COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION
AGAINST DISCRIMINATION and
SHEILA LEAHY,
Complainants

v. DOCKET NO. 09-BEM-00288

CITY OF BOSTON FIRE DEPARTMENT
and JAMES BERLO,
Respondents.

DECISION OF THE FULL COMMISSION AFTER REMAND

After a public hearing in this matter, Hearing Officer Betty Waxman determined that Sheila Leahy[1] ("Ms. Leahy") filed credible but untimely claims of sexual harassment under M.G.L. c. 151B, § 4(16A) against her supervisor, James Berlo ("Berlo"), and her employer, the City of Boston Fire Department ("the City").[2] However, Ms. Leahy also filed retaliation claims under M.G.L. c. 151B, § 4(4) against Berlo and the City, based on each Respondent's conduct in response to her internal complaint of sexual harassment. In a hearing decision issued on April 17, 2014 ("hearing decision"), the Hearing Officer found the City liable for retaliation based on some of its conduct but did not definitively address Berlo's allegedly retaliatory conduct, or his individual liability for that conduct. In turn, the City's potential liability for Berlo's conduct was

[1] After her divorce, Ms. Leahy ceased using Cronin as a last name.
[2] The employer Respondent is referred to as "The Fire Department" in the original hearing decision is this case, but thereafter, i.e., in the first Full Commission decision, the remand hearing decision, and herein, is referred to as "the City." The City of Boston and the Boston Fire Department are not separate legal entities.

undetermined, at least with respect to the "cat's paw" theory of liability. [3] On appeal, the Full Commission affirmed the dismissal of the sexual harassment claims as untimely, but remanded the matter for clarified factual findings as to Berlo's alleged retaliatory conduct and a determination of whether he (and the City based on the cat's paw theory) were liable for retaliation based on that conduct. In her remand decision issued on April 19, 2019 ("remand decision"), the Hearing Officer found insufficient evidence that Berlo engaged in retaliatory conduct and determined that neither Berlo nor the City were liable for retaliation based on his alleged conduct. Ms. Leahy appealed the Hearing Officer's remand decision to the Full Commission, and requests attorney's fees and costs in the amount of $132,827.80.

We affirm the Hearing Officer's decision for the reasons stated below but not without strong condemnation of the retaliatory conduct described in this case, even though the claim of individual liability does not succeed.

STANDARD OF REVIEW

The responsibilities of the Full Commission are outlined by statute, the Commission's Rules of Procedure (804 CMR 1.00 (2020)), and relevant case law. It is the duty of the Full Commission to review the record of proceedings before the Hearing Officer. M.G.L. c. 151B, §§ 3(6), 5. The Hearing Officer's findings of fact must be supported by substantial evidence, which is defined as "….such evidence as a reasonable mind might accept as adequate to support a finding…." Katz v. MCAD, 365 Mass. 357, 365 (1974); M.G.L. c. 30A, § 1(6).

It is the Hearing Officer's responsibility to evaluate the credibility of witnesses and to weigh the evidence when deciding disputed issues of fact. The Full Commission defers to these

[3] As discussed further herein, the hearing decision of April 17, 2014 does address the City's liability for Berlo's conduct, but without a definitive factual finding as to that conduct, or an explicit analysis of whether, under the cat's paw theory of liability, the City could be liable even if it was a neutral decision maker that made an independent judgment to take adverse action against Ms. Leahy.

determinations of the Hearing Officer. See, e.g., School Committee of Chicopee v. MCAD, 361 Mass. 352 (1972); Bowen v. Colonnade Hotel, 4 MDLR 1007, 1011 (1982). Fact-finding determinations are within the sole province of the Hearing Officer who is in the best position to judge the credibility of witnesses. See Quinn v. Response Electric Services, Inc., 27 MDLR 42 (2005); Garrison v. Lahey Clinic Medical Center, 39 MDLR 12, 14 (2017) (because the Hearing Officer sees and hears witnesses, her findings are entitled to deference). It is nevertheless the Full Commission's role to determine whether the decision under appeal was supported by substantial evidence, among other considerations, including whether the decision was arbitrary or capricious or an abuse of discretion. 804 CMR 1.23(10) (2020).

