

SUOMALACOMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION
AGAINST DISCRIMINATION and
PATRICIA SUOMALA,

Complainants

v.

DOCKET NO. 13-SEM-00792

MASSACHUSETTS SOCIETY FOR
THE PREVENTION OF CRUELTY
TO ANIMALS, ANN MARIE MANNING,
and KATHLEEN COLLINS

Appearances: Andrew C. Novick, Esq., for Complainant
Matthew J. Frankel, Esq., and Aaron F. Nadich, Esq., for Respondents

DECISION OF THE HEARING OFFICER

I. PROCEDURAL HISTORY

On February 27, 2013, Complainant, Patricia Suomala, filed a claim of discrimination against the Respondents, Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), Ann Marie Manning and Kathleen Collins, alleging that her termination from the position of Director of Inpatient Services at Angell Memorial Hospital was an unlawful violation of M.G.L. c. 151B, ss. 4(4), (4A) and (5), and that Respondents were liable for retaliation, aiding and abetting discrimination and interfering with Complainant's employment rights. More specifically, Complainant alleged that she was terminated for reporting and documenting purported sexual harassment and urging the termination of the alleged harasser.

The Investigating Commissioner found probable cause to credit the allegations of retaliation and efforts at conciliation were unsuccessful. The matter came before me for a hearing on September 10-14, 2018, and the parties filed post-hearing briefs on November 15, 2018.

Having reviewed the record of the proceedings and the post-hearing submissions of the parties, I make the following Findings of Fact, Conclusions of Law and Order.

II. FINDINGS OF FACT

1. Complainant, Patricia Suomala, began working for Respondent MSPCA/Angell Animal Hospital in Boston as the Director of Client Services on August 4, 2008. (Tr. 122) Complainant is a Certified Veterinary Technician (CVT) who, prior to working for Respondent, worked at Tufts Animal Hospital for some fifteen years. While at Tufts, Complainant worked with Ann Marie Manning, a Doctor of Veterinary Medicine who later went to work at MSPCA/Angell Animal Hospital. (Tr. 793-794; 788- 789) After receiving her Master's Degree in Education in 2004, Complainant worked for the American Animal Hospital Association as a Veterinary Practice Consultant and accreditation examiner for veterinary hospitals, and for Novartis Animal Health, a global pharmaceutical company. (Tr. 91-100; 108) Complainant also holds the designation of Certified Veterinary Practice Manager. (CVPM) (Tr. 102-103)

2. Ann Marie Manning was the Chief of Staff at Angell Memorial Hospital when Complainant was hired to be the Director of Client Services. (Tr. 786) As Director of Client Services, Complainant managed approximately 70 employees and her starting salary was \$107,000. (Tr. 132; Ex. C-14) In this position, Complainant was one of several Service Directors who head-up the various departments at Respondent and report directly to Chief of Staff, Manning. (Tr. 799,

786, 790-791) In her first year on the job, Complainant proposed and implemented a number of initiatives, performed well, and was recognized for her good ideas and successful initiatives. (Tr. 123-131; 812-813)

3. Complainant became the Director of Inpatient Services at Angell on May 4, 2009, some nine months after commencing her employment, when another director abruptly resigned. This became a new position with oversight of all the veterinary technicians who were reorganized within one department. (Tr. 134, 137) Complainant suggested to Manning that she be considered for the job, as it was well-suited to her skill set and background of having been a CVT and a leader of technical teams. (Tr. 799-801; 808-809) In the new position, Complainant had significantly more responsibility. In addition to five direct reports, who were managers, she was indirectly responsible for approximately 140 employees. (Tr. 801)

4. At all times relevant to this matter, Respondent Kathleen Collins was the Vice President of Human Resources at Angell, and headed the Human Resources department. (Tr. 1094) On July 7, 2009, Kathleen Collins emailed Chief Medical Officer, Dr. Jen Holm, who was acting Chief of Staff at the time, recommending that Holm discuss with Manning (who was out on maternity leave) that Complainant be given a 3% annual raise on her anniversary date in August, an additional \$4,790 to bring her salary to \$115,000 and a 10% bonus of \$10,700 in recognition of “her incredible work this year.” (Ex. C-18) Manning could not recall whether she approved these salary adjustments because she was out on leave at the time, but there is no dispute that they occurred. (Tr. 1021-1022)

