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Jack D. Graham, Chief Administrative Officer

Date: June 26, 2013

TO: Mayor Charlie Hales

FROM: Anna Kanwit, Director, Bureau of Human Resources *A*  
 Vincent Woods, Business Partner, Bureau of Human Resources *VW*

SUBJECT: Report of Investigation, Findings and Conclusions - Complaint of Inappropriate Conduct and Inappropriate Statements by a City Employee While On Duty - Case No. 13-0008

**Introduction**

This report summarizes the findings and conclusions regarding an investigation conducted jointly by Anna Kanwit, Human Resources Director, and Vincent Woods, Human Resources Business Partner, into allegations against Baruti Artharee, Policy Director, Mayor Hales' Office. Mr. Artharee is accused of making inappropriate comments while serving in an official capacity representing Mayor Hales' Office. One of the comments was directed at Multnomah County Commissioner Loretta Smith. The second comment concerned a statement by Mr. Artharee that he was a "field Negro."

On June 6, 2013, Mr. Artharee attended and served as the informal emcee for an event at The Quartet Restaurant. The Skanner, a newspaper, co-sponsored the event to introduce the City of Portland's Office of Equity and Human Rights Director, Dante James, to a group of invitees primarily representing Portland's African American community.

During this event, Mr. Artharee acknowledged several attendees in the audience. When Mr. Artharee acknowledged Commissioner Loretta Smith, he made a statement directed at the Commissioner saying, "Here is our beautiful Commissioner, Loretta Smith - mmm, mmm, mmm, she looks good tonight." There was also a report that Mr. Artharee made a sexually suggestive motion with his hips as he made the comment. At a later point during the event, an attendee noted that Mr. Artharee was now in the "big house," a reference to his position with Mayor Hales. Mr. Artharee responded that he was still a "field Negro." Various media outlets also reported on these comments after the event.

The Mayor's Office first heard of Commissioner Smith's concerns regarding Mr. Artharee's conduct on Friday, June 7. On Tuesday, June 11, the Mayor requested that an investigation be conducted.

The City conducted this investigation of Mr. Artharee's actions under the Human Resources Administrative Rules (HRAR) 2.02 - Prohibition Against Workplace Harassment, Discrimination

Charlie Hales, Mayor

We are an equal opportunity employer

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and Retaliation and HRAR 5.01 - Discipline (9) Discourteous treatment of the public or other employees, offensive conduct or conduct unbecoming a City employee.

This report is divided into three sections. Section I – Investigation Method, identifies the individuals interviewed and outlines, in brief, the specific allegations of the complaint. Section II – Allegations, Findings, and Conclusions, lists in detail the allegations, summarizes findings based on the interviews, and states conclusions based on the facts discovered in the investigation. Section III – Summary of Conclusions provides the results of the investigation.

### Section I. Investigation Method

The findings and conclusions within this report are based on interviews with the following individuals. We did not interview all of the attendees at the event in question but interviewed a cross-section of City employees, community members, males and females, including some attendees who asked to be interviewed.

Interviewee	Position	Interview Date(s)	Category	
Commissioner Loretta Smith	Multnomah County Commissioner	June 13 & June 20	Complainant	
Witness		June 13	Witness	
Witness		June 14		
Witness		June 14		
Witness		June 14		
Witness		June 14		
Witness		June 14		
Witness		June 17		
Witness		June 17		
Witness		June 18		
Witness		June 25		
Baruti Artharee	Policy Director, Mayor Hales' Office	June 19 & June 20		Respondent

### Section II. Allegations, Factual Findings and Conclusions

#### Complainant: Commissioner Loretta Smith - June 13 and June 20, 2013

Commissioner Smith attended the event at The Quartet on June 6. The program was already in process when she arrived. She stated Mr. Artharee introduced her by saying, "Here is our beautiful Commissioner, Loretta Smith - mmm, mmm, mmm, she looks good tonight." Commissioner Smith described Mr. Artharee's comment toward her as "embarrassing;" she felt "minimized" and disrespected, particularly in her role as a Multnomah County Commissioner. She also felt that Mr. Artharee was trying to make it appear that he had a close relationship with the Commissioner and that there was an inference he was "untouchable" due to his position with the Mayor. Commissioner Smith felt Mr. Artharee's demeanor came across as arrogant and intimidating.

