 P3d at 722, citing *PGE*, 317 Or at 611,
859 P2d 1143.

1 “Aid” can mean “to provide with what is useful or necessary in achieving an end;”
2 “to give assistance.” It can also mean “tangible means of assistance (such as money or
3 supplies).” *Webster’s Third New Int’l Dictionary* 44-45 (unabridged ed 2002).

4 “Abet” can mean “to actively second and encourage (something such as an
5 activity or plan);” “to assist or support (someone) in the achievement of a purpose.”
6 *Webster’s* at 3. “Abet” can also include “especially to assist, encourage, instigate, or
7 support with criminal intent in attempting or carrying out a crime – often used in the
8 phrase aid and abet.” *Id.*

9 “Incite” can mean “to move (someone) to action: urge on;” “to cause (a usually
10 violent action or feeling) to occur.” *Webster’s* at 1142. “Compel” can mean “to drive or
11 urge forcefully or irresistibly;” “to cause to do or occur by overwhelming pressure;” and
12 includes, “archaic : to drive together.” *Webster’s* at 463. “Coerce” can mean “[t]o compel
13 to an act or choice; “to achieve by force or threat;” “to restrain or dominate by force.”
14 *Webster’s* at 439.

15
16 An analysis of the text of ORS 659A.030(1)(h) makes clear that the legislature
17 did not intend to limit liability to those individuals who have engaged in discriminatory
18 conduct that violates chapter 659A. This is consistent with the court’s consideration of
19 the phrase “any person” as used in ORS 659A.030(1)(h) in *Rivera v. Perlo Construction,*
20 *LLC*, 336 Or App 307, 561 P3d 1144 (2024). In *Rivera*, the court held that the exclusive
21 remedy provision of the Workers’ Compensation Law and a disputed claim settlement
22 agreement did not bar an employee from bringing claims of aiding and abetting against
23 the workers’ compensation insurer, medical examination firm, and doctor who had a
24 part in the denial of his workers’ compensation claim for PTSD allegedly exacerbated by
25

1 workplace harassment based on race and national origin. The court noted that while the
2 aiding and abetting claim was not sufficiently pleaded in the complaint, it was possible
3 that the insurer, medical examination firm, and the doctor who examined the plaintiff
4 engaged in conduct that “aided and abetted one or more” of the employer’s
5 discriminatory acts. *Rivera*, 336 Or App at 321, 561 P3d 1152. The court noted:

6 “The Oregon Supreme Court has clarified when, as a matter of Oregon common
7 law, one person may be held civilly liable for another's tortious conduct.
8 *Granewich v. Harding*, 329 Or 47, 53-54, 985 P2d 788 (1999). More specifically,
the court explained in *Granewich* that section 876 of Restatement (Second) of
Torts (1979) reflects Oregon common law. *Id.* That section provides:

9 “For harm resulting to a third person from the tortious conduct of another,
10 one is subject to liability if he

11 “(a) does a tortious act in concert with the other or pursuant to a
common design with him, or

12 “(b) knows that the other's conduct constitutes a breach of duty and
gives substantial assistance or encouragement to the other so to
13 conduct himself, or

14 “(c) gives substantial assistance to the other in accomplishing a
tortious result and his own conduct, separately considered,
15 constitutes a breach of duty to the third person.’ ”

16 *Id.* (quoting Restatement § 876).

17 Given this guidance, the forum finds that Russi, Duncan, and Cambridge are
18 each individually liable for Mid Oregon’s unlawful discrimination based on sex against
19 Krebs in violation of ORS 659A.030(1)(b) for the reasons explained below.

20 *Liability of Russi*

21 Russi was one of three members of Mid Oregon, which also included Duncan
22 and Cambridge. Duncan and Cambridge testified that their ownership shares in Mid
23 Oregon were derivative of Russi’s ownership interest, with Duncan holding a 45%
24 ownership interest and Cambridge holding a 10% ownership interest in Mid Oregon.
25

1 Both Duncan and Cambridge testified that they each considered Russi as the owner of
2 Mid Oregon.

3 The forum has previously found that a corporate officer and owner who commit
4 acts rendering the corporation liable for an unlawful employment practice may be found
5 to have aided or abetted the corporation's unlawful employment practice. *In the Matter*
6 *of Sunstone Organics, LLC*, 39 BOLI 23, 48 (2023); *In the Matter of Vision International*,
7 37 BOLI at 218. See also *In the Matter of Crystal Springs Landscapes, Inc.*, 32 BOLI
8 144, 166-67 (2012); *In the Matter of Andrew Engel, DMD, PC*, 32 BOLI 94, 137 (2012);
9 *In the Matter of Cyber Center, Inc.*, 32 BOLI 11, 35 (2012).

10 The forum's approach is consistent with the approach outlined by the Oregon
11 Court of Appeals in *Allison v. Dolich*, 321 Or App 721, 726, 518 P.3d 591, 595 (2022).

12 As the forum discussed in *In the Matter of Sunstone Organics*:

13
14 "The court reasoned that the plain text of ORS 659A.030(1)(g) makes
15 clear that it applies to any person, which 'includes a business-entity
16 employer's principal decision-maker directing the entity.' *Id.* at 725. The
17 court reasoned that the term 'any person,' as used in ORS 659A.030(1)(g)
18 is 'broad enough to cover those persons who act on behalf of the
19 employer – indeed, the statute expressly references "an employer or
20 employee".' *Id.* at 726. The court concluded that it was the legislature's
intention to hold 'persons directing the business-entity employer's unlawful
conduct' individually liable under ORS 659A.030(1)(g). *Id.* Ultimately, the
court ultimately concluded, 'whether the individual defendants were acting
in their personal capacities or on behalf of the LLCs, they were "persons"
who assisted the LLCs by making decisions that enabled the violations.'
Id."

21 *In the Matter of Sunstone Organics*, 39 BOLI at 48.