5. Manning testified that 32 employees, including the Service Directors who comprised her senior management team, reported directly to her. Typically, she did not have time to complete annual performance evaluations for all these employees in a timely fashion. (Tr. 790-791; 802-03) So as not to punish employees for whom she did not complete evaluations, Manning typically budgeted for and approved a 3% increase each year for them. (Tr. 802-03, 804) Accordingly, pay raises were not necessarily dependent or based on good performance. (Tr. 1037, 1121) Complainant received 3% raises in three out of the four years of her employment.¹ (Tr. 802) Collins testified that Complainant was rewarded with a 10% bonus in 2009 for the work she did in her first year revamping the inpatient services, anesthesia and surgery departments. (Tr. 117-118) Manning acknowledged that Complainant's work in her first position as Director of Client Services had been exemplary, and that her move to a position of greater responsibility in May of 2009, with many more employees working in different departments supported the significant upward salary adjustment. (Tr. 812-813)

6. Manning testified that Complainant started off well in her new position, was a champion for the needs of the technical staff, and brought some really good ideas to the table. However, at some point Manning perceived that Complainant would cut corners when gathering information to support her requests and began to butt heads with Human Resources. (Tr. 813-814) Collins testified that the Human Resources Department ("HR") had undergone a long and comprehensive process to develop a compensation program that was internally equitable. (Tr. 1106-1107) As an advocate for raising technicians' salaries, Complainant often questioned or disagreed with the established compensation policies and practices, disrespected the functions of

¹ In 2011, only two Service Directors received raises, and Complainant was one of the six who did not receive a raise.

HR and did not respect Collins's expertise. (Tr. 1107-1108; 1121-1122) After initially viewing Complainant's job performance favorably, both Manning and Collins came to have an increasingly negative view of her based on what they perceived as inappropriate interactions and repeated conflicts with HR personnel.² (Tr. 813-818, 821, 1121-22.) Collins testified about an incident in 2011, which she memorialized in a memo to Complainant's personnel file, wherein Complainant engaged in a heated discussion with an HR representative and Collins was called in to resolve the dispute. Collins described Complainant's body language as defensive and demeaning. (Tr. 1130-1133; Ex. R-42)

7. Manning testified that in lieu of issuing formal discipline to Service Directors, her general practice was to provide counseling. (Tr. 831-32) Manning stated that over time she began to receive reports that Complainant's behavior, specifically her body language and tone of voice, was perceived as intimidating to other employees and often conveyed a message that she was angry. (Tr. 823-825) Mary Grace, Director of Client Services, testified that she had borne the brunt of some pretty negative comments from Complainant, and felt that she had been bullied by Complainant. (Tr. 1088) Manning regularly counseled Complainant during their weekly one-on-one meetings, and on several occasions, admonished Complainant that her body language and tone of voice were sending a negative message and that some employees felt bullied by her.³ (Tr. 461-64; 814-815, 822-25)

² Complainant admitted that she had frequent disagreements with HR throughout her tenure at the MSPCA, which often involved employee compensation decisions. (Tr. 143-44, 815-16)

³ There was testimony from several of Respondent's witnesses, and Complainant agreed, that she would frequently use body language- e.g., crossing her legs and arms and rolling her eyes – to show distaste or disagreement. (Tr. 461-63, 698, 815, 823-34, 837, 1064, 1087-88) This was consistent with my observations of Complainant's demeanor and comportment at the public hearing. Complainant admitted that Manning had asked her to avoid making negative facial expressions in meetings "more than once." (Tr. 461-63, 836-37)

