

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MICHAEL G. OLIVERI,

Plaintiff,

V.

SHELL OIL COMPANY,

Defendant

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CIVIL ACTION NO. \_\_\_\_\_

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Michael G. Oliveri ("Mr. Oliveri" or "Plaintiff"), files his Original Complaint against Shell Oil Company ("Shell," "the Company," or "Defendant"), showing as follows:

**SUMMARY**

1. This is a case of willful discrimination and retaliation under the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621, *et seq.* Mr. Oliveri is a decorated war veteran, Colonel in the U.S. Army Reserve, and a retired supervisor for the United States District Courts.

2. In August 2015, Mr. Oliveri obtained a security related job with a contractor to Shell. In August 2016, Mr. Oliveri applied for an open job directly with Shell as its Security Advisor US. The position was within a group headed up by Crockett Oaks, Shell's Regional Security Manager – Americas for Shell. Mr. Oaks reported to James W.D. Hall, a British citizen working in the Company's Global Headquarters located in The Hague, Netherlands.

3. The job Mr. Oliveri applied for was open as the result of an employee named Bob Schoen being reassigned to a position of greater authority. Mr. Schoen is in his fifties. Around the time Mr. Schoen was reassigned, Mr. Hall sent Mr. Oaks an e-mail stating, "[I]et's indeed look to backfill Bob's role with some **younger** external talent." (Ex. 1) (bold added). Mr. Hall also preferred a female to fill the opening, and he put that preference in writing too (Ex. 2 at 3).

4. In September 2016, Mr. Oaks instead recommended that Mr. Oliveri – a male applicant over the age of 50 – be hired, because he was the best qualified applicant for the opening as determined by a group of individuals who vetted the applicants. Mr. Hall objected to Mr. Oaks’ recommendation, stating in an e-mail on September 14, 2016, that: (a) he had wanted someone “with the potential for a longer career in Shell”; and (b) wanted Mr. Oaks to “to look particularly at female candidates.” (Ex. 2 at p. 3). Mr. Hall then spoke to Dana Croft, Shell Policy Team Lead Domestic – U.S. HR about Mr. Oaks’ recommendation to hire an older male, and, according to an e-mail Ms. Croft’s sent Mr. Oaks, Mr. Hall, “**mentioned his concerns (female talent and early career).** . . .” (Ex. 3) (bold added).

5. Mr. Oaks refused to hire based on age and sex, and instead continued to recommend hiring the best qualified applicant for the job – Mr. Oliveri – who, as mentioned above, happened to be a male over 50 years old. In other words, Mr. Oaks opposed Mr. Hall’s illegal discriminatory desires for him to hire based on age and sex.

6. In October 2016, Mr. Oliveri was offered, and accepted, the Security Advisor U.S. job. This angered Mr. Hall. And, just two months later, in early December 2016, Mr. Hall: (a) personally fired Mr. Oaks in retaliation for his legally protected oppositional conduct; and (b) then, based on age and/or sex, personally pulled the job offer that had been extended to Mr. Oliveri.

7. After his termination, Mr. Oaks retained counsel and, over the next three months, he: (a) sent Shell a demand letter alleging retaliation; (b) filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) alleging retaliation; and (c) filed suit against Shell alleging retaliation. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1. Mr. Hall and Mr. Oliveri figured prominently in the demand letter, the Charge, and the lawsuit. This further upset Mr. Hall and made Mr. Oliveri *persona non grata*

within Shell. As such, although Shell purported to repost the Security Advisor U.S. position in early 2017, and to give Mr. Oliveri another chance to reapply and re-interview for it, in reality Shell had already decided that it would never hire Mr. Oliveri for the role because of his age, his sex, and in retaliation for his involvement with, and proximity to, Mr. Oaks and his repeated and ongoing protected activities against Shell. *See supra*.

8. Sure enough, on April 24, 2017, Shell informed Mr. Oliveri that he would not be hired into the Security Advisor U.S. position this time either, and – to add insult to injury – it was cancelling his contract with the contracting company he worked for at the end of the year, so he would be totally unemployed.

9. In sum: (a) Shell discriminated against Mr. Oliveri based on age and/or sex, when, in December 2016, it rescinded the job of Security Advisor U.S. that he was offered, and had accepted, in October 2016; (b) Shell illegally discriminated and retaliated against Mr. Oliveri when he was passed over for the Security Advisor U.S. job after it was reposted and he applied and interviewed for it again in 2017; and (c) Shell illegally discriminated and retaliated against Mr. Oliveri when it cancelled his contract with GS4, effective the end of 2017, thus rendering him unemployed at that time. Shell's conduct violates the ADEA's anti-discrimination and anti-retaliation provisions, 29 U.S.C. § 623(a) and (d). It also violates the anti-retaliation provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, and the Texas Commission on Human Rights Act ("TCHRA"), TEX. LAB. CODE ANN. § 21.001 *et seq.*

10. Mr. Oliveri has exhausted his administrative remedies under the ADEA, but not Title VII or the TCHRA. Thus, he brings this suit only under the ADEA at this time. Once he has exhausted his administrative remedies under Title VII and the TCHRA, he will amend this lawsuit to assert claims under the anti-discrimination and anti-retaliation provisions of those two laws.

**THE PARTIES, JURISDICTION, AND VENUE**

11. The Plaintiff, Mr. Oliveri, is a natural person residing in The Woodlands, Texas. But for the illegal discrimination and retaliation, he would have been employed by Shell located at One Shell Plaza, 910 Louisiana Street, Houston, Texas 77002. Mr. Oliveri has standing to file this lawsuit under the ADEA.

12. Shell is headquartered at One Shell Plaza, 910 Louisiana Street, Houston, Texas 77002, is a citizen of Texas, and may be served with process through its registered agent, C T Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, Texas 75201-4234. During 2015, 2016, and 2017, Shell engaged in an industry affecting commerce and employed twenty or more employees for each working day in each of twenty or more calendar weeks. In fact, during 2015, 2016, and 2017, Shell employed 501 or more employees for each working day in each of twenty or more calendar weeks.

13. The Court has personal jurisdiction over Shell based on both general and specific jurisdiction. Personal jurisdiction is proper because Shell has continuous and systematic contacts with and in the State of Texas, and the events or omissions giving rise to the Plaintiff's claims occurred in the State of Texas.

14. Subject matter jurisdiction is proper because Mr. Oliveri brings claims for discrimination and retaliation under a federal law (the ADEA).

15. Venue is proper in this Court because a substantial part of the events or omissions giving rise to the Plaintiff's claims occurred in the Southern District of Texas, and the unlawful employment practices alleged in this case occurred in the Southern District of Texas.



**FACTUAL BACKGROUND**

**A. In October 2016, Mr. Oliveri Was Offered A Job At Shell In Houston, But James W.D. Hall, Shell's Vice President Of Corporate Security In The Hague Was Unhappy About That, Because He Admittedly Wanted Someone Younger And Preferably A Female For The Job**

16. Mr. Oliveri retired after 24 years of distinguished service as a supervisor for the United States District Courts in Houston, Texas. Simultaneously, he serves as a Colonel in the United States Army both on active duty and as a reserve officer. He has served two combat tours in Afghanistan. His military awards include: 4 Meritorious Service Medals, a Defense Meritorious Service Medal, a Bronze Star Medal and the Legion of Merit.

17. In 2014, while he was still employed by the United States District Courts system, Mr. Oliveri applied for a job at Shell. Crockett Oaks, Regional Security Manager – Americas, was the hiring decision manager. At the time, Mr. Oaks was in the same Army Reserve Unit as Mr. Oliveri. Mr. Oaks declined to hire Mr. Oliveri because he believed another applicant was better qualified.

