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**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JESSE L. ROSS, JR.

PLAINTIFF

VS.

NO. 4:12CV120-A-V

GREENWOOD UTILITIES

DEFENDANT

**COMPLAINT
(JURY TRIAL DEMANDED)**

1. Plaintiff, Jesse L. Ross, Jr., files this civil action for equitable relief and for damages for discrimination on the basis of his race and in violation of his rights secured by Title VII of the Civil Rights Act of 1964, as amended, and Title 42 U.S.C. §1981. The defendant subjected Jesse L. Ross, Jr. to race discrimination in its discipline practices and discriminated against him when the defendant refused to promote him to the position of chief executive officer. After the defendant hired a less qualified white as its chief executive officer, the working conditions became so intolerable that Jesse L. Ross, Jr. was forced to leave his job as Vice President of Engineering and Construction.

2. This court has jurisdiction over Jesse L. Ross, Jr.'s claims pursuant to 28 U.S.C. §1331. Venue is proper under 42 U.S.C. §2000e-5(f)(3) as the unlawful employment actions occurred in the Northern District of Mississippi, Greenville Division. The Plaintiff also invokes the pendent jurisdiction of this court to address all issues arising under state law.

II.

PARTIES

3. Plaintiff, Jesse L. Ross, Jr., is an adult African-American citizen of the United States, residing at 323 Quail Trail, Greenwood, Mississippi 38930. Plaintiff brings this action within ninety (90) days of receiving his Notice of Right to Sue. *See*, Exhibit A.

4 Defendant, Greenwood Utilities Commission, is a municipal utility district. Greenwood Utilities may be served by service on its Chairman of the Board. At all times mentioned herein, Defendant, Greenwood Utilities, was and is a municipal owned utility with its principal place of business in Greenwood, Mississippi.

III.

STATEMENT OF THE FACTS

5. On or about August of 2010, Jesse L. Ross, Jr. (hereinafter "Ross") applied for the position of chief executive officer of Greenwood Utilities. At the time, Jesse L. Ross, Jr. was the Vice President of Engineering and Construction.

6. Jesse L. Ross, Jr. was qualified for the position of chief executive officer. Despite Jesse L. Ross, Jr.'s qualifications, Greenwood Utilities Commission refused to interview Jesse L. Ross, Jr. for the position. The chief executive officer's position with Greenwood Utilities went unfilled more than one year after Greenwood Utilities posted the position as vacant.

7. Upon information and belief, on or about February of 2012, without announcing that the chief executive officer's position was still open and that the commission was considering filling the position, Greenwood Utilities' three-person commission voted 2-1 to fill the position. James Quinn and Tommy Gary, who are white, voted to hire Brian Finnegan as the chief executive officer. Finnegan is white. Upon information and belief, Annie Washington, an African-

American commissioner, voted against Brian Finnegan's hiring. The position for chief executive officer was not reposted. Prior applicants were not given notice that the three-person commission was considering filling the position.

8. The chief executive officer's position at Greenwood Utilities has never been held by an African-American. Upon information and belief, James Quinn, chairman of the commission, vowed that Greenwood Utilities would never hire an African-American to serve as its chief executive officer.

9. When Greenwood Utilities' former chief executive officer was underperforming in his job, Greenwood Utilities demoted Dudley McBee (hereinafter "McBee") to the position of chief financial officer. McBee is white. After McBee's demotion, Greenwood Utilities transferred supervision of the water distribution and electric distribution departments to Jesse L. Ross, Jr. and gave Jesse L. Ross, Jr. a new title. The water distribution and electric distribution departments were headed by whites. Although the transfer of the water distribution and electric distribution departments to Jesse L. Ross, Jr. required him to perform additional duties, Greenwood Utilities did not increase Jesse L. Ross, Jr.'s salary.

10. In December of 2011, the two whites who headed the water and electric distribution departments were removed from the supervision of Jesse L. Ross, Jr. and began reporting directly to the three-member commission. Upon information and belief, the three-person commission is a policy making commission and by law is prohibited from being involved in the day to day operations of Greenwood Utilities. No reason was given for the change.

11. In February of 2012, the two white members of the commission voted to hire Brian Finnegan, a white male as Greenwood Utilities' chief executive officer. Within one month, Brian Finnegan, called Jesse L. Ross, Jr. into his office and told him that he was not pleased with

his work. Jesse L. Ross, Jr. asked Brian Finnegan to place his concerns in writing because Brian Finnegan failed to articulate specific concerns he had about Jesse L. Ross, Jr.'s performance. Brian Finnegan refused to outline his concerns in writing for Jesse L. Ross, Jr., but he told him that one of the commissioners had warned him that Jesse L. Ross could be trouble.