8. In April of 2012, Complainant and Collins exchanged emails regarding an employee in Complainant's department who was considering changing roles. Complainant disagreed with HR's view as to what the employee's rate of pay and performance review date would be in the new position. (Ex. R-30) After receiving Complainant's initial email, Collins emailed Manning that she was "really starting to get offended" by Complainant. (Ex. R-31) Manning and Collins believed that Complainant's email communications to Collins were rude and disrespectful. (Tr. 818-819; 845, 1122-27) Manning testified that Complainant's disagreements regarding the pay structure and HR processes led her to be extremely frustrated and unhappy with HR. (Tr. 817-818) On April 23, 2012, Manning issued Complainant an oral warning – the only formal discipline Manning ever issued to a Service Director. (Tr. 829, 856; Ex. R-32)

9. In 2012, Manning hired an outside consultant, Horizon Veterinary Services ("Horizon") to work with Angell's support staff and Service Directors to improve client service. (Tr. 177-79) Following a meeting with Horizon in July of 2012, Director of Client Services Mary Grace informed Manning that Complainant had "thrown management under the bus" in front of the staff members at the meeting. (Tr. 860) Manning then communicated with Alyce D'Amato, the Horizon consultant who had run the meeting. D'Amato informed her that on the subject of client service, Complainant stated, "despite being part of leadership, I don't think things are ever going to change," and that "we cannot expect to make these changes without additional staffing." (Tr. 865; Ex. R-33) Complainant informed Manning that she made these comments in response to D'Amato's assertion that she had witnessed no good client service at Angell. (Tr. 181-183, 236) Manning felt that Complainant's comments were inappropriate and reflected poorly on management. (Tr. 868-869,871) D'Amato also told Manning that Complainant rolled her eyes and, in response to a comment about "meeting basic employee needs," Complainant made a sarcastic comment about the

failure of the MSPCA's air conditioning system. (Tr. 868-870) Complainant testified that her off-the-cuff remark was a joke and that people in the meeting laughed. (Tr.180) According to Manning, the air conditioning failure had occurred during a heat wave and that employees were suffering and making complaints. (Tr. 869) Manning thought Complainant's careless comment implied management was doing nothing to resolve the problem when Complainant knew that was not the case. When confronted by Manning, Complainant admitted her comment was inappropriate. (Tr. 868-70, 875; Ex. R-33)

10. Manning testified that Complainant's criticism of her management decisions in the presence of staff angered her, since she had specifically instructed the Service Directors, including Complainant, not to do this. (Tr. 832-34) On several occasions, Manning instructed Complainant not to question her management of the veterinary staff, including the Radiation Oncology Veterinarian. (Tr. 827-28, 900) According to Manning, it was perfectly acceptable to raise disagreements in private or in Service Director meetings, but it was not appropriate to undermine management's decisions in front of the staff. (Tr. 833) Manning spoke to Complainant privately about this issue again after the July Horizon meeting and raised it at a Service Director meeting on July 24, 2012.⁴ (Tr. 834; 874)

11. Complainant admitted to Manning that she had, in substance, made the comments D'Amato had reported.⁵ (Tr. 469-70; 869-870; Ex. R-33) Manning testified that she had suspected for a while that Complainant professed to agree with Manning's decisions but would then turn

⁴ Manning testified that she told the Service Directors, "when we make a decision in this room, you do not go out in front of the staff and dissent from what the management team is trying to do. . . you maintain your game face. You go out and you act like a Service Director and you support our decisions at this level." (Tr. 874)

⁵ Upon cross-examination, Complainant initially denied that she rolled her eyes or laughed at people's descriptions of customer service during that meeting (Tr. 470); however, when confronted with the admission in her deposition that she "could have rolled [her] eyes and laughed at people's descriptions" of what constituted good or bad customer service, Complainant admitted that she had, in fact, done so. (Tr. 470-71) Complainant also agreed that

around and undermine management by telling staff that she did not. (Tr. 876-877) Manning sent an email to D'Amato, conveying the details of her conversation with Complainant, and stating that D'Amato had confirmed her suspicion about Complainant's behavior. (Ex. R-33)