22 The preponderance of the evidence shows that Russi engaged in unwanted
23 verbal and physical conduct toward Krebs because of her sex. Russi engaged in this
24 conduct while acting in his role as an owner of Mid Oregon. Russi's role as a decision-
25

1 maker for Mid Oregon gave him the power to direct the conduct of Mid Oregon in the
2 creation of the intolerable working conditions suffered by Krebs. As such, Russi is
3 found to have incited and/or compelled Mid Oregon's violation of ORS 659A.030(1)(b) in
4 that Russi's behavior was the direct cause of Mid Oregon's unlawful discrimination
5 against Krebs based upon her sex. Russi is, therefore, subject to individual liability
6 under OAR 659.030(1)(h).

7 *Liability of Duncan*

8 Duncan was the member of Mid Oregon to whom Krebs reported her concerns
9 about Russi's unwanted verbal and physical conduct. Krebs reported her concerns in
10 sufficient detail so as to cause Duncan enough concern to order her to leave the
11 premises when Russi reported to the office and to contact Russi and Mid Oregon's
12 attorney after speaking with Krebs. Duncan knew or should have known based upon
13 Krebs's report that Russi's conduct made Krebs feel unsafe and unwilling to be alone
14 with Russi.
15

16 The forum has previously held that liability under ORS 659A.030(1)(g) is not
17 limited to only active participating in the unlawful employment practice. See *In the*
18 *Matter of Murray Hill Thriftway*, 20 BOLI at 153 n 13 (citing *In the Matter of Wing Fong*,
19 16 BOLI 280, 292(1998)). While Duncan may not have been an active participant in
20 Mid Oregon's unlawful employment practice, Duncan's failure to act to protect Krebs
21 from further harassment by Russi served to aid or abet the unlawful employment
22 practice by Mid Oregon. Further, as a member of Mid Oregon – an Oregon employer,
23 Duncan had a duty to ensure that Mid Oregon employees, including Krebs, were free to
24
25

1 work in an environment that was free of discrimination as mandated by ORS
2 659A.030(1)(b). Therefore, Duncan is subject to liability under ORS 659A.030(1)(h).

3 *Liability of Cambridge*

4 Like Duncan, Cambridge was not an active participant in Mid Oregon's unlawful
5 discrimination of Krebs. However, the preponderance of the evidence shows that
6 Cambridge was in a position as the Mid Oregon member responsible for managing the
7 daily operations of the business to observe Russi's unwanted verbal comments and
8 physical touching of Krebs in the office. It is not credible that Cambridge did not
9 observe Russi's behavior or Krebs's apparent discomfort in being the subject of Russi's
10 unwanted attention. Further, Cambridge knew that Krebs was receiving cash gifts that
11 she was uncomfortable receiving as evidenced by Cambridge's reaction when Krebs
12 reported the \$500 gift. See Finding of Fact 61. Cambridge clearly suspected
13 something was amiss when she was visibly upset after Krebs returned to the office after
14 being summoned to a meeting with Russi that he ordered her not to report to
15 Cambridge. See Finding of Fact 41. Cambridge cannot escape individual liability under
16 ORS 659A.030(1)(h) by being willfully ignorant of the intolerable working conditions
17 suffered by Krebs.
18

19 Cambridge's failure to act as a member of Mid Oregon to ensure that Krebs and
20 other female employees were not subjected to harassment based on their sex by Russi
21 despite being in a position to observe Russi's behavior, served to assist and to support
22 the unlawful discrimination. As such, Cambridge is determined to have aided and/or
23 abetted Mid Oregon's violation of ORS 659A.030(1)(b). Cambridge is, therefore,
24 subject to liability under ORS 659A.030(1)(h).
25

1 **Liability of Mid Oregon for Adverse Treatment Based on Krebs's Opposition to an**
2 **Unlawful Practice**

3 The Agency alleges in its Formal Charges that Mid Oregon violated ORS
4 659A.030(1)(g) by subjecting Krebs to adverse treatment and/or discharging Krebs for
5 opposing an unlawful practice.

6 The Agency's prima facie case consists of the following elements: (1) Mid
7 Oregon was an employer as defined by statute; (2) Mid Oregon employed Krebs; (3)
8 Krebs explicitly or implicitly opposed an unlawful practice or what she reasonably
9 believed to be an unlawful practice; (4) Mid Oregon subjected Krebs to adverse
10 treatment and (5) there is a causal connection between the protected activity and the
11 adverse treatment. OAR 839-005-0125(2)(a),(b),(c). See also *In the Matter of Dev's*
12 *Burgers*, 39 BOLI at 100; *In the Matter of Sis-Q Cellular, LLC*, 38 BOLI 113, 137 (2022);
13 *In the Matter of Andrew W. Engel, DMD, PC*, 32 BOLI at 132; *In the Matter of From the*
14 *Wilderness*, 30 BOLI 227, 288 (2009).

15 The forum set forth the burden of proof the Agency must satisfy when
16 establishing the requisite causal link between the protected activity and adverse
17 treatment:

18 "The Agency has the burden of proof to establish the causal link in a civil
19 rights case and the standard of proof is a preponderance of the evidence.'
20 *In the Matter of Kenneth Wallstrom*, 32 BOLI 63, 82-83 (2012).
21 'Preponderance of evidence means 'more probably true than false.' *Id.*
22 quoting *In the Matter of Sunnyside Inn*, 11 BOLI 151, 165 (1993) (quoting
from *State v. Jackson*, 313 Or 189, 832 P2d 443 (1992) and *Cook v.*
Marshall, 214 Or 513, 527, 330 P2d 1026 (1958)."

23 *In the Matter of Your House*, 39 BOLI at 42 (2023).

24 As noted above, the Agency has established Elements 1 and 2 that Mid Oregon
25 was an employer as defined by statute and employed Krebs.