12. Jesse L. Ross, Jr. had been with Greenwood Utilities for more than 22 years when he was unfairly admonished about his performance by Brian Finnegan. In fact, Jesse L. Ross, Jr. had not received any negative feedback as a result of his work and his performance appraisals showed that he performed excellent work.

13. From the time that he arrived at Greenwood Utilities, the white chief executive officer ridiculed Jesse L. Ross, Jr.'s job performance, wrote a false report concerning Jesse L. Ross, Jr.'s job performance, talked down to him and tried to frustrate him at every opportunity.

14. On May 18, 2012, the white chief executive officer placed Jesse L. Ross, Jr. on six-month probation with a threat of termination. By this time, working conditions had become so intolerable that Jesse L. Ross, Jr. was forced to resign.

IV.

CAUSES OF ACTION

COUNT 1

RACE DISCRIMINATION

15. Plaintiff re-alleges and incorporates all averments set forth in paragraphs 1 through 14 above as if fully incorporated herein.

16. Defendant's actions constitute intentional discrimination on the basis of race in violation of Title VII and 42 U.S.C. § 1981.

17. As a direct and proximate result of Defendant's unlawful, discriminatory conduct toward Plaintiff, he has lost wages and benefits and has sustained other pecuniary loss. Plaintiff has also been denied opportunities for career advancement. Defendant's discriminatory practices, insults, contempt and disdain have been demeaning to Plaintiff and have caused him to suffer deep pain, humiliation, anxiety, and emotional distress.

18. The unlawful actions of Defendant complained of above were intentional, malicious, and taken in reckless disregard of the statutory rights of Plaintiff.

V.

BREACH OF CONTRACT

19. Plaintiff re-alleges and incorporates all averments set forth in paragraphs 1 through 18 above as if fully incorporated herein.

20. The Defendant breached Jesse L. Ross, Jr.'s contract to work as Senior Vice President of Distribution and Engineering from February 23, 2012 through January 31, 2013 by constructively terminating him on account of his race.

VI.

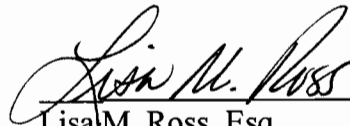
CLAIMS FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Jesse L. Ross, Jr. respectfully demands a trial by jury and pray for a Judgment against the Defendant as follows:

a. Actual, compensatory and Incidental Damages in the amount to be determined by a jury for the embarrassment, humiliation, mental anguish and severe emotional distress, and loss of employment opportunities he suffered as a direct and proximate result of the conduct of the Defendant described hereinabove. Plaintiff also seeks back pay, including but not limited to front pay;

- b. Fringe benefits that have incurred since the defendant's discrimination;
- c. Compensatory damages in the form of reduced wage earning capacity, emotional pain, suffering, inconvenience, mental anguish and other non-pecuniary losses as permitted by Section(s) 102 (b) (3) of the Civil Rights Act of 1991;
- d. Jesse L. Ross, Jr. also seeks attorney's fees pursuant to Title 42 U.S.C. §§ 1988 and any and all costs associated with this lawsuit.
- e. Defendant's actions set forth hereinabove constitute a willful wanton and reckless disregard for the rights of Jesse L. Ross, Jr. to be free from discrimination in employment. Jesse L. Ross, Jr. is further entitled to recover liquidated and punitive damages pursuant to Title 42 U.S.C. §§ 1981 a(b)(1) in an amount to be set by the tier of fact.
- f. Plaintiff also seeks such other and further relief as the Court and Jury may deem just and proper under the circumstances as hereinabove set forth.
- g. Plaintiff also seeks injunctive relief.

RESPECTFULLY SUBMITTED, this the 11th day of December, 2012.



Lisa M. Ross, Esq.
MSB# 9755
P.O. Box 11264
Jackson, MS 39283-1264
(601) 981-7900 telephone
(601) 981-7917 fax

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Jesse L. Ross, Jr.
323 Quail Trail
Greenwood, MS 38935

From: Jackson Area Office
100 West Capitol Street
Suite 338
Jackson, MS 39269

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
423-2012-01745	Larry E. Turner, Investigator	(601) 948-8410

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Wilma Jomo Scott

Wilma Scott,
Director

09/12/2012

(Date Mailed)

Enclosures(s)

cc: Jean Cadney
Human Resources Manager
GREENWOOD UTILITIES
Post Office Box 866
Greenwood, MS 38935

Kenneth E. Milam
WATKINS & EAGER
P.O. Box 650
Jackson, MS 39205