18. In August 2015, at the age of 52, Mr. Oliveri retired from government service as a GS-14. On August 31, 2015, Mr. Oliveri was hired by a Shell contractor, named G4S Secure Solutions in Houston (“G4S”). He was paid \$80,000 a year with 10 days of leave and 7 holidays. He was hired as the Event Security Advisor, embedded in the corporate security office at Shell in Houston. Mr. Oliveri was well received by the Shell corporate security team members and was seen as a highly educated and trained professional in the field of security. He was told multiple times by multiple individuals employed by Shell that his work was far superior to those who had preceded him in the role, which had been in existence continually since 2006. Mr. Oliveri was also very favorably viewed by the Shell Production Center of Excellence team with whom he worked most closely in providing security guidance. In addition to the numerous tasks he

undertook as the event security advisor, he assisted with many other tasks in the corporate security office. He received many accolades from Shell surrounding his competence on work and projects assigned.

19. In his contract position, Mr. Oliveri reported to Mr. Oaks. That Mr. Oliveri and Mr. Oaks were both in the same Army Reserve Unit was well known, well publicized, and well documented within Shell, and was specifically disclosed to, and known by, Mr. Oaks' manager in The Hague, James W.D. Hall (Ex. 6); *see also Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 14, 18-20.

20. In August 2016, Shell posted an internal opening for Security Advisor U.S., which was a role previously occupied by Bob Schoen,<sup>1</sup> before he was reassigned to Country Security Manager, U.S. Mr. Oliveri applied for the opening, along with many other individuals. At the time of his application, Mr. Oliveri and Mr. Oaks had no reporting relationship with one another in the Army Reserve.

21. On August 26, 2016, Mr. Oliveri was informed by the hiring manager, Bob Schoen, that he would be given an interview for the position on August 29, 2017, at 1:00 p.m. Mr. Schoen told him that the interview would be before a panel consisting of himself, Mr. Oaks, and Pete Lininger, Downstream Security Manager Americas. The interview would be in two parts, a question and answer portion and a presentation. Mr. Schoen informed Mr. Oliveri that he needed to prepare a presentation on "regulatory requirements and the impact they have on physical security in the oil/gas and petrochemical industry."

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<sup>1</sup> The job description for this particular role combined two other roles that were eliminated within the Corporate Security Americas - U.S. Team; Regulatory Assurance Manager and Security Manager – US.

22. On August 29, 2016, Mr. Oliveri was interviewed by the three-member panel and shared his original presentation. On September 9, 2016, Mr. Oliveri was informed by Mr. Schoen and Mr. Oaks that he was recommended to Dana Croft, Shell Policy Team Lead Domestic – U.S. HR, as the preferred candidate for the position. Ms. Croft ratified the process that they followed and their ultimate decision that Mr. Oliveri was the best applicant for the position, and to recommend him to the ultimate decision-maker, James W.D. Hall, Vice President of Corporate Security, in Royal Dutch Shell plc's Global Headquarters located in The Hague, Netherlands.

23. Mr. Hall resisted hiring Mr. Oliveri. Mr. Hall's problem with Mr. Oliveri was his age (Mr. Oliveri was 53 years-old) and his sex. Mr. Hall made no secret of that. On July 7, 2016, even before the position was formally posted, Mr. Hall sent Mr. Oaks an e-mail stating, "[l]et's indeed look to backfill Bob's role with some **younger** external talent." (Ex. 1) (bold added). Bob Schoen is in his 50s. Ms. Croft was copied on that e-mail (*Id.*). After Mr. Oaks let Mr. Hall know that he was recommending Mr. Oliveri for the position on September 9, 2016, Mr. Hall asked him how old Mr. Oliveri was, and Mr. Oaks told him that he was approximately 51-years old.

24. Mr. Hall was frustrated and unhappy that Mr. Oaks had recommended someone older for the job despite his clear instructions on July 7, 2016, to "look to backfill Bob's role with some **younger** external talent." (Ex. 1) (bold added). Consequently, Mr. Hall e-mailed Mr. Oaks on September 14, 2016, at 9:29 a.m., objected to the hiring of Mr. Oliveri, and reminded Mr. Oaks he had let him know even before the position was posted that: (a) he had wanted someone "with the **potential for a longer career** in Shell"; and (b) wanted him to "to look particularly at **female** candidates." (Ex. 2 at page 3 (bold added)). Specifically, Mr. Hall wrote:

Crockett,

I must be honest, I still don't feel comfortable about this decision. The principle I apply is that my direct reports should be free to chose their own staff, provided they

take into account of steer I have provided in discussions about broader issues like diversity, talent management, career progression and succession planning.

In this case you consulted me about the CSM role. I agree to support Bob's [Schoen's] appointment so long as we took the opportunity to backfill for Bob by going to the market and **hiring someone with potential for a longer career** at Shell who could potentially move through a series of appointments and be future RSM material. **We have also discussed (in the context of other appointments) prioritizing the hiring of female staff.** The profile we discussed was ex-government agency, **still early in career** and (based on previous conversations) **you know I would want you to look particularly at female candidates.**

I have only seen the shortlist and your final recommendation. I have nothing against the individual, but I struggle to see how your proposed candidate brings fresh perspectives or diversity to your team. In short, I am concerned that we are guilty of a lack of imagination in looking for candidates and have opted for a safe option, at risk of failure to bring some fresh and different talent into Shell.

So before we go ahead, I would like to discuss our options with Dana and Klara. Can you set something up for us please? Friday is a good day for me if that works for others.

(Ex. 2 at pp. 2-3) (bold added).

25. Mr. Oaks continued to support the recommendation to hire Mr. Oliveri, based on merit (Ex. 2 at pp. 1-2). In subsequent e-mails later that same day, September 14, 2016, Mr. Hall continued to suggest that Mr. Oliveri was too old and/or the wrong sex for the job (*Id.* at 1). For example, Mr. Hall wrote, in relevant part:

Mike may enable us to close today's gap. But we also need to consider whether we can use opportunities like this to hire and develop our future security leadership. On diversity, for different reasons, we have lost several women from our ranks over the last year or so and when we have an opportunity like this I would like to see what options we have to replace them.

(Ex. 2 at 1).

26. Given Mr. Hall's reaction to the recommendation to hire Mr. Oliveri, Mr. Oaks was concerned about potential retaliation by Mr. Hall, so that same day he forwarded Mr. Hall's 9:29 a.m. e-mail to Dana Croft at 11:05 a.m. with a note, "Confidential Do Not Forward." (Ex. 3). Apparently, Mr. Hall had also communicated with Ms. Croft separately, and then Ms. Croft sent

Mr. Oaks an e-mail back at 11:15 a.m. that day in which she stated that Mr. Hall had e-mailed her and “**mentioned his concerns (female talent and early career<sup>2</sup>) . . .**” (Ex. 3) (bold added). Mr. Oaks was not copied on that e-mail from Mr. Hall to Ms. Croft. Shell, obviously, had an obligation to preserve it as evidence.

27. Mr. Hall’s discriminatory conduct and statements in these e-mails is not isolated. Rather, Mr. Hall said on numerous occasions that he wanted the Corporate Security Leadership Team to focus on hiring women and to think about succession – particularly focusing on younger workers – when hiring. Mr. Hall also said on numerous occasions that he wanted his managers to “identify young talent,” within the organization, meaning talent that could hold a series of jobs in the security function over a number of years and ultimately become leaders in the department. Mr. Hall essentially admitted to these prior statements in his e-mail to Mr. Oaks of September 14, 2016, at 9:29 a.m., in which Mr. Hall referenced such prior discussions along those same lines and took Mr. Oaks to task for deviating from them in his recommendation to hire Mr. Oliveri (Ex. 2 at pp. 2-3). Consistent with his statements, Mr. Hall has facilitated putting in place younger individuals in the Corporate Security organization.