Based on this investigation, we understand that Mr. Artharee was the informal emcee of the event. Frank Taylor, the restaurant owner, welcomed the attendees and then introduced Bernie Foster of The Skanner and co-sponsor of the event. Mr. Foster then turned the program over to Mr. Artharee. Mr. Artharee was acknowledging others at the event when Commissioner Smith arrived. As Mr. Artharee started to acknowledge her, Commissioner Smith stated that Antoinette Edwards tried to stop Mr. Artharee from making a statement, but he continued.

The Commissioner was in the back of the room at the time and made no comment to Mr. Artharee; she left shortly afterward due to her schedule and another event to attend.

There was no physical contact between Commissioner Smith and Mr. Artharee. Although there was a report that Mr. Artharee also made a suggestive physical movement when he commented on the Commissioner's appearance, Commissioner Smith did not observe any physical movement directed toward her.

The Commissioner wanted it made clear that she did nothing to cause Mr. Artharee to direct any attention toward her and that she was shocked he acted in that manner. She also described "backlash" and a "fallout" within the African American community resulting from Mr. Artharee's comments and public attention to those comments. She has been asked by certain community members to "shut this down" and questioned why she is "outing" an African American male in a leadership position. Commissioner Smith believes the incident will continue to negatively influence her effectiveness and her reputation as a County Commissioner. She also describes being unable to sleep. She did not want the issue to go public. She did not initiate any contact with the media; however, once the events were made public she felt she had no choice but to acknowledge publicly what had occurred at The Quartet.

Commissioner Smith also discussed previous incidents of inappropriate statements to her by Mr. Artharee.

- OAME event approximately one year ago (prior to Mr. Artharee's City employment): Commissioner Smith was a keynote speaker; Mr. Artharee introduced her and described how good she looked in the red dress she was wearing.
- Delta/Links event "Diamond and Denim Gala" approximately six (6) weeks ago (this was subsequent to Mr. Artharee's employment with the City but it is not clear that he was serving in an official capacity). Mr. Artharee was the emcee and commented that the Commissioner looked good in those jeans.
- At the Multnomah County Commission offices approximately one month ago in an elevator with the Commissioner and staff member David Austin: Mr. Artharee told the Commissioner she looked good; that everyone in the County looked good. Mr. Artharee was there in his official capacity to discuss issues related to gangs in Portland.

Commissioner Smith expressed concern that continued or unaddressed inappropriate conduct toward her will give others the impression that it is ok to approach her in a less than respectful manner.

Commissioner Smith also felt that Mr. Artharee's comment about being a "field Negro" was inappropriate.

## **Witnesses Interviewed**

### **Witness - June 13, 2013**

Witness attended the June 6 event with Commissioner Smith and was standing beside her when Mr. Artharee made the comment about the Commissioner's appearance. As Mr. Artharee began to acknowledge Commissioner Smith, witness heard another witness say "no, no," but Mr. Artharee went on to say that Commissioner Smith was looking good tonight. Commissioner Smith told this witness she felt uncomfortable. Shortly afterwards this witness and the Commissioner left due to a prior commitment to attend another event.

Witness was also present at the OAME event and confirmed that Mr. Artharee commented about the Commissioner's appearance and red dress.

### **Witness - June 14, 2013**

Witness attended the June 6 event. Witness arrived close to the beginning of the event and stayed until near the end. Witness confirmed Mr. Artharee made the comment about "our beautiful commissioner." Witness was diagonal to Commissioner Smith and observed her moving further away as Mr. Artharee was speaking. Witness did not observe any physical movement by Mr. Artharee directed toward Commissioner Smith.

Witness has known Mr. Artharee and Commissioner Smith for over 20 years. He has always been very professional toward witness. According to witness, it is "Baruti" to say, "you look beautiful" or "you look good in that dress." Witness believes Mr. Artharee's conduct was serious but is not convinced the intent was to embarrass the Commissioner. Witness expressed surprise that the incident grew to the current level of media response. Witness also noted was not aware of any previous incidents where Mr. Artharee made comments to Commissioner Smith regarding her appearance. Witness heard the comment Mr. Artharee made about being a "field Negro," in response to something Mr. James had said.