1 *Element 3 – Opposition to an Unlawful Practice*

2 Krebs credibly testified that she reported Russi's unwelcome verbal and physical
3 conduct to Duncan, but Russi continued to approach her in the office. Krebs testified
4 she resisted Russi's unwanted verbal and physical conduct and told him "no" and "I
5 don't want to," when he physically assaulted her. The credible evidence of record
6 shows that Krebs explicitly and implicitly opposed an unlawful practice (sexual
7 harassment). Further, the evidence shows that Krebs voiced concerns to Duncan about
8 Mid Oregon's business dealings and informed Duncan that she was unwilling to assist
9 Mid Oregon in what she had come to believe were unlawful business practices. The
10 Agency has established Element 3 – Opposition to an Unlawful Practice.

11 *Element 4 – Adverse Treatment*

12 Krebs credibly testified that each time she resisted Russi's unwelcome verbal
13 conduct or unwanted physical conduct she was subjected to adverse treatment by Mid
14 Oregon in the form of takeback of the vehicle Russi represented to Krebs that he had
15 rented for her personal use and Russi's reneging on the promise to provide housing to
16 Krebs's parents on a discounted basis. See Findings of Fact 42, 64. The credible
17 evidence of record shows that Krebs was subjected to adverse treatment each time she
18 implicitly or explicitly opposed Respondents' unlawful practices. The Agency has
19 established Element 4 – Adverse Treatment.

21 *Element 5 – Causal Connection Between the Protected Activity and Adverse*
22 *Treatment*

23 Proof of a causal connection can be established [1] indirectly, by showing that
24 the protected activity was followed closely by discriminatory treatment or through other
25 evidence such as disparate treatment of fellow employees who engaged in similar

1 conduct, or [2] directly, through evidence of retaliatory animus directed against a
2 complainant by the respondent. The agency, at all times, has the burden of proving that
3 Complainant was terminated or otherwise discriminated against for unlawful reasons. *In*
4 *the Matter of Crystal Springs Landscapes*, 32 BOLI at 166.

5 The forum discussed how proof of a causal connection may be established
6 through circumstantial evidence in *In the Matter of Your House*, 39 BOLI at 144.

7 “Evidence includes inferences. There may be more than one inference to
8 be drawn from the basic fact found; it is the forum’s task to decide which
9 inference to draw.’ *In the Matter of Income Property Management*, 31
10 BOLI 18, 39 (2010). ‘[T]he absence of direct evidence of [respondent’s]
11 specific intent is not determinative because such intent may be shown by
12 the circumstantial evidence referred to herein.’ *In the Matter of Sierra*
13 *Vista Care Center*, 9 BOLI 281, 296-97 (1991) (citations omitted). See
14 also *Boynton-Burns v. University of Oregon*, 197 Or App 373, 380-381,
15 105 P3d 893, 897-898 (2005), quoting *DeCintio v. Westchester County*
16 *Medical Center*, 821 F2d 111, 115 (2d Cir), cert. den. 484 U.S. 965, 108
17 S.Ct. 455, (1987) (‘Proof of a causal connection can be established [1]
18 indirectly, by showing that the protected activity was followed closely by
19 discriminatory treatment or through other evidence such as disparate
20 treatment of fellow employees who engaged in similar conduct, or [2]
21 directly, through evidence of retaliatory animus directed against a
22 [complainant] by the [respondent]’).”

23 Krebs credibly testified that each time she rejected Russi’s pleas to “give him a
24 chance” or otherwise resist Russi’s unwelcome verbal and physical conduct, she
25 experienced adverse treatment by Mid Oregon, including the loss of an employer
provided rental vehicle and Russi’s renegeing on a housing offer made to her parents.
The preponderance of the evidence shows that the adverse treatment experienced by
Krebs occurred within days or weeks after an incident with Russi or an instance in which
she made it clear to him that she did not want to “give him a chance.” Therefore, the
Agency has established Element 5 – Causal Connection Between the Protected Activity

1 and Adverse Treatment. Accordingly, the Agency has established a violation of ORS
2 659A.030(1)(g) by Mid Oregon..

3 **Liability of Mid Oregon for Adverse Treatment Based on Krebs's Report of**
4 **Evidence of a Violation of State or Federal Law**

5 The Agency alleges that Mid Oregon violated ORS 659A.199 when it
6 discriminated against Krebs for reporting in good faith what she believed to be evidence
7 of a violation of a state or federal law. The analysis used in determining that Mid
8 Oregon violated ORS 659A.030(1)(g) applies equally to the Agency's ORS 659A.199
9 claim.

10 The forum finds that the Agency established that Krebs made a good faith report
11 of information she believed was evidence of a violation of state law (unlawful sexual
12 harassment) and evidence of fraudulent sales agreements. Accordingly, the forum's
13 conclusion that Mid Oregon violated ORS 659A.030(1)(g) also leads to the conclusion
14 that Mid Oregon also violated ORS 659A.199(1) when it subjected Krebs to adverse
15 treatment after her report of sexual harassment and her concerns regarding the
16 production of fraudulent sales agreements bearing her signature. *See Your House, 39*
17 *BOLI at 145.*

18 . ORS 659A.030(1)(h) *Liability for Mid Oregon's Violation of ORS 59A.030(1)(f)*
19 *and ORS 659.199*

20 ***Liability of Russi and Duncan***

21 The preponderance of the evidence shows that both Russi and Duncan were the
22 Mid Oregon members who were aware of Krebs's concerns about Russi's conduct and
23 Mid Oregon's business practices that she had a good faith belief were illegal and
24 unethical. As discussed above, Russi was the primary decision-maker for Mid Oregon
25

1 and sole actor in the sexual harassment of Krebs. Duncan reported Krebs's concerns
2 to Russi. As a result, Russi and Duncan, acting in concert, prompted and facilitated Mid
3 Oregon's adverse treatment of Krebs. The forum therefore finds that both Russi and
4 Duncan are subject to individual liability under ORS 659A.030(1)(h) for Mid Oregon's
5 violation of ORS 659A.030(1)(g) and ORS 659A.199(1).