28. On September 19, 2016, a teleconference was held with Mr. Oaks, Mr. Hall, Dana Croft, and Klara Smits (HR Account Manager for ER, ICNCS). During the call, Mr. Oaks told Mr. Hall that a criterion he wanted to use to screen applicants, age, could not be used in the U.S., because it was against the law. Mr. Oaks explained that a candidate’s age was not even revealed on applications or resumes. Mr. Hall suggested that perhaps they could infer an applicant’s age by other indicators, and then use that to screen. Ms. Croft then said that could not be done. At

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<sup>2</sup> “Early career” was one way Mr. Hall expressed a preference for younger workers (e.g., those “early in their career” rather than later in their career). This is evident, for example, by comparing Mr. Hall’s own e-mails of July 7, 2016 and September 14, 2016, which use specifically the word “younger” and the phrase “early in career” to mean the same thing, *i.e.*, find a younger worker to backfill for Bob Schoen’s old position (compare Ex. 1 to Ex. 2 at 3).

that point, Mr. Hall began stating that more females were needed in the Corporate Security Department, and, shortly thereafter, two external candidate females (Veronica Washington and Susan Pletz) were interviewed for the Security Advisor U.S. position.

29. On September 27, 2016, Mr. Oaks and Mr. Hall were on a business trip in Trinidad and discussed the situation concerning the hiring of someone to fill the position of Security Advisor U.S. By this point, all the individuals involved in the selection process had made it clear that in their judgment Mr. Oliveri was the best qualified applicant. It was also made clear to Mr. Hall by Mr. Oaks that he was not going to simply go along with Mr. Hall's desire to hire someone for the position based on age (younger) and/or gender (female). Accordingly, Mr. Hall publicly purported to relent from his previously announced illegal position, and sent an e-mail stating, "[A]ll, Crockett and I have discussed. Support for the decision to proceed." Yet, Mr. Hall remained upset and unhappy with Mr. Oaks – his subordinate had disobeyed him and called him out for his discriminatory hiring desires in front of others.

30. During their conversation that day in Trinidad, Mr. Oaks expressly reminded Mr. Hall that both he and Mr. Oliveri were in the same U.S. Army Reserve Unit – something Mr. Hall had already long been well aware of<sup>3</sup> – and he used this as a basis to bolster his conclusion that Mr. Oliveri had the best qualifications, *i.e.* the right behaviors, work ethic, competence etc. In response, Mr. Hall made an innuendo suggesting that unidentified people thought that Mr. Oaks was just "hiring his old Army buddy," *i.e.*, Mr. Oliveri. Mr. Hall provided no support at all for the comment, and Mr. Oaks verbally refuted it so thoroughly – including accurately pointing out that he had declined to hire Mr. Oliveri when he had applied for a Shell role before when he did not

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<sup>3</sup> See, *e.g.*, Ex. 6.

believe him to be the best qualified applicant – that Mr. Hall backed down from the contention, and agreed to approve the decision to hire Mr. Oliveri.

31. Mr. Oaks nevertheless remained troubled by Mr. Hall’s comment about just “hiring his old Army buddy.” Shell’s Code of Conduct’s “Conflicts of Interest” policy suggests filing a disclosure with the Code of Conduct Register if there is a perceived conflict, so as to “protect yourself from any suspicion of misconduct . . . .” In compliance with this provision, and to avoid even the possible appearance of impropriety, the next day, September 28, 2016, Mr. Oaks voluntarily, of his own initiative, formally filed a Conflict of Interest Disclosure with the Code of Conduct Register concerning his relationship with Mr. Oliveri, including an accurate description of their military service and military and social relationship just as he had told Mr. Hall the previous day (Ex. 4). That disclosure was routed, as a matter of course, to, among others, Mr. Hall. Mr. Hall made no mention to Mr. Oaks about it, presumably because, as noted above, he had long been well aware that Mr. Oaks and Mr. Oliveri both served in the Army Reserve Unit (Ex. 6). Mr. Oaks spoke with Mr. Hall and told him that he had declared the matter in the Company’s Code of Conduct Register. To Mr. Oaks, it seemed that Mr. Hall was not very happy about that.

**B. Because Mr. Hall Admittedly Wanted To Hire Someone Younger, And Preferably Female, For The Job, He Had Mr. Oaks Fired On False Charges In December 2016, And Then Pulled Mr. Oliveri’s Job Offer**

32. On October 3, 2016, Mr. Oliveri was given a formal written job offer for the Security Advisor U.S. position (Ex. 5). As reflected in the job offer, the position paid \$114,000.00 per year, plus eligibility for a bonus of up to 15% of his base salary (*Id.*). Mr. Oliveri accepted the offer, and was scheduled to start in the job on November 1, 2016 (*Id.*). At this time, Mr. Oliveri was given Shell employee number 261514 and received access to the Shell internal portal where, until June 2017, he was able to access his Personal Summary Report, Current Compensation

Profile, and Individual Performance Review Outcomes for the job he was offered, and accepted, at Shell as Security Advisor U.S. Mr. Oliveri was, and remains, qualified for this job, and Shell has never claimed otherwise.

33. On October 27, 2016, Mr. Oliveri received an email from Shell's Human Resources department indicating that the hiring process for him had been put on hold pending an investigation. Almost simultaneously, he received an email from Jasper Smidtman, from Shell's Business Integrity Department in The Hague, Netherlands – the same location as Mr. Hall. Mr. Smidtman indicated in the email that he wanted to interview Mr. Oliveri on November 3, 2016.

34. Shell's policy provides that investigations "usually involve a suitability-trained investigator from the country to which the report refers, who has local expertise." Shell has a Business Integrity Department in the United States of America. But, instead of using one of those American investigators, or an American external consultant, Shell assigned Mr. Smidtman to the investigation, a non-American, who was not "suitably trained."

35. On November 3, 2016, Mr. Oliveri met with Jasper Smidtman in the Houston office. Based on the tone and aggressiveness of the interview, he quickly realized that Mr. Smidtman was attempting to find a conflict of interest with Crockett Oaks and their military reserve affiliation. It was obvious to Mr. Oliveri that Mr. Smidtman was not on a fact finding mission but instead was interviewing him to concoct a story to undo his hiring as the Security Advisor U.S. Others were interviewed as well by Mr. Smidtman including Crockett Oaks, Bob Schoen and Pete Lininger. They also indicated to Mr. Oliveri the same witch hunt tone from Mr. Smidtman, as opposed to an interview seeking to find facts and the truth. Mr. Oaks explained this in great detail in the sworn lawsuit he filed against Shell on March 30, 2017. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 39-45.



36. There was no conflict of interest – Mr. Oaks and Mr. Oliveri were not in any military reporting relationship at the time of Mr. Oliveri’s application, interview, or hiring – and, in any event, as e-mails prove, Mr. Oaks had not hidden his military relationship with Mr. Oliveri from Shell (Ex. 6); *See also Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 39-45. Nevertheless, during his interview of Mr. Oaks, Mr. Smidtman told Mr. Oaks, *inter alia*, that Mr. Hall had asserted that he had no knowledge that both Mr. Oaks and Mr. Oliveri were in the same U.S. Army Reserve Unit or that they had known each other for several years (Ex. 6 at page 1). This, of course, is totally false, and Mr. Oaks let him know that both verbally and by providing written proof to completely refute Mr. Hall’s allegations (*Id.*). During the interview, Mr. Oaks, feeling very uncomfortable, expressly told Mr. Smidtman that he believed Mr. Hall was retaliating against him because he had refused to accede to his desire to hire a younger and/or female applicant for the position of Security Advisor U.S. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶ 40. In response, Mr. Smidtman did nothing (*Id.*).

37. On December 6, 2016, Mr. Oaks was fired by Mr. Hall. Mr. Hall told Mr. Oaks that he had committed an actual conflict of interest involving the military affiliation between himself and Mr. Oliveri, and failed to report it. That is totally false. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 74-75. Until that point, Mr. Oaks had never been disciplined once in his 13-year career with Shell, had received uniformly positive reviews and numerous promotions, and was deemed promotable to an executive level position by Shell. The fact is, Mr. Hall retaliated against Mr. Oaks for not following his discriminatory desire to hire based on age and sex, and that is why Mr. Oaks was fired. Shell

offered Mr. Oaks a severance, release, and confidentiality agreement, in hopes he would sign it and, as a result, Mr. Hall's discrimination would never come to light.