LEGAL DISCUSSION

Under Chapter 151B, "any person" may be liable for retaliation under either section 4(4) or section 4(4A). Retaliation under section 4(4) occurs when any person discriminates against another person because they have opposed any practice forbidden under M.G.L. c. 151B or filed a complaint, testified at, or assisted in any proceeding alleging a violation of M.G.L. c. 151B. Section 4(4A) makes it unlawful for any person to coerce, intimidate, threaten or interfere with another person for exercising any right under the chapter or for providing assistance or encouragement in the exercise of any right protected by this chapter. See Vasquez v. City of Holyoke Police Department, et al., 26 MDLR 315, 322 (2004) citing Bain v. Springfield, 424 Mass. 758, 765 (1997). Retaliation is a separate claim from discrimination based on membership in a protected class and is "motivated, at least, in part, by a distinct intent to punish or rid a workplace of someone who complains of unlawful practices." Kelley v. Plymouth County Sheriff's Department, 22 MDLR 208, 215 (2000), citing Ruffino v. State Street Bank and Trust Company, 908 F. Supp. 1019, 1040 (D. Mass. 1995). Workplace retaliation claims under section

4(4) require an adverse employment action. See Mole v. University of Mass., 442 Mass. 582, 591-592 (2004) (prima facie retaliation claim requires proof that complainant engaged in protected activity that respondent was aware of, that she suffered an adverse action and a causal connection between the two). However, under section 4(4A), any person can be held liable for threatening, intimidating, coercing or interfering with an employee for exercising her rights, without the employer taking any action. See Mole, 442 Mass. at 592, n.14 (explaining that acts of threatening, intimidating, coercing or interfering are "adverse" actions in and of themselves); MCAD Sexual Harassment Guidelines, p. 17 citing Riggs v. Town of Oak Bluffs and Douglas Siple, 23 MDLR 306, 311 (2001) (individual respondent found liable under section 4(4A) for interfering with Complainant's right to be free from unlawful employment discrimination where he threatened Complainant when she applied for a job with the Town, even where he had no ability to bind the Town and his actions did not ultimately impact the hiring decision). See also Ritchie v. Dep't Of State Police, 60 Mass. App. Ct. 655, 664, n.16 (2004) ("[t]he threat itself is the adverse action for the purpose of the § 4(4A) action").

The facts as found by the Hearing Officer in her original hearing decision show that Ms. Leahy's employment as a firefighter was compromised and threatened by reports to several different authorities after she complained to the City that Berlo sexually harassed her. The first report was to the City's Residency Compliance Commission ("RCC"), detailing that Ms. Leahy was in violation of the city ordinance requiring Boston firefighters to have a primary residence in Boston. The other reports were to the Suffolk County District Attorney's Office ("Suffolk County DA") and the Federal Bureau of Investigation ("FBI"), notifying those offices that Ms. Leahy was running and dancing after being out on disability and assigned to a light duty position

as a result of a rotator cuff injury. Ms. Leahy lost her firefighter job for approximately one year as a result of the report to the RCC—she resigned in lieu of dismissal after the RCC complaint resulted in her placement on paid administrative leave pending a hearing. She was ultimately re-hired about a year later. There was no evidence that Ms. Leahy's employment was affected in any respect by the other reports or that she even knew about them prior to the litigation of this case.

As for the report to the RCC, the Hearing Officer found that just about a month after Berlo was placed on administrative leave pending the City's investigation of Ms. Leahy's complaint, Berlo's sister, Susan Morrissey ("Morrissey"), reported Ms. Leahy to the RCC, after doing internet research on Ms. Leahy. In her hearing decision of April 17, 2014, the Hearing Officer made explicit factual findings that Morrissey was responsible for the report to the RCC, and made no factual findings as to Berlo's involvement in the report. However, in the legal analysis of the retaliation claim against the City, both Berlo and Morrissey were assumed responsible for the report to the RCC, illustrated by language that they "collaborated," and that they both "acted as tipsters who, for personal reasons, supplied information to the [RCC]." On remand, the Hearing Officer clarified that notwithstanding that language, her findings were, and continue to be, that Morrissey acted alone in the report to the RCC, stating that "there is no credible evidence that Berlo was involved," and, instead, "[t]he credible evidence is that Morrissey initiated and carried out communications with the [RCC] independently of her brother." She emphasized that the lack of any specific factual findings with regard to Berlo's conduct in her original decision was therefore intentional.