### **Witness - June 14, 2013**

Witness attended the event on June 6<sup>th</sup>. Witness arrived at about 5:30 and left just after 6:30 (the event was scheduled to go from 5:30 to 7:00 or 7:30). Witness heard Mr. Artharee introduce Commissioner Smith but was distracted and did not hear the specific comment made by Mr. Artharee. However, witness observed Commissioner Smith "blushing" afterward. At the time, witness was standing about 30 feet from the Commissioner. Witness recalled a nervous laughter in the crowd immediately after the introduction. Witness stated there was no further conversation about Mr. Artharee's comments. Witness confirmed at the event as a representative of the Mayor's Office.

### **Witness - June 14, 2013**

Witness attended the event on June 6 for the entire time. Witness was there because this witness is a member of the City Equity Committee. Witness said was standing approximately 7 to 8 feet from Mr. Artharee and heard the comment directed at Commissioner Smith. Witness said recalled Mr. Artharee saying something like she looked real nice or real good. Witness did not observe any physical movement by Mr. Artharee that was directed at the Commissioner.

Witness thought Mr. Artharee's comments were meant to be complimentary of Commissioner Smith and was under the impression they knew each other. (Witness was not familiar with others in attendance or with outside relationships they may have and did not know Commissioner Smith). Witness did notice Commissioner Smith smiling in a cordial manner after the comment. Witness said Mr. Artharee made other introductions but that he did not make comments about anyone else similar to what he had said about Commissioner Smith. Witness also acknowledged the other comment at issue concerning being a "field Negro," but that Witness believed Mr. Artharee was stating he was not going to "sell out" or forget his roots.<sup>1</sup>

### **Witness - June 14, 2013**

Witness attended the entire event on June 6. Witness said it was a very informal event and that people were visiting with each other. Witness was engaged in conversation with other attendees about the Office of Equity and Human Rights and was not paying attention to the comments made by Mr. Artharee. Witness said that Mr. Artharee introduced others at the event, including Frank Garcia and Sharon Gary-Smith. Witness was standing 5 to 6 feet from Mr. Artharee and did not observe any physical movement. Witness thought when Mr. Artharee introduced Commissioner Smith he may have said something to the effect that she looked good, but again, was not really paying attention. No one in the group this witness was with reacted to Mr. Artharee's statement nor did Witness notice any reaction from the crowd. Witness stated assumed that based on the media accounts of that evening, Mr. Artharee did make the comments reported.

### **Witness - June 14, 2013**

Witness was at the June 6 event when it began and was present when Mr. Artharee was making introductions. Witness could see that Mr. Artharee was "amped up" and just before he was going to introduce Commissioner Smith, this witness attempted to stop him, concerned about what he was going to say. Witness yelled out "don't go there" but Mr. Artharee ignored the witness and proceeded to comment on the Commissioner's physical appearance. Witness confirmed that Mr. Artharee said, *"Here is our beautiful Commissioner, Loretta Smith - mmm, mmm, mmm, she looks good tonight."*

Witness heard Mr. Artharee say, "Witness said don't go there," so believed he heard and knew what the witness meant. Witness described feeling a level of discomfort for Commissioner

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<sup>1</sup> This sentiment was echoed by all interviewed who heard the "field negro" comment; that at this event there was nothing inappropriate about the comment and it was clear that Mr. Artharee intended it as a statement that he remembered where he came from.

Smith, and could not look in the Commissioner's direction after the comment was made. Witness recalled that some of the audience thought Mr. Artharee's comments and actions were inappropriate. One attendee who left at the same time was "livid" about the comment directed toward Commissioner Smith. Witness feels this incident has "fractured" some within the African American community, with members taking sides.

Witness spoke with Mr. Artharee and Commissioner Smith within 24-hours after the event. Witness' conversation with the Commissioner was to "console" her. Mr. Artharee asked this witness to be in his office the next day when he called Commissioner Smith to apologize. Unable to speak to the Commissioner directly, Mr. Artharee left an apology via voice mail.