38. With Mr. Oaks gone, Mr. Hall turned his attention to torpedoing Mr. Oliveri, who he never wanted for the Security Advisor US job in the first place, because of his age and sex. Three days later, on December 9, 2016, Mr. Hall informed Mr. Oliveri that he would not receive the Security Advisor U.S. position for which he had been hired. Mr. Hall said Shell would repost the position, and he could re-apply. At the time, Mr. Hall did not offer any explanation to Mr. Oliveri as to why any of this had occurred. Mr. Hall did not claim that Mr. Oliveri was not qualified for the Security Advisor U.S. position.

39. On December 13, 2016, Mr. Oliveri received an e-mail from Mike Dixon, Supervisor for G4S, indicating that Shell insisted that Mr. Oliveri change the signature block on his e-mail account from Shell Oil Co. to G4S Secure Solutions. Mr. Oliveri had used Shell Oil in his signature block since he started in his role at Shell, and Shell was well aware of that. Additionally, the previous G4S contractor who held this position used Shell Oil Co. in his signature block. At this time, Mr. Oliveri was also directed to no longer use his Shell business cards, which had been provided and paid for by Shell, and was given replacement business cards with the G4S logo.

40. On December 16, 2016, while Mr. Oliveri was participating in a global teleconference with Shell's corporate security members, Mr. Hall told the group of the need, and his desire, to hire females in the corporate security department.

**C. Shell Reposted The Job Mr. Hall Had Just Pulled From Mr. Oliveri, And Invited Him To Reapply, As A Pretext To Cover Up The Fact That It Would Never Give Him The Job Because Of Age And Sex Discrimination, And Retaliation**

41. Mr. Oaks did not sign the severance, release, and confidentiality agreement Shell offered him when it fired him. Instead, on December 22, 2016, Mr. Oaks, through his legal

counsel, sent Shell a lengthy letter, accusing the Company – and particularly Mr. Hall – of retaliating against him because he opposed Mr. Hall’s discriminatory desires to hire based on age and sex. In that lengthy letter, Mr. Hall’s victim, Mr. Oliveri, was mentioned repeatedly. No doubt, this upset Mr. Hall, who had hoped that Mr. Oaks was going to sign the severance, release, and confidentiality agreement he had been offered.

42. On January 13, 2017, Mr. Oliveri sent an e-mail to Shell’s Human Resources department seeking clarification on the outcome of the investigation and more information as to why he was not hired for the Security Advisor U.S. position. In response to that e-mail, James W.D. Hall and Andrew Maynor, Shell’s HR Account Manager had a teleconference with Mr. Oliveri. Mr. Hall stated that they found integrity issues in the hiring process. However, both Mr. Hall and Mr. Maynor told Mr. Oliveri that he had done nothing wrong. In addition, neither Mr. Hall or Mr. Maynor asserted that Mr. Oliveri was not qualified for the Security Advisor U.S. position. During the conversation, Mr. Hall indicated, as he had in December 2016, that the job offer would be officially rescinded by Human Resources but that he could repost for the position. This “reposting” was a sham designed to whitewash Mr. Hall’s discrimination against Mr. Oliveri based on his age and/or sex. There was not way that Mr. Hall was going to allow Mr. Oliveri to be hired for the Security Advisor U.S. position. He did not want him to begin with, because of his age and sex (Exs. 1-3).

43. On January 16, 2017, Mr. Oliveri received an email from Kathy Long, a recruiter with Shell’s Human Resources department, indicating the job offer to him had been rescinded. On January 17, 2017, a new job posting appeared for the Security Advisor U.S. position, with a closing date of January 31, 2017.

44. On January 27, 2017, Mr. Oaks filed a Charge of Discrimination with the EEOC that included several exhibits to it, including the aforementioned December 22, 2016, letter to Shell from Mr. Oaks' counsel (Ex. 7). That same day, at 1:00 p.m., Mr. Oaks' legal counsel e-mailed a file-stamped copy of the EEOC Charge, with its exhibits, to Shell's in-house lawyer, John Parsons.

45. On February 9, 2017, Mr. Oaks and Shell went to mediation with a private mediator. Mr. Oaks' case did not settle. Six days later, on February 15, 2017, Mr. Oliveri received a telephone call from Kathy Long indicating they wanted to schedule an interview on February 21, 2017, for the Security Advisor U.S. position. From this and other evidence, it is clear that Shell was connecting Mr. Oaks' EEOC Charge and threatened litigation with Mr. Oliveri. Indeed, the two are connected, because Shell fired Mr. Oaks' in retaliation for opposing Mr. Hall's illegal discrimination against Mr. Oliveri (Exs. 1-3).

46. During the telephone call with Mr. Long, she indicated that the interview process was different this time and there would be no presentation portion. Mr. Oliveri thought this was odd. The presentation segment was the portion of the first interview process that Thomas Hutt, an applicant for the Security Advisor U.S. position, and current Shell employee, under-performed and, ultimately, skewed his rating matrix, which was one of the main reasons which led to him not being offered the Security Advisor U.S. position. It was also a segment of the interview Mr. Oliveri had performed very well in. Ms. Long acted extremely apologetic to Mr. Oliveri for having to go through the process again and stated that "Shell does not typically operate like this."

47. On February 21, 2017, Mr. Oliveri interviewed for the Security Advisor U.S. position (again). In the room were Bob Schoen, Andrew Maynor, and Kathy Long (who was there the second hour). On the telephone was Dan Jones, a Shell Corporate Security member from Europe. The interview was part of the contrived sham designed to whitewash Mr. Hall's illegal

discrimination against Mr. Oliveri. After the interview, more than two months went by and Mr. Oliveri heard nothing about the interview or the position.

48. On March 30, 2017, Mr. Oaks filed suit against Shell in federal court in Houston, Texas, under case number 4:17-cv-00979. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1. Approximately two weeks later, Mr. Oaks' case against Shell was dismissed by agreement of the parties on April 11, 2017. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 6.

49. On April 23, 2017, eight weeks after his second interview, Mr. Oliveri sent an e-mail to James Hall, Bob Schoen, Kathy Long and Andrew Maynor indicating it had been two months since the interview and requested a status update on the process.

50. The next day, April 24, 2017, Mr. Oliveri was invited to meet with Andrew Maynor and Bob Schoen. Mr. Oliveri was advised that the job was given to Thomas Hutt, a candidate he had beat out for the job the first time the job was posted. Mr. Schoen then stated that Mr. Oliveri's current job contract would be honored until the end of the year, and after that it would come to an end. In other words, Mr. Oliveri did not get the Security Advisor U.S. job, and his own job was going to be terminated at the end of the year, so that he would be rendered unemployed. So Shell and Mr. Hall got what they wanted after all – Mr. Oaks was fired, and, in the end, Mr. Oliveri was not hired into the Security Advisor U.S. role.

51. Mr. Oliveri was shocked. The event Security Advisor position he holds through G4S has been in existence since 2006 – more than a decade. There was no indication prior to the discrimination and retaliation by Mr. Hall and Shell that the contract was not long-term. Had Mr. Oliveri not been caught up in the middle of illegal discrimination and retaliation, there is no doubt the G4S contract he had been working under would have continued indefinitely. Thus, the

“generosity” of Shell in allowing Mr. Oliveri to stay in the G4S position through December 2017 is actually retaliatory, as he otherwise would have had the G4S position for many years based on the feedback and reviews he had received.

52. Later on April 24, 2017, Mr. Oliveri filed his own EEOC Charge, alleging age discrimination, sex discrimination, and retaliation (Ex. 8). Three days later, on April 27, 2017, Mr. Oliveri received an e-mail from Shell stating “[u]nfortunately, the vacancy U.S. Security Advisor (Houston, TX) has been withdrawn...” (Ex. 9). This appears to be another attempt at deception and cover up by Shell as the position was not really “withdrawn,” but instead given to Thomas Hutt. Mr. Oliveri currently continues to work in his contractor position with GS4 which, as mentioned, will end at the end of this year.