6 ***Liability of Cambridge***

7 There is no evidence showing that Cambridge was aware that Krebs had made a
8 good faith report of information she believed to be violations of state or federal law or
9 that Krebs had ever made such a report to Cambridge. Further, the evidence shows
10 that Cambridge was not aware of the basis for the actions against Krebs that constituted
11 adverse treatment. While Cambridge may have had suspicions of the reasons for the
12 changes in Krebs's employment, the evidence does not show that she had actual
13 knowledge of Krebs's reports or that she assisted or facilitated the adverse treatment
14 Krebs's received following her reports. Without a greater showing that Cambridge had
15 a role in either receiving the information from Krebs's or acting on that information, the
16 Agency has not shown that Cambridge is subject to individual liability for Mid Oregon's
17 violations of ORS 659A.030(1)(g) or ORS 659A.199(1).
18

19 **Krebs's Constructive Discharge**

20 The elements of constructive discharge are set out in OAR 839-005-0011:

21 "Constructive discharge occurs when an individual leaves employment
22 because of unlawful discrimination. The elements of a constructive
23 discharge are:

24 "(1) The employer intentionally created or intentionally maintained
25 discriminatory working conditions related to the individual's
protected class status;

1 “(2) The working conditions were so intolerable that a reasonable
2 person in the complaining individual's circumstances would have
resigned because of them;

3 “(3) The employer desired to cause the complaining individual to
4 leave employment as a result of those working conditions, or knew
or should have known that the individual was certain, or
5 substantially certain, to leave employment as a result of the working
6 conditions; and

7 “(4) The complaining individual left employment as a result of the
8 working conditions.”

9 See *In the Matter of Lariot Corporation*, 40 BOLI ____ (2025).

10 “This forum has consistently held that if an employer imposes objectively
11 intolerable working conditions, i.e., that a reasonable person in complainant’s position
12 would have resigned under those conditions, the employee’s resignation due to those
13 conditions is a constructive discharge.” *In the Matter of Lioness Holdings, Inc.*, 36 BOLI
229, 245 (2018).

14 *Element 1 - Discriminatory Working Conditions*

15 The evidence of record shows that Mid Oregon, through Russi’s intentional
16 conduct and the failure of Duncan and Cambridge to protect Krebs from Russi’s
17 unwanted verbal and physical conduct intentionally created or intentionally maintained
18 discriminatory working conditions. These working conditions were related to Krebs’s
19 protected status (sex). Accordingly, the Agency has established the Element 1 –
20 Discriminatory Working Conditions.

21 *Element 2 – Intolerable Working Conditions*

22 Krebs credibly testified that Russi’s unwanted verbal and physical conduct
23 caused her upset and made it difficult to perform her job duties. Krebs described
24 instances when Russi made her break down in tears at the office. Krebs also described
25

1 one instance when she was out of work for three days as a result of Russi's sexual
2 assault. Krebs testified that Russi's conduct caused her to feel uncomfortable, unsafe,
3 and, at times, interfered with her home life. The credible evidence of record establishes
4 that a reasonable person in Krebs's circumstances would have found the working
5 conditions so intolerable that they would have resigned because of them. Accordingly,
6 the Agency has established Element 2 – Intolerable Working Conditions.

7 *Element 3 - Employer's Knowledge of Intolerable Working Conditions*

8 Krebs testified that she ultimately quit her employment with Mid Oregon, because
9 she could no longer tolerate Russi's conduct toward her and Mid Oregon's failure to
10 prevent further harassment by Russi. The Respondents generally deny that they knew
11 or should have known that Krebs would quit as a result of the working conditions.

12 Duncan argued that he put protections in place that were intended to allow Krebs
13 to leave the office if she felt unsafe in Russi's presence. Duncan testified he told Russi
14 about Krebs's concern, and he understood Russi would avoid being in the office if he
15 knew Krebs was present.

17 Duncan repeatedly blamed Krebs for not calling him when she left the office on
18 her final day of work. Duncan's testimony establishes that both Russi and Duncan
19 knew of Krebs's concerns and failed in their respective duties to ensure that Krebs
20 could work in an environment free of discrimination and harassment.

21 Cambridge described herself as a "safe space" for employees to report their
22 concerns. Cambridge argues that Krebs's "bubbly" personality caused her to doubt that
23 Krebs would choose to not report such serious concerns to her. Cambridge's argument
24
25

1 ignores the obvious – Cambridge was a regular recipient of Russi’s gifts and cash and
2 an obvious ally of Russi in the office.

3 It makes little sense that Krebs would consider Cambridge a “safe space” when
4 Cambridge was in the office and had the opportunity to observe Russi’s conduct toward
5 Krebs and other female employees in the office and did nothing. The evidence shows
6 that, despite being in a supervisory position and being responsible for the daily
7 operations of the business, Cambridge did not act to ensure that Krebs and other
8 female employees did not have to experience Russi’s unwanted verbal and physical
9 conduct while trying to perform their jobs. It is not credible that Cambridge did not
10 observe Russi’s behavior in the office or the reactions of the female employees when
11 confronted with Russi’s unwanted behavior.
12

13 The credible evidence of record establishes that Respondents Russi, Duncan,
14 and Cambridge knew or should have known that Krebs found the working conditions
15 intolerable and that the working conditions were such that Krebs was certain, or
16 substantially certain, to leave employment as a result of the working conditions.
17 Accordingly, the Agency has established Element 3 - Employer’s Knowledge of
18 Intolerable Working Conditions.

19 *Element 4 – Separation as a Result of the Intolerable Working Conditions*

20 Krebs testified she ultimately left the employment after she “freaked out” when
21 she observed Russi’s vehicle parked near her home while she drove to work on June
22 16, 2020. Krebs testified that it appeared to her that Russi had parked his vehicle in
23 such a way that he would be able to see her drive to work. Krebs knew Duncan was
24 working out of town, and she would most likely be forced to be alone with Russi in the
25

1 office. Krebs testified that, as she had feared, Russi appeared at the office shortly after
2 her arrival and attempted to get her alone in a room that did not have windows or
3 cameras. Krebs refused and sent a text message to Pigeon, who was aware that
4 Duncan had promised Krebs that she could leave the office if she felt unsafe with Russi.
5 Krebs left the office because she was fearful of Russi and did not want to have to
6 endure another incident with him. The Agency has established Element 4 - Separation
7 as a Result of the Intolerable Working Conditions. Accordingly, the Agency established
8 its prima facie case.