The other reports to the Suffolk County DA and the FBI occurred after Ms. Leahy secured a harassment prevention order against Berlo. The Hearing Officer found that Berlo

supplied Morrissey with "tour of duty" reports (City records showing the time period when Ms. Leahy had been out on disability and on light duty as a result of an injury), which Morrissey took to the Suffolk County DA along with videos showing Ms. Leahy dancing and running in the same time period. The Hearing Officer also found that both Morrissey and Berlo went to the FBI to report "disability abuses" by Ms. Leahy. She found that "the allegations were never proven to be credible" and made no findings with respect to Ms. Leahy's knowledge of the reports to the Suffolk County DA or the FBI, or any consequences she experienced as a result of the reports to those entities. Indeed, Ms. Leahy did not testify on the topic of these reports and the record is otherwise devoid of evidence that she knew about or suffered any adverse employment actions (or other effects) due to these reports.[4]

Ms. Leahy did not name Morrissey as an individual respondent. Therefore, Morrissey was never charged with unlawful retaliation under section 4(4) or 4(4A) and she is not a party to this case. Neither did Ms. Leahy claim Berlo could be held liable under sections 4(4A). Instead, Ms. Leahy exclusively proceeded on section 4(4) claims against the City and against Berlo individually, under the theory that Berlo was the City's agent, and Morrissey was Berlo's agent, when Morrissey complained to the RCC. The argument is that although Berlo did not make the call to the RCC, Morrissey did so out of a retaliatory motive she shared with her brother, who had to have communicated to Morrissey about Ms. Leahy's complaint against him prior to Morrissey making the call. Thus they both succeeded in removing Ms. Leahy from her job out

[4] Ms. Leahy did testify, however, that she was aware of a related incident when Morrissey visited the City's Law Department claiming to be her (Ms. Leahy) in November of 2011, a visit that coincided with Morrissey's visit (and mission) to the Suffolk DA's office, according to the affidavit of a City employee in the Law Department and Morrissey's own testimony. While Morrissey denied impersonating Ms. Leahy, she testified (albeit unclearly) that her visit to the Law Department was to once again make an issue out of Ms. Leahy's residency, apparently seeking to get a copy of the relevant ordinance in order to take it to the Suffolk County DA's office along with the evidence of Ms. Leahy dancing and running while out on disability leave and on light duty. The Hearing Officer did not make factual findings with regard to Morrissey's visit to the City's Law Department, and Ms. Leahy did not testify as to any effect she experienced from the visit.

of animus towards her for reporting Berlo. On appeal of the remand decision, Ms. Leahy argues that the evidence requires the factual conclusion that Berlo participated in the report to the RCC, and, from there, the legal conclusion that he (and the City, under the cat's paw theory) is liable for retaliation under section 4(4). Ms. Leahy argues that the evidence showing that Berlo and Morrissey acted in concert with respect to the reports to Suffolk DA and the FBI compels the conclusion that Berlo and Morrissey acted in concert on a retaliatory campaign starting with the call to the RCC. This argument tacitly acknowledges that the reports to the Suffolk DA and the FBI are not a stand-alone basis for a retaliation claim under section 4(4); instead, this evidence proves shared motives and collaborative conduct that must be imputed to the RCC report.

There is no doubt that the record permits the inference that Berlo and Morrissey acted in concert in the report to the RCC because they both wanted to remove Ms. Leahy from her job or otherwise punish her for complaining about Berlo's sexual harassment. The question is whether the record compels the inference such that the Hearing Officer's fact-finding with respect to Berlo's conduct must be reversed. To reach that conclusion, we need to identify facts in the record that fairly detract from the weight of the evidence supporting the finding that Morrissey acted alone in the call to the RCC, and determine that the cumulative weight of the record evidence tends substantially toward the opposite inference, i.e., that Berlo and Morrissey acted in concert. See Johansson v. Department of Correction, 32 MDLR 95, 96 (2010).

After a careful review, we cannot say that the cumulative weight of the record evidence compels the inference that Morrissey and Berlo acted in concert in the report to the RCC. There is no doubt that the Hearing Officer's factual findings, analysis and the record as whole compel the conclusion that Morrissey had purely retaliatory motives in reporting Ms. Leahy to the RCC,