53. A few days later, Mike Dixon, Supervisor for G4S, told Mr. Oliveri that he was surprised to hear that Mr. Schoen had told him that his contract was ending at the end of 2017, because the contract G4S has with Shell for the position of Event Security Advisor ran through June 2018.

54. Shell had many opportunities to intervene in this matter and correct the illegal and wrongful actions of James W.D. Hall, that were in violation of Shell’s Code of Conduct and the laws of the United States. Instead, Shell leadership at the highest levels of the Company chose to rally behind the discriminatory actions of Mr. Hall, and erect a facade designed to try to cover up Mr. Hall’s illegal discrimination.

55. For example, on November 3, 2016, evidence of illegal discrimination came to light during investigative interviews held by Jasper Smidtman, Investigator, Shell Business Integrity Department. It appears that Smidtman chose to downplay this evidence, as it did not fit the narrative of the fabricated story about a conflict of interest between two honorable senior military

officers. Alison McNeil, Smidtman's boss and head of the Business Integrity Department, had knowledge of the evidence of illegal discrimination. It appears McNeil choose not to take action. Scott Ballard, Executive Vice President, Shell Human Resources, Houston, Texas was aware of the evidence of illegal discrimination and it appears he chose not to take action. Leanne Geale, Shell's Ethics and Compliance Department, Houston, Texas also had an opportunity to intervene at the appropriate time. She did nothing. Bruce Culpepper, County Chair and President - U.S. is responsible to ensure that Shell's Code of Conduct is upheld. Culpepper presumably had a full understanding of the many violations but apparently lacked the intestinal fortitude to put a stop to James W.D. Hall's lies, deceit and discriminatory actions. Finally, upon information and belief, James W.D. Hall's boss, Ronan Cassidy, Shell's Chief Human Resources and Corporate Officer, having full knowledge of all the events, allowed the illegal discrimination against Mr. Oliveri without any remediation.

56. These senior individuals are charged with the responsibility of upholding and enforcing Shell's Code of Conduct by setting the course and tone and setting the example for the company. It appears however, that none of these aforementioned individuals saw fit to correct the course that James W.D. Hall set. In fact, as proven by is own e-mails (Exs. 1-3), James W.D. Hall clearly violated Shell's Code of Conduct provision the purports to prohibit illegal discrimination. Yet James W.D. Hall still has a job with Shell. The collusion by senior leadership at Shell, and conduct designed to cover up James W.D. Hall's illegal discrimination, indicates a systemic pattern of illegal discrimination, and is counter to what Shell espouses publically when people are watching.

57. On April 20, 2017, Bruce Culpepper sent an email to "ALL EMPLOYEES & NON EMPLOYEES IN THE WORKPLACE", which states in part, "Shell recognizes the importance of

diversity and inclusion in creating a work environment that leverages our differences...This includes more visible differences such as gender, race, or ethnicity, and less visible differences such as religion, or beliefs...” This message was sent just 4-days before Mr. Oliveri was denied employment at Shell (for a second time) based on his and in violation of the laws prohibiting illegal discrimination and retaliation. Culpepper’s email is nothing but hollow and hypocritical words designed to disguise the unhealthy culture of illegal discrimination and retaliation at Shell.

58. On May 31, 2017, Shell submitted its Position Statement to the EEOC. IT was written by Andrew Maynor, Shell’s HR Account Manager, who assisted Mr. Hall in the cover up. *See supra*. Not surprisingly, in its Position Statement, Shell continued its attempted cover up. Shell tellingly mentioned not one word about the e-mails that prove illegal discrimination on their face (Exs. 1-3). Shell loudly proclaimed that its Code of Conduct and EEO policies against illegal discrimination are “core values,” and that “[a]nyone who chooses not to follow them is making a choice not to work at Shell.” This statement is laughable. It is crystal clear that Mr. Hall chose not to follow the Code of Conduct and EEO policies, as is proven by his own e-mails (Exs. 1-3). Yet, he still has a high-ranking job at Shell, and is earning a lucrative salary and generous benefits. And, on top of all that, Mr. Maynor and many others at Shell have supported Mr. Hall every step of the way, as he marched forward with his plan to fire Mr. Oaks for refusing to follow his discriminatory desires to hire for the Security Advisor U.S. position based on age and sex, and then made sure that Mr. Oliveri did not get that job. In doing so, Shell continues to sully Mr. Oliveri’s reputation in an effort to evade its clear liability and save its own reputation.

59. Because of Shell’s illegal discrimination and retaliation against him, Mr. Oliveri’s character, reputation, and integrity have been impugned. This, in turn, obviously makes it far more



difficult for him to obtain a substantially comparable job in the close knit corporate security industry in Houston, Texas.

**DISCRIMINATION AND RETALIATION CLAIMS UNDER THE ADEA**

**A. Law**

**1. Discrimination**

60. The ADEA was designed to “promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; [and] to help employers and workers find ways of meeting problems arising from the impact of age on employment.” 29 U.S.C. § 621(b). Under the ADEA, “[i]t shall be unlawful for an employer . . . to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s age.” 29 U.S.C. § 623(a)(1).

61. “A plaintiff can demonstrate age discrimination through direct evidence or by an indirect or inferential [circumstantial] method of proof.” *Rachid v. Jack In The Box, Inc.*, 376 F.3d 305, 309 (5th Cir. 2004). To qualify as direct evidence of age discrimination, a statement must be: (1) age related; (2) proximate in time to the termination; (3) made by an individual with authority over the termination; and (4) related to the employment decision. *See Palasota v. Haggard Clothing Co.*, 342 F.3d 569, 576 (5th Cir. 2003).

62. The circumstantial model is governed by the well-known burden-shifting framework of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Under the circumstantial model, to establish a *prima facie* case of age discrimination based on circumstantial evidence, “a plaintiff must show that (1) he was discharged; (2) he was qualified for the position; (3) he was within the protected class at the time of discharge; and (4) he was either i) replaced by someone outside the protected class, ii) replaced by someone younger, or iii) otherwise discharged because

of his age.” *Rachid*, 376 F.3d at 309 (internal quotations and citations omitted); *Palasota*, 342 F.3d at 575-76. The burden to establish a *prima facie* case of age discrimination is not an “onerous” one. *See Reed v. Neopost USA, Inc.*, 701 F.3d 434, 439 (5th Cir. 2012). Under this framework, “a plaintiff is entitled to a ‘presumption of discrimination’ if he can meet the minimal initial burden of establishing a *prima facie* case.” *Id.*

63. If the plaintiff makes out a *prima facie* case, the burden of production then shifts to the defendant to proffer a legitimate, nondiscriminatory reason for the challenged employment action. *St. Mary’s Honor Center v. Hicks*, 509 U.S. 502, 507 (1993); *Willis v. Coca Cola Enters., Inc.*, 445 F.3d 413, 420 (5th Cir. 2006). If the defendant meets its burden, the presumption raised by the plaintiff’s *prima facie* case disappears. *Texas Dep’t of Community Affairs v. Burdine*, 450 U.S. 248, 255 n. 10 (1981). The plaintiff is then given the opportunity to demonstrate that the defendant’s articulated rationale was merely a pretext for discrimination. *See Hicks*, 509 U.S. at 507-08; *Burdine*, 450 U.S. at 253; *Machinchick v. PB Power, Inc.*, 398 F.3d 345 (5th Cir. 2005).

64. Regarding the standard of causation, ultimately, under the ADEA, the burden falls to the employee to produce evidence that “but for” his age, he would not have been terminated. *See Gross v. FBL Servs. Inc.*, 129 S. Ct. 2343, 2352 (2009) (holding by the U.S. Supreme Court that the ADEA requires “but for” causation).