9 Damages

10 *Lost Wages*

11 The Formal Charges sought lost wages of "at least \$48,444.70." The purpose of
12 a backpay award in an employment discrimination case is to compensate a complainant
13 for the lost wages she would have received but for the unlawful employment practice.
14 *In the Matter of Reynolds Consultation*, 39 BOLI 55, 83 (2023). Back pay awards are
15 calculated to make a complainant whole for injuries suffered as a result of the unlawful
16 employment practice. *Id.*

17
18 The forum outlined the analysis required when a Complainant seeks an award for
19 lost wages in *Reynolds Consultation*:

20 "An award for lost wages involves a three-step analysis. First, whether
21 Complainant exercised due diligence in seeking work to mitigate her wage
22 loss. OAR 839-003-0090(3). Second, is to determine the amount of
23 wages Complainant would have earned, but for the unlawful termination,
24 to be offset by her subsequent earned income. OAR 839-003-0090(3)(a),
25 and third, when the period for which lost wages are sought should end. A
complainant who is seeking damages for backpay is required to mitigate
damages by using reasonable diligence in finding other suitable
employment. *In the Matter of Blue Gryphon, LLC, and Flora Turnbull*, 34
BOLI 216, 238 (2015). The burden of proof for failure to mitigate damages

1 lies with the Respondent. *In the Matter of Wal-Mart Stores, Inc.*, 24 BOLI
2 37, 65 (2003)."

3 *In the Matter of Reynolds Consultation*, 39 BOLI at 83.

4 Krebs credibly testified that she looked for work following her separation from Mid
5 Oregon but experienced difficulties obtaining suitable work due to the COVID-19 related
6 shutdown of businesses in her area. Krebs ultimately obtained employment in a real
7 estate office and was able to complete the work necessary to obtain her real estate
8 license. Krebs has continued to work in real estate since 2021.

9 Cambridge argues that Krebs could have obtained her real estate license while
10 working for Mid Oregon. However, no evidence was presented showing Krebs
11 unnecessarily delayed performing the work necessary to obtain her license or that Mid
12 Oregon made any real effort to assist her in that effort as promised by Russi when he
13 recruited Krebs to work for Mid Oregon.

14 In this case, it would be appropriate to award Krebs lost wages from the date of
15 her constructive discharge, June 16, 2020, through January 31, 2022, when Krebs
16 received her first payment for her work as a realtor. Had Krebs continued working for
17 Mid Oregon, Krebs would have earned \$113,286.25, which includes average monthly
18 earnings of \$2,531.45 and \$2,000 monthly rental allowance (25 months x \$4,531.45).
19 Krebs had actual earnings in the amount of \$64,281.22 and received a judgment for
20 unpaid wages from Mid Oregon in the amount of \$560. Krebs experienced a loss of
21 wages and benefits totaling \$48,444.70 (\$113,286.25 minus \$64,281.22 minus \$560).
22

23 *Emotional Distress Damages*

24 The Agency seeks damages on behalf of Krebs in the amount of "at least
25 \$750,000" for physical, mental and emotional suffering. Pursuant to ORS 659A.850, the

1 Commissioner of the Bureau of Labor and Industries has the authority to award money
2 damages for emotional, mental, and physical suffering sustained. *In the Matter of*
3 *Oregon Truck Painting, LLC, On Time Painting, Inc., Richard Bowman, and Amanda M.*
4 *Marin*, 37 BOLI 87, 114-15 (2018). The Commissioner has the authority to fashion a
5 remedy adequate to eliminate the effects of unlawful employment practices. *Id.* at 115.

6 In determining an award for emotional and physical suffering, the forum
7 considers the type of discriminatory conduct, and the duration, frequency, and severity
8 of the conduct. It also considers the type and duration of the mental distress and the
9 vulnerability of the aggrieved persons. A complainant's testimony, if believed, is
10 sufficient to support a claim for mental suffering damages. *Id.*, citing *In the Matter of Dr.*
11 *Andrew Engel, DMD, PC*, 32 BOLI at 141.

12 Krebs credibly testified that Russi sexually harassed her by calling her "pet
13 names" and subjecting her to unwanted physical touching that included unwanted back
14 and shoulder rubs and other nonconsensual touching. In addition to the unwanted
15 verbal conduct and unwanted physical touching, Russi physically assaulted Krebs on
16 three separate occasions, which caused her to feel physical discomfort and pain. See
17 Proposed Findings of Fact 29, 34, 25, 28, 44, 49-51, 53, 54, 55-60, 63. Krebs felt
18 shock, confusion, anger, fear, and sadness as a result of Russi's conduct. See
19 Proposed Findings of Fact 31, 32, 48, 53.

20
21 After Krebs's complaint to Duncan and despite his promise that she no longer
22 had to work alone with Russi, Russi continued to subject Krebs to unwanted verbal and
23 physical conduct. Krebs credibly testified that she left her employment with Mid Oregon
24 because she could no longer tolerate Russi's conduct toward her. As a result of her
25

1 experiences working at Mid Oregon, Krebs is hypervigilant and wary about doing home
2 showings and meeting clients outside of the office out of fear that something similar will
3 occur or Russi will appear. See Proposed Finding of Fact 101.