12. On August 8, 2012, Manning and Collins approved a 3% raise for Complainant, bringing her salary to \$122,003.50, and on the same day, Complainant was granted approval to work a shortened work week to complete her dissertation on how to achieve better retention of veterinary technicians at MSPCA. Complainant's salary was pro-rated to reflect a four-day work week and lowered to \$109,000. (Ex. C-28; C-29)

13. On August 9, 2012, Manning went out on a leave of absence to deal with her mother's health issues. Prior to her leave, Manning arranged for an August 12th meeting of the Horizon Consulting group with the Service Directors. Since Manning was to be out on leave, she asked Patty Ewing, Director of Pathology Services, and Mary Grace to run that meeting. (Tr. 870-881) On September 5th or 6th, when Manning returned from her leave of absence, Grace informed her that the meeting "didn't go particularly well." (Tr. 890-891) Grace reported that during a discussion about the client service initiative, Complainant stated that improvement in client service was not possible because certain "toxic" technicians were "protected." (Tr. 893, 1086-88) When the other Service Directors expressed concern and inquired further, Complainant crossed her arms and refused to discuss the matter or answer their questions about what she meant. (Tr. 893, 1086-88) Manning also heard that Complainant stated in the Horizon Group meeting that Manning was not holding the veterinary staff accountable and specifically referenced Manning not disciplining the Radiation Oncology Veterinarian, for "mouthing off" at a meeting. (Tr. 894) Manning later

her statement could have conveyed that management was not trying hard enough to get the air conditioning fixed. (Tr. 467-68)

spoke with other Service Directors who confirmed Grace's account of Complainant's behavior at the meeting and told her the meeting was very tense. (Tr. 894-95) Manning, who had discussed her handling of the veterinary staff with Complainant on numerous occasions, was angry that Complainant spoke negatively about her in front of her direct reports and the consultant. Manning testified credibly that she considered Complainant's comments disrespectful and conveyed her view that she considered Manning an ineffectual leader. (Tr. 896-897)

14. On August 28, 2012, while Manning was on leave, Complainant was informed by Silvia Coviello, a Veterinary Technician Manager and one of her direct reports, that Coviello was afraid of the Radiation Therapy Technician (hereinafter referred to as the RTT) who worked in the Oncology Department and reported to Coviello. Coviello did not say why she was afraid of the RTT but Complainant had experienced a prior incident with him when she was his direct supervisor where he screamed at her and cornered her in her office. She urged Coviello to file a report with HR. (Tr. 194-195, 197-198, 201) The following day Coviello called out sick and Complainant documented her concerns to HR and met with Chief Medical Officer, Jen Holm, who was Acting Chief of Staff in Manning's absence, and HR representative Tricia Casey, to discuss Coviello's fear and how to prevent further such incidents. (Tr. 201)

15. On September 6, 2012, Coviello called Complainant, who was driving home, to report that she had just had another serious incident with the RTT and was very upset and frightened. Complainant advised her to lock herself in her office and Complainant immediately contacted HR. (Tr. 203) Collins and HR representative Tricia Casey immediately went to Coviello's office to assist her. (Tr. 204-205; Tr. 1138-1139) Collins testified that after assessing the situation, she instructed Casey and another Veterinary Technician Manager, Jocelyn Strassel, to escort the RTT off the property. She also instructed Coviello to write a report of the incident.

(Tr. 1138-1139) Strassel then sent out an email to Manning, Complainant, and several others that the RTT had been fired. (Ex. C-34)

16. Manning had just returned from leave, and that evening, while driving home, she received a “hysterical phone call” from the Radiation Oncologist Veterinarian who was crying because she had just seen the email that the RTT, with whom she worked closely, had been fired. (Tr. 898) She asked Manning if this were true and expressed concern that the RTT was the only employee who could operate the linear accelerator, a machine used to dispense radiation to animal patients with cancer. Manning had no idea what was going on and stated she would contact Collins. (Tr. 898-899.)