Witness also confirmed that Mr. Artharee had commented about Commissioner Smith's red dress at the OAME event.

#### **Witness - June 17, 2013**

Witness attended the event on June 6 and confirmed that Mr. Artharee's introduction of Commissioner Smith included the comment as alleged. At the time this witness was standing close to Mr. Artharee. The witness did not observe any physical movement by Mr. Artharee directed at the Commissioner. The witness stated that Mr. Artharee "wobbles" when he speaks and there was nothing sexual about his movement. The witness did not observe any outward reaction from Commissioner Smith immediately after the comment was made and stated she had a "poker face." The witness felt Mr. Artharee's comment was inappropriate.

The witness confirmed that someone in the audience said, "don't do it" to Mr. Artharee before he made his comments but he proceeded anyway. The witness was also present at the OAME event and remembered that Mr. Artharee made a comment about Commissioner Smith's appearance.

#### **Witness - June 17, 2013**

Witness attended the June 6 event and arrived early. The witness describes standing next to another witness when Mr. Artharee commented about Commissioner Smith's appearance and hearing that witness attempt to stop Mr. Artharee before he proceeded.

The witness stated that the crowd seemed ambivalent and there was no audible gasp, except from the other witness, after Mr. Artharee made the comment about Commissioner Smith's appearance. Mr. Artharee did not show any remorse for his actions. The witness has known Mr. Artharee for years but has not seen him act in such a manner before.

#### **Witness - June 18, 2013**

Witness attended the June 6 event and heard the comment made by Mr. Artharee. The witness stated that Mr. Artharee acknowledged a number of people at the event, including the Commissioner. The witness confirmed that Mr. Artharee stated, "*Here is our beautiful Commissioner, Loretta Smith - mmm, mmm, mmm, she looks good tonight.*" The witness felt that adding "mmm, mmm, mmm" was more than just saying the Commissioner looked good. The witness did not hear anyone from the audience telling Mr. Artharee to stop before he made his introduction, nor was the witness able to confirm seeing any physical reaction by

Commissioner Smith during his comments. The witness noted comments were made that "men are so inappropriate." The witness believed these comments referenced both Mr. Artharee's comments about Commissioner Smith as well as the length of his remarks prior to introducing Dante James.

This witness did not have any knowledge of any previous events where Mr. Artharee engaged in similar conduct. The witness did note that they had heard in a candidate forum a reference to Commissioner Smith as "our lovely Commissioner," but the comment was not made by Mr. Artharee.

#### **Witness - June 25, 2013**

Witness attended the June 6 event, but arrived after Mr. Artharee had finished his introductions and was not present when he introduced Commissioner Smith. Witness was not aware of the comment Mr. Artharee made until Monday when it was reported in the media.

#### **Respondent: Baruti Artharee, Policy Director, Mayor Hales' Office - June 19 and June 20, 2013**

Baruti Artharee attended the June 6 event at The Quartet and, in fact, suggested the forum as a way to introduce Dante James to Portland's African American community. The intent was to invite practitioners in the area of diversity, opinion leaders in the African American community, and those who had contact with the Office of Equity and Human Rights. The invitee list was limited to 30 to 40 people. Mr. Artharee considered himself to be the emcee of the event. He stated there was no formal program and that he did not intend to do any introductions but that he did a "shout out" to various attendees - - to Frank Taylor, the owner of The Quartet, to Bernie Foster, who co-sponsored the event. The event was to be informal and lighthearted.

Commissioner Smith was not there at the start of the presentation but he said that he always goes out of his way to introduce Elected Officials so he acknowledged her when he saw her walk in. According to Mr. Artharee he stated, "Let me acknowledge our beautiful County Commissioner, Loretta Smith - hmm, hmm, hmm." Mr. Artharee stated that he frequently ends his sentences with the sound "hmm, hmm, hmm" as a way to acknowledge a joke or just to end the sentence. He stated he has made this sound in his throat for decades. Mr. Artharee emphasized he was not being salacious and that there is a difference between "mmm, mmm, mmm" and "hmm, hmm, hmm." Mr. Artharee also said he did not make any physical movement as he was complimenting the Commissioner. He did hear a witness state, "don't go there," but felt that witness was just saying do not add to the compliment. Mr. Artharee further explained that he goes out of his way to acknowledge the beauty of African American women due to their historical mistreatment.