4 The forum looks to similar BOLI contested cases when considering an
5 appropriate damage award. For example, the forum awarded \$1,000,000 to a
6 complainant, who was a minor and who was subjected to sexual harassment by the
7 employer's customers. *In the Matter of Frehoo, Inc*, 39 BOLI 197, 228 (2023).⁷ The
8 forum awarded \$60,000 to a woman sexually harassed by her supervisor, who
9 continued to exert control over her as a contractor despite the promises of the employer
10 that the supervisor had been terminated. *In the Matter of Reynolds Consultation, Inc.*
11 39 BOLI 55, 84-85. The forum also awarded \$100,000 to a complainant who had been
12 sexually harassed by a family member of the employer, who terminated her in retaliation
13 for her complaints. *Dev's Burgers*, 39 BOLI at 103. The forum awarded \$125,000 to a
14 complainant that was subjected to sex discrimination based on her gender identity. *In*
15 *the Matter of Sunstone Organics*, 39 BOLI at 49-50. The forum awarded \$120,000 to a
16 woman subjected to pregnancy discrimination and discharge. *In the Matter of Next Step*
17 *Carpet, LLC*, 38 BOLI 80, 88-89 (2022). See also *In the Matter of Bravo Event Service,*
18 *Inc.*, 36 BOLI at 268-69 (\$100,000 awarded to a woman sexually harassed by her
19 supervisor when she credibly explained how the harassment impacted her feelings of
20 safety and made her change how she dressed and acted when working around men); *In*
21 *the Matter of Oregon Truck Painting, LLC*, 37 BOLI at 115 (awarding \$75,000 to a
22 complainant terminated for complaining about unsafe working conditions).
23
24

25 _____
⁷ Please see the Amended Final Order for the full procedural history.

1 Krebs not only suffered unwanted verbal conduct on a regular basis from Russi,
2 but she was subjected to offensive and unwanted physical conduct that include sexual
3 assaults. No individual should be required to work in an environment plagued by sexual
4 harassment or to live in fear that they must submit to unwanted sexual conduct in order
5 to maintain their employment. Given the past awards of the forum and the
6 circumstances of this case, the forum finds \$750,000 to be an appropriate amount of
7 emotional distress damages.

8 **Other Requested Relief**

9 In its Formal Charges, the Agency asked that Respondents and Respondents'
10 managers and supervisors be trained, at Respondents' expense, "on unlawful
11 harassment and discrimination in the workplace" by "the Bureau of Labor and Industries
12 Technical Assistance for Employers Unit or other trainer agreeable to and approved by
13 the Agency." BOLI's Commissioner is authorized to issue an appropriate cease and
14 desist order reasonably calculated to eliminate the effects of any unlawful practice
15 found. to: ORS 659A.850(4). Among other things, that may include requiring a
16 respondent to:
17

18 "(a) Perform an act or series of acts designated in the order that are reasonably
19 calculated to:

20 "(A) Carry out the purposes of this chapter;

21 "(B) Eliminate the effects of the unlawful practice that the respondent is
22 found to have engaged in, including but not limited to paying an award of
23 actual damages suffered by the complainant and complying with injunctive
24 or other equitable relief; and

25 "(C) Protect the rights of the complainant and other persons similarly
situated[.]"

1 This statute gives the Commissioner the authority to require Respondents and
2 Respondents' managers and supervisors to undergo training of the type sought in the
3 Formal Charges. The forum finds that this requirement is appropriate in this case.

4 **Exceptions to Proposed Order**

5 *The Agency's Exceptions*

6 The Agency filed 21 Exceptions. The Agency's Exceptions 1-6, 10, 16-18, and
7 20-21 request that the forum make corrections to scrivener's errors. Those exceptions
8 are well taken and are granted, as reflected in the revisions to the sections above.

9 The Agency's Exceptions 7-9, 11, 12, and 14 take issue with certain findings of
10 fact made by the ALJ. The forum grants those exceptions as reflected above to the
11 extent they were consistent with the record and applicable legal authority and
12 addressed relevant evidence.

13 The Agency's Exceptions 13, 15, and 19 take issue with findings of fact and
14 conclusions of law made by the ALJ based upon the finding that Cambridge's testimony
15 that she did not prepare the sales agreements with the forged signatures was credible.
16 First, the Agency argues that Ledbetter was present during a phone call between
17 Duncan and Cambridge and overheard Cambridge's admission that Russi had her
18 create the forged documents to create the impression for investors that Mid Oregon was
19 on solid financial ground. The forum is not persuaded by the Agency's argument.
20 Ledbetter did not testify at hearing. Cambridge testified that she created the documents
21 for the purchase of her own property and has argued that she was unaware that they
22 were allegedly being used for fraudulent reasons or had otherwise been altered. As
23 noted above, much of Krebs's testimony was based on things other employees told her.
24 Such testimony is inherently unreliable and not given great evidentiary weight. Absent
25

1 credible evidence contradicting her testimony, the forum does not find sufficient cause to
2 reject Cambridge's sworn testimony.

3 Second, the Agency points to the Answer filed by Peterman in its Exceptions.
4 See Ex. A-8. Cambridge expressed surprise and concern after reporting that she was
5 never informed of the proceedings at BOLI when the ALJ first attempted to convene a
6 hearing in this matter. Cambridge has consistently argued that she was unaware of
7 BOLI's investigation and subsequent findings until the time of hearing. In her
8 Exceptions, Cambridge again represents that she was never made aware of the
9 allegations of Krebs by Peterman, Duncan, or Russi. The forum is not persuaded that
10 the Answer filed by Peterman, who withdrew as legal counsel for Mid Oregon shortly
11 after filing the Answer, impeaches Cambridge's testimony. Therefore, the Agency's
12 Exceptions 13, 15, and 19 are denied.

13 *Russi's Exceptions*

14 Russi filed 19 Exceptions. Russi's Exceptions 1-2 requesting the forum make
15 corrections to scrivener's errors are well taken and are, therefore, granted as reflected
16 in the revisions to the sections above.

17 Russi's exceptions 3 and 7 take issue with certain findings of fact made by the
18 ALJ. The forum grants those exceptions as reflected above to the extent they were
19 consistent with the record and applicable legal authority and addressed relevant
20 evidence.

21 Russi's Exception 8 takes issue with the finding that he maintained an office at
22 the Fairway office. Russi argues that any meetings held with developers or realtors
23 were in the main room of the office. However, Russi's argument does not address Ex.
24 A-14 – diagram of the Fairway office – that clearly shows a space labeled "Joseph
25

1 Russi's Office" located off the main hallway coming from the reception desk where
2 Krebs sat. Russi's Exception 8 is denied.