## **2. Retaliation**

65. The ADEA’s anti-retaliation provision prohibits an employer from discriminating against an employee for opposing an unlawful practice or asserting a charge, testifying, assisting, or participating in an ADEA proceeding or investigation. 29 U.S.C. § 623(d). “The analytical framework for a retaliation claim is the same as that used in the employment discrimination context.” *Medina v. Ramsey Steel Co.*, 238 F.3d 674, 684 (5th Cir. 2001).

66. The well-known *McDonnell Douglas/Burdine* evidentiary framework applies to ADEA, Title VII, and TCHRA retaliation claims brought under a pretext theory. *See Septimus v. University of Houston*, 399 F.3d 601, 607 (5th Cir. 2005). Under that evidentiary framework, a plaintiff must first establish a *prima facie* case of retaliation. *See Baker v. American Airlines, Inc.*, 430 F.3d 750, 754 (5th Cir. 2005); *Haynes v. Pennzoil Co.*, 207 F.3d 296, 299 (5th Cir. 2000). To establish a *prima facie* retaliation case, a plaintiff must show that “(1) he engaged in protected activity; (2) he suffered an adverse employment decision; and (3) a causal link exists between the protected activity and the adverse employment decision.” *Id.* The same elements for a *prima facie* retaliation case apply under Title VII and the TCHRA. *See Banks v. East Baton Rouge Parish School Bd.*, 320 F.3d 570, 575 (5th Cir. 2003); *Zaffuto v. City of Hammond*, 308 F.3d 485, 492 (5th Cir. 2002).

67. If the plaintiff makes out a *prima facie* case of retaliation, then the defendant must articulate a legitimate non-retaliatory reason for the adverse employment decision. *See Baker*, 430 F.3d at 754-55. After the employer does so, “any presumption of retaliation drops from the case” and the burden shifts back to the employee to establish that the employer’s “stated reason is actually a pretext for retaliation.” *Baker*, 430 F.3d at 755 (quoting *Septimus*, 399 F.3d at 610-11); *Pineda v. United Parcel Service, Inc.*, 360 F.3d 483, 487 (5th Cir. 2004).

68. Third-party retaliation is also prohibited by the ADEA. In *Thompson v. North American Stainless, LP*, 562 U.S. 170, 131 S. Ct. 863 (2011), the U.S. Supreme Court addressed a retaliation claim under Title VII of the Civil Rights Act. Eric Thompson, the plaintiff, was engaged to be married to Miriam Regalado and both were employed at North American Stainless (“NAS”). *Id.* at 867. Ms. Regalado filed an EEOC charge alleging sex discrimination against NAS, and three weeks later NAS fired her fiancée, Mr. Thompson. Mr. Thompson filed an EEOC

charge, and then sued NAS, contending that NAS fired him to retaliate against Ms. Regalado for filing her EEOC charge. *Id.* The United States Supreme Court first concluded that Mr. Thompson's status as Ms. Regalado's fiancée was a relationship close enough to potentially fit within Title VII's prohibition against third party retaliation. *Id.* at 868–69. Second, the *Thompson* Court concluded that Mr. Thompson was a “person aggrieved” within the meaning of Title VII because he was employed by the same employer as the original EEOC claimant and injuring him was the employer's intended means of harming the claimant; in the Court's phrase, Mr. Thompson was within the “zone of interests” sought to be protected by Title VII. *Id.* at 870.

69. In *Dembin v. LVI Services, Inc.*, 822 F. Supp. 2d 436, 438-39 (S.D.N.Y. 2011), the district court held that *Thompson* applies to retaliation claims brought under the ADEA. This is not surprising, because the ADEA's anti-retaliation provision is related to the anti-retaliation provision of Title VII, and cases interpreting the latter provision are frequently relied upon in interpreting the former. See *Passer v. American Chemical Society*, 935 F.2d 322, 330 (D.C. Cir. 1991) (citations omitted); *Merrick v. Farmers Ins. Group*, 892 F.2d 1434, 1441 (9th Cir. 1990) (“Those circuits that have considered ADEA retaliation claims have generally adopted the analysis used in Title VII cases without comment.”) (citing *Powell v. Rockwell Int'l Corp.*, 788 F.2d 279, 284-85 (5th Cir. 1986)) (other citations omitted).

## **B. Analysis**

### **1. Discrimination Claims**

70. Mr. Oliveri wins his age discrimination claim under the direct evidence model of proof. He did not get the Security Advisor U.S. job because, as Mr. Hall stated in an e-mail, he wanted to fill the role with some “**younger** external talent.” (Ex. 1). That is direct evidence of age discrimination that is especially probative because Mr. Hall repeated his desire for a younger candidate numerous times in writing (Exs. 1-3).

71. Alternatively, Mr. Oliveri prevails under the circumstantial model. He easily makes out a *prima facie* case of age discrimination. He is 53-years old, qualified for the Security Advisor U.S. job (indeed, it was actually awarded to him in October 2016 after a competitive application and interviewing process), and he was either passed over for the job in favor of a younger candidate, or can otherwise demonstrate that he was discriminated against based on age. This is not difficult for Mr. Oliveri to do in light of Mr. Hall's e-mails, in which he repeatedly explicitly expressed a desire for a younger candidate than Mr. Oliveri (Exs. 1-3). As Mr. Hall flat-out admitted, he wanted to fill the role with some "**younger** external talent." (Ex. 1).

72. In *Goudeau v. National Oilwell Varco, L.P.*, the U.S. Court of Appeals for the Fifth Circuit addressed less compelling age related remarks in age-based discrimination claims, and held that such remarks are probative of age discrimination under the circumstantial model so long as they were made by a decisionmaker and were age related – both of which are the case here. 793 F.3d 470 (5th Cir. 2015). *See also Jackson v. Host Intern., Inc.*, Nos. 09–51137, 10–50026, 2011 WL 2119644, at \*3 (5th Cir. Feb. 1, 2011) (age-based remarks supported plaintiff's verdict under the TCHRA); *Machinchick*, 398 F.3d 345, 353-54 (relying on age-based remarks in reversing a summary judgment granted for the employer in an age discrimination case); *Palasota*, 342 F.3d at 576 ("After *Reeves*, however, so long as remarks are not the only evidence of pretext, they are probative of discriminatory intent."); *Russell v. McKinney Hosp. Venture*, 235 F.3d 219, 226 (5th Cir. 2000) (age-based remarks supported jury's verdict in plaintiff's favor in an age discrimination case). Moreover, that the comments were made by Mr. Hall – the top executive in Shell's entire Corporate Security organization – makes them especially strong evidence of age discrimination. *See, e.g., Ryder v. Westinghouse Elec. Corp.*, 128 F.3d 128, 132 (3d Cir. 1997) (comments made by top executives may be offered to prove culture of discrimination).

73. Shell claimed it rescinded Mr. Oliveri's original job offer that he had already accepted because of integrity issues in the hiring process. That is what Mr. Hall told Mr. Oliveri on January 13, 2017. *See supra*. That is a false pretext. There were no integrity issues in the hiring process, and Mr. Hall knew that. Mr. Oaks established this at length in his sworn lawsuit. *See Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 11-51. That is simply a false pretext for discrimination. Hence, Mr. Oliveri prevails on his claim that the Security Advisor U.S. position was rescinded based on his age.

74. Shell articulated, no non-discriminatory reasons for refusing to hire Mr. Oliveri into the Security Advisor U.S. role in 2017 (after he applied and interviewed for it the second time), or for canceling his contract at the end of the year even though that position had existed since 2006. That Mr. Oliveri was – as proven by his selection over Mr. Hutt the first time the job was posted – the best candidate, by far, further establishes his case. *See Burrell v. Dr. Pepper/Seven Up Bottling Grp., Inc.*, 482 F.3d 408, 412 n. 11 (5th Cir. 2007) (“[A] showing that a plaintiff is ‘clearly better qualified’ is one way of demonstrating . . . pretext”); *Davis v. AMPCO Sys. Parking*, 748 F. Supp. 2d 683, 698-99 (S.D. Tex. 2010) (genuine issue of material fact existed as to whether plaintiff was clearly better qualified precluded summary judgment for employer on Title VII discrimination claim).