Mr. Artharee recalled that Dante James had thanked him for his introduction and made a comment that Mr. Artharee was working in the big house now. Mr. Artharee said, "I am a field Negro working in the big house," meaning that he is a grass roots person and has not forgotten where he came from.

Mr. Artharee acknowledged attending the OAME event about a year ago, prior to working for Mayor Hales. Mr. Artharee had not seen Commissioner Smith for some time and when he

introduced her he said, "Here is our County Commissioner and isn't she looking good tonight" or "isn't she looking beautiful?" No one advised him his comment was not appreciated. He also attended the Delta/Links event mentioned by Commissioner Smith and made reference to her appearance in his introduction. He stated he talked about her professional accomplishments at that time as well. Mr. Artharee noted that he received a thank-you from the Delta/Links organizers and was asked to emcee the event again next year. According to Mr. Artharee, he has only used two phrases with respect to Commissioner Smith's appearance - - "good looking" and "beautiful commissioner." He does not intend to diminish her but to state she has more than physical beauty. He denies ever commenting on her clothes. He also denied making any comments to Commissioner Smith about her appearance or the appearance of other County employees in an elevator at County offices.

Mr. Artharee requested a second interview to respond more thoroughly to the question of whether he complimented males as well as females on their appearance. During the first interview he stated no, but realized that was not accurate. He provided several examples of complimenting males on their clothes, including the Assistant Chiefs in the Police Bureau when they wore their dress uniforms and a City Attorney who wore bow ties, since Mr. Artharee also wears bow ties, to name a couple. He also said it is common in church to comment on the clothes of both men and women.

Mr. Artharee did not intend to offend anyone or to "objectify" Commissioner Smith. He apologized to her and states he is remorseful, that this behavior will not be repeated.

#### **Allegation #1**

The allegation against Baruti Artharee is that on June 6, 2013 while in attendance at an event at The Quartet Restaurant he made an inappropriate comment directed at Multnomah County Commissioner Loretta Smith when he said, "*Here's our beautiful Commissioner Loretta Smith - mmm, mmm, mmm, she looks good tonight.*" Commissioner Smith took exception to the public introduction as it focused on her physical appearance, causing her to feel embarrassed and humiliated. Commissioner Smith stated his conduct was inappropriate and that as a representative of the City of Portland and the Mayor's Office Mr. Artharee should be held accountable. There was also an allegation that Mr. Artharee made an inappropriate physical movement while complimenting Commissioner Smith.

#### **Finding #1**

The City's investigation focused on Mr. Artharee's actions as it related to the Human Resources Administrative Rules 2.02 (Prohibition Against Workplace Harassment) and 5.01 (Discipline, [9] Discourteous treatment of the public, or other employees, offensive conduct or conduct unbecoming a City employee). The City conducted a series of interviews that included City employees as well as business and community attendees at The Quartet event on June 6. Mr. Artharee acknowledged that he commented on Commissioner Smith's appearance when he introduced her and although he did not intend to offend anyone he has apologized to Commissioner Smith for his actions.

#### **Conclusion #1**

Commissioner Smith and other witnesses confirmed that Mr. Artharee stated, "*Here is our beautiful Commissioner, Loretta Smith - mmm, mmm, mmm, she looks good tonight.*" Mr. Artharee acknowledges he made this comment although he says he said "hmm, hmm, hmm"



at the end of the comment, not "mmm, mmm, mmm" in the middle of the statement. He further noted this is a common speech pattern for him. Regardless of whether Mr. Artharee said "mmm, mmm, mmm" in the middle of his introduction of Commissioner Smith or "hmm, hmm, hmm" at the end of his introduction, the investigation substantiated that Mr. Artharee commented on Commissioner Smith's appearance in a manner that can be reasonably interpreted as sexual in nature and that is how Commissioner Smith perceived the comment. Due to its sexual nature, Mr. Artharee's comment directed toward Commissioner Smith violated HRAR 2.02. The fact that he did not intend the comment to be sexual or that he did not intend to offend Commissioner Smith is not relevant.