3 Russi's remaining Exceptions take issue with the ALJ's credibility findings. Russi
4 generally argues that the allegations made by Krebs are part of a "false narrative" and
5 Russi argues that the events either did not happen the manner described by Krebs or
6 happened at all. In short, Russi argues that his testimony should be credited over the
7 testimony of Krebs. After considering Russi's arguments, the relevant evidence, and
8 the applicable legal authority, the forum declines to overturn the ALJ's credibility
9 findings. See *In the Matter of Horizontal Motorsports, Inc.*, 37 BOLI 205, 219-20 (2020)
10 "[A]n ALJ's credibility findings are accorded substantial deference and absent
11 convincing reasons for rejecting those findings, they are not disturbed." (quoting *In the*
12 *Matter of Gordy's Truck Stop, LLC.*, 28 BOLI 200, 216 (2007)). See also *In the Matter of*
13 *Walstrom, Kenneth*, 32 BOLI 63, 92-93 (2012) ("exceptions to the ALJ's credibility
14 findings are denied because those findings are supported by substantial evidence in the
15 record"). As noted above, Krebs's testimony was clear and direct as compared to
16 Russi's vague and self-serving testimony. The forum finds that Russi did not offer
17 convincing reasons for rejecting the findings of credibility made by the ALJ. Therefore,
18 Russi's Exceptions arguing that his testimony should be credited over the testimony of
19 Krebs and other witnesses are denied.

20 *Duncan's Exceptions*

21 Duncan filed 15 Exceptions. Several of Duncan's exceptions took issue with the
22 ALJ crediting the testimony of Krebs over his own testimony. The credibility findings
23 made by the ALJ are supported by substantial evidence in the record. Duncan has
24 failed to offer convincing reasons why those findings should be rejected. Therefore,
25 Duncan's Exceptions pertaining to the credibility of Krebs's testimony are denied.

1 Duncan's Exceptions also included the following:

2 "Item 104:

3 "The facts are Jerry Duncan and roommates testified to their relationship.

4 "Item 105:

5 "Several witnesses observed Kim intoxicated at the party."

6
7 Duncan offered no argument as to how the ALJ erred in the determination that
8 evidence pertaining to either the alleged relationship between his son and Mid Oregon
9 employee G. Duncan and Krebs or Krebs's level of intoxication at the July 13, 2018,
10 party hosted by Mid Oregon was relevant as to the allegations set forth in the Formal
11 Charges. The forum is not persuaded that a purported relationship between Krebs and
12 Duncan's son is relevant as to whether Russi engaged in the conduct alleged in the
13 Formal Charges or if Duncan and the other Respondents aided or abetted Russi in
14 engaging in the alleged conduct. Further, the forum is not swayed that Krebs's alleged
15 intoxication at a party hosted by Mid Oregon makes the allegations set forth in the
16 Formal Charges any more or less likely. Therefore, Duncan's Exceptions regarding
17 these two issues are denied.
18

19 Duncan also offers various arguments as to Krebs's purported failure to act
20 according to the "safe space" plan that Duncan put in place after learning that Krebs did
21 not want to be alone with Russi. Duncan improperly attempts to place the onus upon
22 Krebs, as an employee reporting discrimination in the workplace, to act to protect
23 herself from the unwanted and inappropriate conduct of one of the owners of the
24 business. That responsibility was solely the responsibility of the employer and cannot
25 be transferred to the employee seeking help to find a way to work in an environment

1 free of discrimination. The substantial evidence of record shows that Duncan failed to
2 act appropriately after learning of the concerns of Krebs and failed in his duty to ensure
3 that all employees – including Krebs – were free to work in an environment without fear
4 of suffering the discriminatory behavior of an owner of the business. Therefore,
5 Duncan's Exceptions arguing Krebs failed to act according to Duncan's "safe space"
6 plan are denied.

7 Duncan alleges in Item 117 that Krebs "tampered" with the Respondents'
8 witnesses by contacting them prior to the trial. Duncan made no showing as to how any
9 alleged pre-hearing contact by Krebs with the witnesses of the Respondents affected
10 the veracity of the evidence offered at hearing or that any witness provided false
11 testimony as a result of the alleged pre-hearing contact. Duncan's Exception in Item
12 117 is denied.

13 Duncan argues in his Exceptions regarding the section, "Liability of Duncan,"
14 that, if Krebs had reported her allegations against Russi, he would have contacted law
15 enforcement thereby making Krebs's complaints subject to " * * * the jurisdiction of the
16 criminal court where we could have subpoenaed witnesses." Duncan offered no
17 argument as to how he or any other Respondent was prevented from requesting a
18 subpoena either during discovery or for hearing as was their right under OAR 839-050-
19 0200(8),(9). Duncan goes on to argue that BOLI lacked the jurisdiction to act in this
20 matter. Duncan's argument is incorrect.

21 It is the public policy of Oregon that unlawful discrimination because of sex a
22 matter of state concern. ORS 659A.006. The purpose of ORS chapter 659A is clearly
23 set forth in ORS 659A.003, which provides:
24
25

1 “The purpose of this chapter is * * * to remov[e] arbitrary standards of * * *
2 sex * * * as a barrier to employment of the inhabitants of this state, and to
3 ensure the human dignity of all people within this state and protect their
4 health, safety and morals from the consequences of intergroup hostility,
5 tensions and practices of unlawful discrimination of any kind based on * * *
6 sex * * * .”

7 To accomplish this purpose, the legislature has acted to ensure that ORS chapter 659A
8 provides “[a]n adequate remedy for persons aggrieved by certain acts of discrimination
9 because of * * * sex.” The Agency acted well within its authority in its handling of
10 Krebs’s complaint of unlawful discrimination in employment because of sex. Therefore,
11 Duncan’s argument to the contrary is rejected and is denied.