17. Manning phoned Collins to determine the circumstances surrounding the email stating the RTT was terminated. (Tr. 899) Collins informed her that the RTT had an argument with Coviello, was escorted off the premises, and was suspended pending an investigation, but had not been terminated. (Tr. 900) Collins testified there appeared to have been a miscommunication between Casey, the HR generalist, and Strassel, the Veterinary Technician Manager who sent the email regarding termination, as it was Respondent’s typical practice to conduct an investigation prior to termination. (Tr. 1143; 1145-1147) Manning sent a follow-up email clarifying that the RTT had not been terminated, but was suspended pending an investigation, and calling a meeting for the following day to discuss the matter. (Tr. 906; Ex.R-34) Manning testified that she did not hear from Complainant that night and would have expected some communication from Complainant on how to proceed since she was the Service Director responsible for the team that managed the RTT. (Tr. 906-907) That evening, Manning learned from Jen Holm that there had been a series of issues with the RTT and Manning requested that Holm send her documentation of the RTT’s issues from the preceding six months for her review before the meeting. (Tr. 914)

18. Manning reviewed Coviello's report of her September 6th interaction with the RTT. (Tr. 923) The report stated that after an unpleasant phone call between them, Coviello went to the RTT's office where she told him that she did not appreciate the way that he spoke to her on the phone. The RTT became upset, stating that "he could do without this job, that he wouldn't think twice about walking out of [the MSPCA], that he didn't 'give a fuck' and that it was no 'skin off [his] dick.'" He also stated that he was very stressed, had too much work to do, and didn't "give a fuck" if he got in trouble for his behavior. He then slammed his pager on the desk and turned and left the room. (Ex. R-3) Manning testified she found this conduct "unacceptable" stating "you don't talk to anybody like that, whether they're your supervisor or your colleague." (Tr. 923)

19. A meeting was held on September 7, 2012, to discuss the incident with the RTT. Manning, Collins, Holm, Complainant, Coviello, the two other Veterinary Technician Managers, Strassel and Berkeley O'Keefe, and the Veterinarian Oncologist, who came late, were in attendance. Manning was frustrated because she had asked for all documents from the previous six months regarding problems with the RTT and had received only documentation related to the preceding two-week time period. (Tr. 922, 924, 927) Manning testified that it was apparent the RTT was very frustrated and she wanted to understand why he had acted in such an extreme manner. There was nothing in his personnel file to indicate that his conduct had been an on-going problem, other than Complainant's recent report, and he had received no verbal or written warnings. (Tr. 928; 932-933) In response to Manning's concerns that the RTT may have been poorly managed, Complainant raised the issue of Manning's failure to discipline the Radiation Oncologist Veterinarian for purportedly acting out. Manning was floored by this, and felt that Complainant was deflecting criticism of her management team by accusing Manning of being an ineffectual leader in front of

other management employees. (Tr. 934) Manning's distress at Complainant's reference to her management of a veterinarian was evident from her testimony which I found credible.

20. At the September 7th meeting, Complainant was vociferous in urging that the RTT be fired and insisted that his actions were sexual harassment. There was considerable disagreement about whether his actions, however inappropriate and offensive, constituted sexual harassment. Collins disagreed with Complainant's interpretation of his conduct. (Tr. 935-936; 1155) There was no evidence that the RTT had ever engaged in conduct of a sexual nature and Coviello testified that she viewed the RTT's behavior as inappropriate and harassment, but not necessarily sexual harassment. (Tr. 716-717; 745) Manning testified that they had a long conversation about this issue stating, "Patty brought up sexual harassment and then we had to go down that rabbit hole for half an hour." Ultimately they were getting nowhere in the discussion and Manning deferred to Collins. (Tr. 935-936) Manning testified that Complainant repeatedly attempted to "take over" the meeting, arguing that the prior six months had "no bearing on what happened on September 6th" and that the discussion should focus on RTT's conduct on that day. Manning finally had to tell Complainant, "[T]his is my meeting. I'm running this meeting. I asked to start six months before this incident. That's where we're starting. Stop interrupting me." (Tr. 929)