the Suffolk DA and the FBI.[5] And, most certainly, the record permits the inference that Berlo had a retaliatory motive in the conduct he was found to have engaged in with respect to the reports to the Suffolk County DA and the FBI, a motive that most likely formed prior to the report to the RCC.[6] However, even sharing retaliatory motives, and even assuming that Morrissey knew about the sexual harassment complaint as result of speaking with her brother, Berlo, it does not necessarily follow that Berlo directed that Morrissey call the RCC, gave her information about Ms. Leahy's residency, or otherwise engaged in conduct sufficient to make him responsible for the call. Both Morrissey and Berlo made clear, unrebutted denials that Berlo was involved in the call to the RCC, and there was no direct evidence of Berlo's participation. To the contrary, the direct evidence showed that Morrissey researched the residency question and made the call on her own. In short, while Ms. Leahy is correct that the circumstances surrounding the reports to the Suffolk County DA and the FBI fairly detract from the conclusion Morrissey acted independently from her brother in making the call to the RCC, the direct evidence was nevertheless sufficient evidence upon which a reasonable fact-finder could determine that Morrissey acted alone. Because the Hearing Officer's factual finding with respect to Berlo's alleged retaliatory conduct with regard to the RCC report may not be reversed based upon the record evidence and standard of review, we affirm her determination on remand that Berlo is not individually liable for retaliation under M.G.L. c. 151B, § 4(4). Moreover, the facts as found by the Hearing Officer with respect to the clearly retaliatory reports to the Suffolk County DA and the FBI, while based on sufficient evidence, do not give rise to section 4(4)

[5] While there is myriad evidence of Morrissey's motivation to get revenge on Ms. Leahy for filing a complaint against her brother, the point is also substantially demonstrated by Berlo's admission that Morrissey wanted "justice" for him as a victim of Leahy's allegations, and Morrissey's admission that she knew Leahy lived in Foxborough before she made the complaint to the RCC, yet only complained to the RCC after Ms. Leahy complained about Berlo.

[6] Indeed, the analyses in the hearing and remand decisions are replete with conclusions, or at least assumptions, that Berlo harbored retaliatory animus against Ms. Leahy.

liability where they did not result in an adverse employment action. See Mole, 442 Mass. 582, 591-592 (2004).

Neither should the City be held liable under the cat's paw theory for non-existent conduct of one of its employees, or proven conduct by a non-agent. Under the cat's paw theory of liability, an employer can be liable for intentional discrimination based on the conduct of its agent, usually a supervisor, who harbors discriminatory animus and influences an adverse employment decision, even if the agent does not make the ultimate employment decision. See Staub v. Proctor Hosp., 562 U.S. 411, 422 (2011). As a result, an employer can still be liable even if a neutral decision maker exercises independent judgment, as this does not prevent the animus of the biased individual from tainting the adverse employment action. Id. at 419. As long as the discriminating employee's influence is a proximate cause of the ultimate adverse employment action, the employer's liability will be established. Id. The Hearing Officer determined in her hearing decision that Berlo was not an agent of the City. Ostensibly in the alternative, citing Mole, 442 Mass. at 598-601 and Roughneen v. Bennington Floors, Inc., 32 MDLR 197 (2010), she also determined that the City could not be liable for its decision to pursue the residency complaint, essentially forcing Ms. Leahy's resignation, determining that Ms. Leahy's conduct relative to her residency caused her resignation, not a supervisor's (i.e., Berlo's) retaliatory motives. Not surprisingly, then, the Hearing Officer determined on remand that the cat's paw theory was inapplicable because "any retaliatory motives on the part of Berlo or his sister" were not the proximate cause of Ms. Leahy's resignation.

We disagree with the foregoing reasoning and find that the City's liability for retaliation under the cat's paw theory was sufficiently precluded once the Hearing Officer clarified the fact that Berlo did not make the report to the RCC. Although Morrissey was the wife of a Boston

firefighter and sister to another (Berlo), she was not a City employee or otherwise the City's agent. However, the legal conclusion that Berlo was not the City's agent merely because he was on temporary administrative leave at the time of the report is debatable—he was still an employee of the City, and just because private citizens may act as tipsters to the RCC does not mean that City employees cannot make those reports within the scope of their employment. See Staub, 562 U.S. at 422 (whether the employee with retaliatory animus acts within the scope of his employment goes to the question of agency in cat's paw theory). Moreover, as recognized in Mole, an employer's "rubber stamp" of information supplied by an employee with retaliatory animus keeps the causal connection intact between the animus and the adverse action. Mole, 442 Mass. at 599.[7] The City's investigation of Ms. Leahy was arguably a "rubber stamp" of sorts with regard to the tip it received, failing to consider the timing of the tip in relation to a pending sexual harassment complaint filed by the targeted employee or the person who made it, and, worse, circumstances testified to by Ms. Leahy alleging a direct connection between her favoring of her Foxborough residence and the problems Berlo caused for her at work. Furthermore, it appears to us that the report to the RCC was the proximate cause of Ms. Leahy's forced resignation. The report did not have to be the only cause of the resignation to be the proximate cause. See Lipchitz v. Raytheon Co., 434 Mass. 493, 506, n. 19 (2001). The record shows that Ms. Leahy's decisions about where to sleep at night were not an issue for the City but for the report, and therefore it was clearly a "material and important ingredient" in causing Ms. Leahy's resignation. Id. Indeed, "[n]othing is the result of a single cause in fact," and "[t]he but-for test