75. Other evidence further supports Mr. Oliveri's claim here. For example, in the second interview process in 2017, the presentation portion was not included. The presentation segment was the portion of the first interview process that Thomas Hutt under-performed and, ultimately, skewed his rating matrix, which was one of the main reasons which led to him not being offered the Security Advisor U.S. position. Shell excluded that portion the second time

around to slant the process to the result that was predetermined by then: that Mr. Oliveri would, as Mr. Hall had insisted from the start, not be hired for the job, because of his age (Exs. 1-3).

## **2. Retaliation Claims**

76. Mr. Oliveri can make out a *prima facie* case of retaliation. First, under *Thompson*, he can claim retaliation for Mr. Oaks' multiple legally protected activities – his refusal to submit to Mr. Hall's discriminatory demands to hire based on age and sex in September 2016, his demand letter of December 22, 2016, his EEOC Charge of January 27, 2017, and his lawsuit of March 30, 2017 – because he is within the “zone of interests” sought to be protected by the ADEA. Indeed, as the victim (Exs. 1-3), Mr. Oliveri was at the center of all of these protected activities by Mr. Oaks. *See supra*.

77. Second, Mr. Oliveri suffered adverse employment actions. Specifically: (a) the job of Security Advisor U.S. that he was offered and accepted in October 2016, was rescinded by Mr. Hall in December 2016; (b) he was passed over for the job after he was reposted and he applied and interviewed for it again in 2017; and (c) Shell cancelled his contract with GS4, effective the end of 2017, thus rendering him unemployed at that time.

78. Third, there is a causal link between Mr. Oaks' protected activities, and the adverse employment actions Mr. Oliveri has suffered. The link is direct – for example, it is abundantly clear from the evidence that in early December 2016, Mr. Hall fired Mr. Oaks, *and also rescinded the job offer to Mr. Oliveri*, because of Mr. Oaks' protected activities – namely, his refusal to accede to his discriminatory desire for Mr. Oaks to hire based on age and sex. *See supra* and *see also Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 11-51.

79. Similarly, the close and overlapping timing between Mr. Oaks' protected activities in late 2016, and early 2017, and the adverse employment actions against Mr. Oliveri during those

same time periods, also establishes the causal link between the two. *See Heggemeier v. Caldwell Cty.*, 826 F.3d 861, 870 (5th Cir. 2016) (“Close timing between an employee’s protected activity and an adverse action against him may provide the ‘causal connection’ required to make out a *prima facie* case of retaliation.”) (quoting *Swanson v. Gen. Servs. Admin.*, 110 F.3d 1180, 1188 (5th Cir. 1997) (emphasis omitted)); *see also Cantu v. Vitol, Inc.*, Civil Action No. H-09-0576, 2011 WL 486289, at \*10 (S.D. Tex. Feb. 7, 2011) (Rosenthal, J.) (noting that “the Fifth Circuit has found temporal proximity of up to four months sufficient to show a causal link.”); *Richard v. Cingular Wireless LLC*, 233 Fed. Appx. 334, 338 (5th Cir. Apr. 13, 2007) (concluding that two-and-one-half months is short enough to support an inference of a causal link); *Evans v. City of Houston*, 246 F.3d 344, 355 (5th Cir. 2001) (observing that “a time lapse of up to four months has been found sufficient to satisfy the causal connection for summary judgment purposes”) (internal citations omitted).

80. Finally, that Shell did not follow its normal processes or policies is also probative of a causal link. *See Nowlin v. Resolution Trust Corp.*, 33 F.3d 498, 508 (5th Cir. 1994). Shell’s alleged normal policy is not to hire based on sex or age, but that is exactly what Mr. Hall insisted on here (Exs. 1-3). Shell’s normal policy is to use a local Business Integrity Department investigator, but that is not what it did here – preferring instead to use one from Mr. Hall’s same work location in The Hague who lacked appropriate experience and knowledge. Shell’s normal policy is to go through one round of interviews and award the job to the best candidate, but here it went through that process twice – the second time after already having awarded the at-issue job to Mr. Oliveri. As Kathy Long told Mr. Oliveri on February 15, 2017, “Shell does not typically operate like this.” Thus, Shell itself admitted that it did not follow its normal policies and procedures in this case.



81. Shell claimed it rescinded Mr. Oliveri's original job offer that he had already accepted because of integrity issues in the hiring process. That is what Mr. Hall told Mr. Oliveri on January 13, 2017. *See supra*. That is a false pretext. There were no integrity issues in the hiring process, and Mr. Hall knew that. *Crockett Oaks III v. Shell Oil Company*, Case No. 4:17-cv-00979, Docket Entry No. 1 at ¶¶ 11-51. That is simply a false pretext for retaliation based on Mr. Oaks having refused to submit to Mr. Hall's discriminatory desires to hire based on age and sex.

82. Shell articulated no non-retaliatory reasons for refusing to hire Mr. Oliveri into the Security Advisor U.S. role in 2017 (after he applied and interviewed for it the second time), or for canceling his contract at the end of the year even though his position had existed since 2006. That Mr. Oliveri was – as proven by his selection over Mr. Hutt the first time the job was posted – the best candidate, by far, further establishes his case. *See Burrell v. Dr. Pepper/Seven Up Bottling Grp., Inc.*, 482 F.3d 408, 412 n. 11 (5th Cir. 2007) (“[A] showing that a plaintiff is ‘clearly better qualified’ is one way of demonstrating . . . pretext”); *Davis v. AMPCO Sys. Parking*, 748 F. Supp. 2d 683, 698-99 (S.D. Tex. 2010) (genuine issue of material fact existed as to whether plaintiff was clearly better qualified precluded summary judgment for employer on Title VII discrimination claim).

83. Other evidence further supports Mr. Oliveri's claim here. For example, in the second interview process in 2017, the presentation portion was not included. The presentation segment was the portion of the first interview process that Thomas Hutt under-performed and, ultimately, skewed his rating matrix, which was one of the main reasons which led to him not being offered the Security Advisor U.S. position. Shell excluded that portion the second time around to slant the process to the result that was predetermined by then: that Mr. Oliveri would, as Mr. Hall had insisted from the start, not be hired for the job, because of Mr. Oaks' pestering

protected activities that had been a thorn in his side since he personally fired Mr. Oaks in December 2016 (Exs. 1-3).

**C. Damages**

84. The damages under the ADEA consist of back-pay, front-pay (or reinstatement), liquidated damages, attorneys' fees, and costs. Each component is explained below.

85. Back-pay. Prevailing claimants under the ADEA may recover lost back-pay and benefits. *See Miller*, 716 F.3d at 146. The purpose of back pay is to "make whole the injured party by placing that individual in the position he or she would have been in but for the discrimination." *Sellers v. Delgado Cmty. Coll.*, 839 F.2d 1132, 1136 (5th Cir. 1988).

86. Front-pay. "Front pay refers to future lost earnings." *Wal-Mart Stores v. Davis*, 979 S.W.2d 30, 45 (Tex. App.–Austin 1998, pet. denied). The law allows a plaintiff to recover front pay when a plaintiff shows that reinstatement is not feasible. TEX. PATTERN JURY INSTRUCTIONS § 110.30, Comment, Front Pay (2003 ed.) (citing federal law); *cf. Brunnemann v. Terra Int'l Inc.*, 975 F.2d 175, 180 (5th Cir. 1992) (ADEA case). Generally, reinstatement is the preferred equitable remedy for a discriminatory discharge. *Julian v. City of Houston, Tex.*, 314 F.3d 721, 729 (5th Cir. 2002). However, if reinstatement is not feasible, front-pay will be awarded if it is consistent with the remedial purposes of the law. *Brunnemann*, 975 F.2d at 180. "[R]einstatement is not preferred over front pay when there is no vacancy in the desired position." *Mitchell v. Sisters of Charity of Incarnate Word*, 924 F. Supp. 793 (S.D. Tex. 1996) (quoting *Shore v. Federal Express Corp.*, 777 F.2d 1155 (6th Cir. 1985)). In other words, if reinstatement would require displacing or bumping an innocent employee from their job, then it is considered to be infeasible, and front-pay may be awarded instead of reinstatement. *See Ray v. Iuka Special Mun. Separate Sch. Dist.*, 51 F.3d 1246, 1254 (5th Cir. 1995).