21. Complainant testified that she and the others at the meeting agreed the RTT's conduct was sexual harassment and wanted him fired, but Collins and Manning seemed not to share that view.⁶ (Tr. 220; 506-07, 693, 774) Complainant testified that they questioned Coviello about

⁶ No witness had ever observed the RTT engage in sexual conduct, ask for sexual favors, flirt with anyone, physically touch anyone or threaten to do so. None had ever heard him use offensive names or slurs, proposition anyone, or use sexist terms. (Tr. 500-01, 704-05, 905-906, 1089-90, 1141) At the hearing, Complainant insisted that the RTT grabbed or shook his "junk" at Coviello, but Coviello specifically testified that the RTT never "touched himself [or] touched or grabbed his genitals in front of [her]," and she did not recall saying that he had done so at the September 7th meeting. (Tr. 690, 705) The allegation does not appear in any accounts of the incident written directly after the event by Coviello

why she feared the RTT.⁷ (Tr. 221) Coviello testified that she also had the impression Collins was not in favor of firing the RTT. (Tr. 693; 728-729) Both Manning and Collins agreed that the RTT's behavior was profane and inappropriate, but they had questions about whether his misconduct was sexual harassment or serious enough to warrant termination. (Tr. 923; 1212; 1263; 935) Manning also testified that the RTT's conduct could be considered insubordination, an offense that would merit termination. (Tr. 935)

22. Manning was concerned that the RTT was the only employee who could operate the linear accelerator, a machine that dispenses radiation to animal patients who are scheduled for treatments on a set schedule. (Tr. 939-940) She asked the group if there was a plan to continue the radiation therapy program in the RTT's absence and her query was met with silence. (Tr. 937) Complainant's response was, "just tell me what you want us to do." (Tr. 513, 937) This was particularly frustrating to Manning because she believed that, as the Service Director responsible for the RTT position, Complainant should have had some ideas regarding finding a replacement, and she was angry at Complainant for not taking control of the situation. (Tr. 939, 942) Manning directed the group to "find someone to run" the linear accelerator and, to that end, assigned Complainant and others specific tasks in seeking a replacement. (Tr. 937-38, 944) At the conclusion of the meeting, Collins informed the group that HR would deal with all further issues regarding the RTT. Manning left the meeting believing they were in agreement that it was unlikely the RTT would return to work there. (Tr. 513-14, 936-937)

and Complainant. Despite Complainant's assertion, there is no evidence that this occurred or that Coviello ever said as much. I found Complainant's insistence to the contrary to be entirely disingenuous.

⁷ While Complainant testified that Manning and Collins "taunted" Coviello, and seemed to belittle her fear of the RTT, (Tr. 221, 508), Coviello testified that no one at the meeting mocked her or made fun of her. (Tr.729)

23. That same evening, Manning, Complainant and others participated in an email exchange regarding the search for a replacement for the RTT. In that exchange, Manning was informed that MSPCA was waiting to hear about someone who could operate the linear accelerator on a per diem basis until a regular full-time employee could be found. (Tr. 518-19; Ex. R-21) That same night, Manning exchanged emails with Chief Medical Officer Holm in which Manning stated that the Radiation Oncologist Veterinarian “wants to keep [the RTT] and will be angry as she grieves his loss...” (Ex. R-37) Although no final decision on termination had been announced at the meeting on September 7th, these emails strongly suggest that Manning had decided to terminate the RTT’s employment. (Tr. 954)

24. The following Monday, September 10, 2012, a per diem employee started working at the MSPCA running the linear accelerator. (Tr. 516, 951) Complainant came in to work on that Monday, which was to be her day off, to assist with starting up the linear accelerator. (Tr. 224-225)

25. The RTT’s employment was terminated effective September 11, 2012. (Tr. 514) He never returned to Angell after being escorted off the premises on September 6, 2012. (Tr. 723)