Mr. Artharee did not make any sexual physical movement to accompany his comment to Commissioner Smith. This aspect of the allegation is unsubstantiated.

### **Allegation #2**

Commissioner Smith alleged that Mr. Artharee has engaged in a pattern of conduct that is disrespectful toward her. She provided three examples when Mr. Artharee referred to her physical appearance. Two of the times occurred at public events when he was introducing her and one was in the elevator at County offices.

### **Finding #2**

Witnesses confirmed that at an OAME event Mr. Artharee commented on the Commissioner's appearance and specifically referenced how she looked in a red dress she was wearing. Mr. Artharee admits commenting on her appearance but denies commenting about her clothing. Similarly at a Delta/Links sponsored event Mr. Artharee commented on the Commissioner's physical appearance. He admits the comment but denies saying that she looked good in those jeans. Mr. Artharee does not recall being in an elevator at County offices with Commissioner Smith and Dave Austin or stating that she looked beautiful.

### **Conclusion #2**

The investigation established that on at least two prior occasions (one of which occurred after Mr. Artharee began working for the Mayor) Mr. Artharee referenced Commissioner Smith's appearance, stating she is good looking or stating here is our beautiful Commissioner in his introduction of her. Although he denies commenting about her clothes he admits to commenting about the clothes of others. Several witnesses also confirmed that Mr. Artharee commented on Commissioner Smith's red dress. Consequently, we conclude that Mr. Artharee did make the two comments as alleged. It is unclear whether Mr. Artharee made any comment to Commissioner Smith in the elevator. Because only one of the substantiated comments occurred while Mr. Artharee was a City employee, the pattern does not establish an independent violation of HRAR 2.02.

### **Allegation #3**

It was reported that Mr. Artharee's comment about being a "field Negro" was inappropriate.

### **Finding #3**

The investigation established and Mr. Artharee admitted stating he was a "field Negro." The witnesses confirmed this was in response to an attendee's comment that Mr. Artharee was in the "big house" now in reference to his position with the Mayor. Most of those interviewed felt

the comments were appropriate under the circumstances and that Mr. Artharee was simply stating that he remembered his roots.

**Conclusion #3:**

The comment occurred as alleged and violated HRAR 2.02. Several witnesses stressed the importance of acknowledging the cultural context surrounding Mr. Artharee's statement. This conclusion is not intended to dismiss the cultural significance of the comment nor Mr. Artharee's intent; however, the comment was not conducive to creating a respectful and professional workplace, free from harassment, discrimination, and retaliation as required by the City's rule.

**Section III. Summary of Conclusions**

Respondent violated HRAR 2.02 and 5.01(9) when he made an inappropriate comment to an Elected Official at a public event where he was representing the Mayor's Office. HRAR 2.02 defines harassment as *"inappropriate verbal or physical conduct, which may include conduct that is derogatory or shows hostility towards an individual, related to the individual's protected status. The intent or consent of the person engaging in the inappropriate conduct does not matter."* An introduction of an Elected Official or any person at an official event and in one's official capacity as a representative of the City should focus only upon the person's accomplishments, not on their physical appearance. Mr. Artharee's introduction of Commissioner Smith at The Quartet - "Here's our beautiful Commissioner, Loretta Smith - mmm, mmm, mmm, she looks good tonight"- was sexual in nature, was offensive to her, and minimized her accomplishments as a County Commissioner. The fact that Mr. Artharee did not intend to offend Commissioner Smith is irrelevant to our finding of inappropriate conduct. Mr. Artharee also violated HRAR 5.01 by engaging in conduct that was discourteous and offensive to a member of the public.

Respondent also violated HRAR 2.02 when he referred to himself as a "field negro". The comment was derogatory and while it generally was perceived as ok in this particular setting (a gathering of members of the African American community) neither the setting nor the audience perception dictates whether the City's rule is violated.

The substantiated/unsubstantiated findings are limited to violations of the employee standards set by the City of Portland Human Resources Administrative Rules 2.02 and 5.01. The findings are not determinations as to violations of any State, Federal, or other laws.

Cc: G. Shibley  
Investigative File