[7] The SJC therefore implicitly recognized the cat's paw theory of liability in Mole. See Tuli v. Brigham & Women's Hosp., Inc., 566 F. Supp. 2d 32, 51–52, n. 35, 36 (D. Mass. 2008), aff'd sub nom. Tuli v. Brigham & Women's Hosp., 656 F.3d 33 (1st Cir. 2011) (recognizing "rubber stamp" liability as synonymous with "cat's paw" liability).

does not say otherwise." Id., quoting D.B. Dobbs, Torts § 168, at 410 (2001) (internal quotations omitted).

In sum, suffice it to say that Berlo (and indeed Morrissey, were she to have been named as a party) made narrow escape with respect to individual liability for retaliation against Leahy. The cumulative weight of the record evidence shows that the reports to the Suffolk County DA and the FBI were nothing less than a failed attempt to threaten and intimidate Ms. Leahy in retaliation for her sexual harassment complaint against Berlo. While a threat from an individual is a stand-alone harm actionable under section 4(4A)) regardless of whether an employer took action, and the complaint could be amended to include a charge under 4(4A) against at least Berlo (see Riggs, 23 MDLR at 311), there can be no section 4(4A) liability where a threat was never successfully made and thus the complainant suffered no harm.[8] By contrast, the RCC report was more than just a threat, and it actually succeeded in spurring the employer to take action against Ms. Leahy, but only Morrissey, an unnamed third party, was to blame (as a result of the deference given herein to the Hearing Officer). These legal realities are lamentable because regardless of Ms. Leahy's level of compliance with the City's residency requirement or its other policies, Chapter 151B's anti-retaliation provisions aim to prevent precisely the type of intimidating, chilling effect the complaint to the RCC had, and the other reports were intended to have. These provisions are not reserved for only those employees without a single blemish in their employment at the time (or after) they engage in protected activity. An employee should not have to consider the ways in which a discriminating supervisor (or their family members, out for revenge) may exploit their missteps before complaining about sexual harassment to their employer, and calculate whether the retribution will be worth it. Which is not to say that an

[8] Section 4(4A) does not provide for liability based on attempts to threaten, intimidate, coerce or interfere, but instead the proscribed conduct must be actually adverse to the complainant. See Mole, at 591-592.

employee is automatically shielded from adverse action based on their missteps once they engage in protected activity, but it is to say that individuals who go out of their way to punish victims of discrimination for purely retaliatory reasons should beware, regardless of the victim's real or perceived violation of a policy or other rule. For all of these reasons, while we affirm the Hearing Officer's remand decision, it is not without a stark warning that the type of retaliatory conduct in this case should generally be considered fertile ground for liability under Chapter 151B.

REQUEST FOR ATTORNEY'S FEES AND COSTS[9]

Ms. Leahy filed an "Application for Award of Attorney's Fees and Costs" with supporting affidavits, and the City filed an Opposition. The City argues that the request for fees must be reduced to reflect only partial success since Ms. Leahy did not prevail on her claims of sexual harassment and one claim of retaliation. The City also asserts that the request is insufficiently detailed and fails to distinguish core and non-core work.

Ms. Leahy requests attorney's fees in the amount of $127,642.50[10] and costs in the amount of $5,022.80. This figure represents 365.9 hours of compensable time at hourly rates of $325.00 for Attorney Anne Glennon (16.9 hours) and $350.00 for Attorney Marisa Campagna (349 hours). Her request is supported by detailed contemporaneous time records noting the amount of time spent on specific tasks and an affidavit of counsel.

M.G.L. c. 151B allows prevailing complainants to recover attorney's fees. The determination of whether a fee sought is reasonable is subject to the Commission's discretion

[9] Since the request for attorney's fees and costs was filed pursuant to 804 CMR 1.00 (1999) et seq., the Full Commission determined the award.