26. On September 11, 2012, the MSPCA Service Directors attended a regularly-scheduled meeting with a leadership consulting firm known as the BODA Group. (Tr. 476-77) At this meeting, Grace and Ewing who had run the August Horizon meeting in Manning’s absence, stated that Complainant left them with the impression at that meeting that she was not on board with the customer service initiative. (Tr. 477) Complainant denied this, stating that there had not been any conflict in August and that she was on board. (Tr. 237-238; 478, 962) Grace believed that Complainant was “doing an about-face” and changing her position dramatically from what had occurred in the August Horizon meeting. (Tr. 478) Manning and Grace were astonished by what

they perceived as Complainant's disingenuous recounting of the August Horizon meeting. (Tr. 961-62, 1091) Manning was particularly "floored" because, based on reports from people she trusted that the earlier meetings had gone poorly due to Complainant's behavior, she felt Complainant was now lying directly to her, her teammates, and the BODA consultants about her behavior in August. (Tr. 962)

27. Complainant testified that she cried at this meeting because she felt as though Ewing and Grace were attacking her from all sides. She stated that Manning had to leave the meeting at some point because she, too, was upset and crying. (Tr. 482-483) Manning testified that the meeting was very emotional and then Complainant brought up the RTT disciplinary issue and Manning's handling of the Sept. 7th meeting, which were unrelated to the BODA discussion. Collins had to admonish Complainant to cease discussing matters that involved confidential personnel information. Manning was so upset at Complainant for again questioning her leadership that she left the room and had to be coaxed back in by the consultant. Holm expressed concern that Manning might not return from her leave and Manning expressed concern that Holm was thinking of leaving the MSPCA. Manning reassured Holm that she still wanted her on the team, but was unable to give Complainant the same assurance. Manning left that meeting feeling that she could no longer work with Complainant and that one of them had to go. (Tr. 962-965) Collins testified that it was patently clear from that meeting that there was a problem between Complainant and Manning and that Manning was uncharacteristically upset. (TR. 1217-1218) Manning discussed with her husband that evening that she no was no longer able to trust Complainant. She testified that she felt Complainant was repeatedly dissembling the facts, telling Manning she was a great boss and that she liked working with her, and then turning around and telling others that Manning was essentially an ineffectual leader. (Tr. 965-966) The following day, Manning sent Collins an

email stating that she was considering asking for Complainant's resignation or terminating her employment and listed the reasons why. (Tr. 965-966; Ex. R-38) Collins assisted Manning in preparing a summary of her concerns. (Tr.1221)

28. On September 13, 2012, Manning and Collins met with Complainant. (Tr. 971-72) Manning stated that she was unhappy with Complainant's attitude and performance and was considering asking for her resignation or terminating her employment. (Tr. 972) She stated that Complainant repeatedly undermined her leadership, publicly challenged her handling of the veterinary staff, failed to show appropriate support for the client service initiatives, and misrepresented the air conditioning situation by insinuating management did not care about the staff. (Tr. 972) Complainant apologized, admitted she had "acted like a 12-year-old," and asked to be put out on a final warning with a coaching plan. (Tr. 247; 974) Manning responded that she was sorry, but that she no longer trusted Complainant to be a member of her team. (Tr. 974) Collins stated that Complainant's employment was suspended pending an investigation and that Complainant would be contacted regarding the status of her employment. (Tr. 976) Complainant did not raise the issue of alleged sexual harassment by the RTT or retaliation during this meeting. (Tr. 974)

29. Over the next several days, Collins interviewed several Service Directors and Holm about their recollection of Complainant's behavior in the Horizon meetings and to confirm their understanding of Manning's directive not to question her handling of the veterinary staff and management decisions. (Tr. 1232, 1280; Ex. R-51) The Service Directors' feedback was consistent with Manning's impression of Complainant's behavior. Holm stated that she was "[f]loored that [Complainant] said anything about [the Veterinary Oncologist]" and "[i]t was understood that [Manning] clearly indicated that her decisions should not be questioned." (Ex. R-51) None of the