12 *Cambridge’s Exceptions*

13 Cambridge filed 33 Exceptions. Cambridge’s Exceptions 1 and 3 request that the
14 forum make corrections to scrivener’s errors. Those exceptions are well taken and are
15 granted, as reflected in the revisions to the sections above. Cambridge’s Exceptions 4-
16 10, 13, 15-17, 20-21, 25-26, take issue with certain Proposed Findings of Fact and
17 Conclusions of Law 1 and 2. The forum grants those exceptions as reflected above to
18 the extent they were consistent with the record and applicable legal authority and
19 addressed relevant evidence.

20 Cambridge argues in Exceptions 2, 18-19, and 22 that she was never made
21 aware of Krebs’s BOLI complaint or contacted during BOLI’s investigation. In particular,
22 Cambridge argues that Peterman, as Mid Oregon’s attorney, never contacted her
23 regarding the BOLI complaint and investigation. Cambridge contends that she first
24 became aware of Krebs’s BOLI complaint just a few days prior to the first contested
25 case hearing date. Cambridge’s knowledge of Krebs’s BOLI complaint is not relevant as
26 to whether the allegations set forth in the Formal Charges occurred. Therefore,
27 Cambridge’s Exceptions 2, 18-29, and 22 are granted to the extent they were consistent
28 with the record and applicable legal authority and addressed relevant evidence.

1 Cambridge argues in her Exceptions 11-12, 14, 23, and 24 that various events
2 alleged by Krebs did not occur or did not occur in the manner testified to by Krebs.
3 Cambridge's Exceptions 27-32 also take issue with Conclusions of Law 4 and 6, as well
4 as portions of the Opinion that found Cambridge had knowledge of Russi's harassment
5 of Krebs in the workplace. After considering Russi's arguments, the relevant evidence,
6 and the applicable legal authority, the forum declines to overturn the ALJ's credibility
7 findings that are addressed in Cambridge's Exceptions 11-12, 14, 23, 24, and 27-32.
8 *See In the Matter of Horizontal Motorsports, Inc.*, 37 BOLI at 219-20.

9 Cambridge's Exception 33 seeks clarification as to the apportionment of
10 damages awarded in this matter, as well as the training requirement. Cambridge
11 argues that damages should be apportioned according to the ownership interest in what
12 is a now defunct company. The forum's long-term precedent establishes that aiders and
13 abettors are jointly and severally liable. *See, eg. In the Matter of Freehoo, Inc., dba*
14 *Stars Cabaret & Steak House, et. al.*, 40 BOLI ____ (2024); *In the Matter of Blue*
15 *Gryphon, LLC and Flora Turnbull*, 34 BOLI 216, 238 (2015); *Engel, Dr. Andrew, DMD,*
16 *PC*, 32 BOLI 94, 137 (2012); *Allied Computerized Credit & Collections, Inc.*, 9 BOLI
17 206, 218 (1991). Any questions regarding training should be addressed to BOLI's
18 Employer Assistance Unit at employer.assistance@boli.oregon.gov.

ORDER

A. NOW, THEREFORE, as authorized by ORS 659A.850, and to eliminate the effects of violations of ORS 659A.030(1)(a),(b),(g) and ORS 659A.199 by **Respondents Mid Oregon Builders, LLC, Joseph Russi, David Duncan, and Shea Cambridge**, and as payment of the damages awarded, the Commissioner of the Bureau of Labor and Industries hereby orders **Respondents Mid Oregon Builders, LLC, Joseph Russi, David Duncan, and Shea Cambridge**, to deliver to the Administrative Prosecution Unit of the Bureau of Labor and Industries, 1800 SW 1st Avenue, Suite 500, Oregon 97209, a certified check payable to the Bureau of Labor and Industries in trust for Complainant **Kimberly Krebs** in the amount of:

1) **SEVEN HUNDRED FIFTY THOUSAND DOLLARS** (\$750,000), representing compensatory damages for emotional, mental, and physical suffering experienced by Kimberly Krebs as a result of the unlawful practices of the Respondents found herein,

2) **FORTY-EIGHT THOUSAND FOUR HUNDRED FORTY-FOUR DOLLARS AND SEVENTY CENTS** (\$48,444.70), representing wages lost as a result of the unlawful employment practices of the Respondents;

plus,

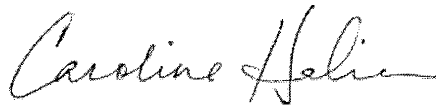
3) Interest at the legal rate on the sum of \$798,444.70 from the date of issuance of the Final Order until Respondents comply with the requirements of the Order herein.

B. NOW, THEREFORE, as authorized by ORS 659A.850, and to eliminate the effects of violations of ORS 659A.030(1)(a),(b),(g) and ORS 659A.199 by **Respondents Mid Oregon Builders, LLC, Joseph Russi, David Duncan, and Shea Cambridge**, the Commissioner of the Bureau of Labor and Industries hereby orders **Respondents Mid Oregon Builders, LLC, Joseph Russi, David Duncan, and Shea Cambridge**, to:

1
2 1) At Respondents' expense, undergo training, along with
3 Respondents' owners, members, managers, supervisors, and human resources
4 personnel, to complete annual training for a period of five (5) years on preventing
5 discrimination in the workplace, including discrimination based on sex, conducted
6 by the Employer Assistance Unit of the Bureau of Labor and Industries, or
7 another trainer agreeable to and approved by the Agency. The first training shall
8 be completed within 90 days of the date of the Final Order issued in this case.
9 Respondent shall provide proof of completion of each training to the Bureau
10 within 30 days of completing each year's training.

11 2) To create and implement a policy that accurately reflects Oregon
12 law pertaining to unlawful employment discrimination, including discrimination
13 based on sex, to be approved by the Bureau of Labor and Industries, Civil Rights
14 Division. If such a policy is in place, the Respondent shall provide a copy of that
15 policy to the Bureau of Labor and Industries, Civil Rights Division, to ensure the
16 policy conforms with Oregon law.

17 3) Cease and desist from violating laws pertaining to unlawful
18 employment discrimination.

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Caroline Holien, Administrative Law Judge
Bureau of Labor and Industries

ISSUED ON: January 28, 2026