[10] Ms. Leahy's request for fees contains an arithmetic error—the application for fees puts Attorney Anne Glennon's fees at $5,655 but the supporting affidavit correctly computes the fee at $5,492.50. This amount has been calculated using the correctly computed fee for Attorney Glennon.

and includes such factors as the time and resources required to litigate a claim of discrimination in the administrative forum. The Commission has adopted the lodestar methodology for fee computation. Baker v. Winchester School Committee, 14 MDLR 1097 (1992). By this method, the Commission first calculates the number of hours reasonably expended to litigate the claim and multiplies that number by a reasonable hourly rate. After applying the hourly rate to the hours expended, the Commission then examines the resulting figure, known as the "lodestar," and adjusts it either upward or downward or determines that no adjustment is warranted depending on various factors, including the complexity of the matter. Baker v. Winchester School Committee, 14 MDLR 1097 (1992).

Only those hours that are reasonably expended are subject to compensation under M.G.L. c. 151B. In determining whether hours are compensable, the Commission will consider contemporaneous time records maintained by counsel and will review both the hours expended and tasks involved. Id. at 1099. Compensation is not awarded for work that appears to be duplicative, unproductive, excessive, or otherwise unnecessary to prosecution of the claim. Hours that are insufficiently documented may also be subtracted from the total. Brown v. City of Salem, 14 MDLR 1365 (1992).

When multiple claims are alleged, and the complainant does not prevail on all claims, the Commission may exercise its discretion to reduce the fees requested by some amount reasonably associated with the pursuit of complainant's unsuccessful claim. See Marathas v. Holiday Inn, 22 MDLR 391 (2000). Where a complainant's successful and unsuccessful claims are inextricably intertwined and based on a common nucleus of facts, a reduction may not be required. See Cheeks v. Massachusetts Correction Officers Federated Union, et al., 27 MDLR 30 (2005); Patel v. Everett Industries, 18 MDLR 26 (1996). Ms. Leahy did not prevail on her

claims of sexual harassment or on her claim against Berlo for retaliation, both of which encompassed a significant amount of the litigation effort. While Ms. Leahy's sole successful claim of retaliation was related to the underlying claim of sexual harassment, some evidence of which was necessary to prevail on retaliation to demonstrate her protected conduct, we cannot state that the two charges were so inextricably bound as to merit full compensation for litigation of all claims. We conclude that a one-third reduction in the fees requested in the amount of $42,547.50 is appropriate. We find that the hourly rates requested by Ms. Leahy's counsel are consistent with the prevailing market rates for attorneys with comparable qualifications. Therefore, we conclude that an award of $85,095.00 for attorney's fees is appropriate given these circumstances.

Ms. Leahy's request for reimbursement of costs in the amount of $5,022.80 is reasonable and supported by invoices.

ORDER

For the reasons set forth above, we hereby affirm the decision of the Hearing Officer on remand in its entirety. Ms. Leahy's appeal to the Full Commission is hereby dismissed and we issue the following Order:

1. The City shall immediately cease and desist from all acts that violate M.G.L. c. 151B, § 4(4);
2. The City shall pay to Ms. Leahy the sum of $25,000.00 in damages for emotional distress with interest thereon at the rate of 12% per annum from the date of the filing of the complaint, until paid, or until this order is reduced to a court judgment and post-judgment interest begins to accrue;
3. The City shall pay to Ms. Leahy attorney's fees in the amount of $85,095.00 and

costs in the amount of $5,022.80.

This Order represents the final action of the Commission for the purpose of judicial review pursuant to M.G.L. c. 151B, § 6 and M.G.L. c. 30A. Any party aggrieved by this Order may challenge it by filing a complaint in Superior Court seeking judicial review, together with a copy of the transcript of proceedings. Failure to provide a copy of the transcript may preclude the aggrieved party from alleging that the Commission's decision is not supported by substantial evidence, or is arbitrary or capricious, or is an abuse of discretion. Such action must be filed within thirty (30) days of service of this Order and must be filed in accordance with M.G.L. c. 151B, § 6, M.G.L. c. 30A, and Superior Court Standing Order 1-96. Failure to file a complaint in court within thirty (30) days of service of this Order will constitute a waiver of the aggrieved party's right to appeal pursuant to M.G.L. c. 151B, § 6 and M.G.L. c. 30A.

SO ORDERED[11] this 23rd day of November, 2020.

Monserrate Quiñones
Commissioner

Neldy Jean-Francois
Commissioner

[11] Chairwoman Sunila Thomas George was the Investigating Commissioner in this matter, so did not take part in the Full Commission Decision. See 804 CMR 1.23(6) (2020).