87. In this case, front-pay, rather than reinstatement, would presumably be awarded, because the Security Advisor U.S. job has already been filled. Regarding the calculation of front-pay, the Fifth Circuit has stated that “[f]ront pay is usually invoked when reinstatement is impracticable and is calculated from the date of judgment to age 70, or the normal retirement age, and should reflect earnings in mitigation of damages.” *Patterson*, 90 F.3d at 936 n. 8 (citing J. Hardin Marion, Legal and Equitable Remedies Under the Age Discrimination in Employment Act, 45 MD.L.REV. 298, 330–334 (1986)). See also *Blum v. Witco Chem. Corp.*, 829 F.2d 367, 374 (3d Cir. 1987) (“In calculating a front pay award, the jury must consider the expected future damages caused by defendant’s wrongful conduct from the date of judgment to retirement.”).

88. Mr. Oliveri is 53-years old. He plans to work until he is at least 70-years old, thus justifying a significant seven-figure front-pay award. See, e.g., *Jackson*, 2011 WL 2119644, at \*8-9 (Fifth Circuit decision affirming five-year front-pay award in an age discrimination case); *Mota v. University of Tex. Houston Health Sci. Ctr.*, 261 F.3d 512, 527 (5th Cir. 2001) (affirming front-pay award of approximately ten years); *Donlin v. Philips Lighting North Am. Corp.*, 581 F.3d 73, 88 (3rd Cir. 2009) (holding that district court did not abuse its discretion in awarding plaintiff front-pay for ten years); *Meacham v. Knolls Atomic Power Lab.*, 381 F.3d 56, 79 (2d Cir. 2004) (affirming front-pay awards of nine to twelve and one-half years), *vacated on other grounds sub nom KAPL, Inc. v. Meacham*, 544 U.S. 957 (2005); *Gotthardt v. National R.R. Passenger Corp.*, 191 F.3d 1148 (9th Cir. 1999) (affirming an eleven-year front pay award); *Pierce v. Atchison, Topeka & Santa Fe Ry. Co.*, 65 F.3d 562, 574 (7th Cir. 1995) (holding that ten-year front-pay award did not constitute an abuse of discretion); *Hukkanen v. International Union of Operating Eng’rs, Hoisting & Portable Local No. 101*, 3 F.3d 281, 286 (8th Cir. 1993) (holding that a ten year front-pay award did not constitute an abuse of discretion).

89. Liquidated Damages. Claimants under the ADEA are also entitled to liquidated damages – a doubling of the back-pay award – where a violation is determined to be willful. *See Miller*, 716 F.3d at 145. “A violation of the ADEA is willful if the employer knew or showed reckless disregard for whether its conduct was prohibited by the ADEA.” *Smith v. Berry Co.*, 165 F.3d 390, 395 (5th Cir. 1999) (citing *Trans World Airlines, Inc. v. Thurston*, 469 U.S. 111, 128 (1985)). Shell’s violation in this case was willful. *See Miller*, 716 F.3d at 145 (evidence supported jury’s finding of a willful violation of the ADEA by Raytheon even though it was “undisputed that Raytheon had to undertake a reduction in force and that it instituted facially age-neutral policies and processes according to which a nondiscriminatory basis for Miller’s termination could be justified.”); *Palasota*, 499 F.3d at 481-82 (evidence supported finding of a willful violation of the ADEA, thus justifying award of liquidated damages); *West v. Nabors Drilling USA, Inc.*, 330 F.3d 379, 391-92 (5th Cir. 2003) (same); *Tyler v. Union Oil Co.*, 304 F.3d 379, 398-99, 401 (5th Cir. 2002) (same, and stating that “[w]e hold that the plain language of the statutes requires the interpretation that liquidated damages in an amount equal to the back pay award are mandatory upon a finding of willfulness.”); *Woodhouse v. Magnolia Hosp.*, 92 F.3d 248, 256-57 (5th Cir. 1996) (same).

90. Attorneys’ fees. Attorneys’ fees are recoverable to a prevailing plaintiff under the ADEA. *See Miller*, 716 F.3d at 149 (affirming an award of attorneys’ fees of \$488,437.08 to the plaintiff in a single-plaintiff ADEA/TCHRA discrimination case that arose in Dallas); *Lewallen v. City of Beaumont*, 394 Fed. Appx. 38, 46 (5th Cir. 2010) (affirming an award of attorneys’ fees of \$428,421.75 to the plaintiff in a single-plaintiff discrimination failure to promote case); *Watkins v. Input/Output, Inc.*, 531 F. Supp. 2d 777, 789 (S.D. Tex. 2007) (awarding prevailing plaintiff in a single-plaintiff ADEA case tried in Houston \$336,010.50 in attorneys’ fees).

**D. Exhaustion of Mr. Oliveri's ADEA Discrimination And Retaliation Claims**

91. On April 24, 2017, Mr. Oliveri timely filed a Charge of Discrimination alleging age discrimination with the EEOC and the Texas Workforce Commission – Civil Rights Division (“TWC-CRD”). As of the filing of this lawsuit, sixty days have passed since Mr. Oliveri filed that Charge of Discrimination. Accordingly, Mr. Oliveri has exhausted his administrative remedies under the ADEA. This is so because, in order to comply with the exhaustion requirement under the ADEA, “[f]or cases arising in Texas, a complainant [simply] must file [an EEOC charge] within 300 days of the last act of discrimination” and “then wait sixty days before filing a civil action.” *See Julian v. City of Houston*, 314 F.3d 721, 726 (5th Cir. 2002). Under 29 U.S.C. § 626(d), “the claimant’s independent right to sue arises automatically upon the expiration of sixty days after filing of the charge with the EEOC.” *Id.* (footnote omitted). As the Fifth Circuit explained in *Julian*:

But there are preconditions to bringing suit under the ADEA. Title 29 U.S.C. § 626(d) provides: “No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with the Equal Employment Opportunity Commission.” Thus, a person seeking relief under the ADEA must first file an administrative charge with the EEOC. And § 626(d) establishes time limits for filing the EEOC charge. For cases arising in Texas, a complainant must file within 300 days of the last act of discrimination. After timely filing the EEOC charge, the complainant must then wait sixty days before filing a civil action. Under the plain language of § 626(d), “the claimant’s independent right to sue arises automatically upon the expiration of sixty days after filing of the charge with the EEOC.” Accordingly, a complainant who timely files the EEOC charge and then observes the sixty-day waiting period has satisfied the statutory preconditions to filing suit.

*Id.* at 725-26 (footnotes omitted).

**JURY DEMAND**

92. Mr. Oliveri demands a jury trial.

**PRAYER**

Mr. Oliveri asks that the court issue summons for Shell to appear and answer, and that he be awarded a judgment against Shell for the following:

- a. Actual damages including but not limited to pecuniary losses, non-pecuniary losses, back-pay, and front-pay (or reinstatement);
- b. Liquidated damages;
- c. Prejudgment and post-judgment interest;
- d. Attorneys' fees and court costs; and
- e. All other relief to which Plaintiff is entitled.

Respectfully submitted,

OBERTI SULLIVAN LLP

By: s/ Mark J. Oberti  
Mark J. Oberti  
State Bar No. 00789951  
S.D. Texas No. 17918  
712 Main Street, Suite 900  
Houston, TX 77002  
(713) 401-3555 – Telephone  
(713) 401-3547 – Facsimile  
mark@osattorneys.com – Email

ATTORNEY-IN-CHARGE FOR PLAINTIFF

OF COUNSEL:

Edwin Sullivan  
State Bar No. 24003024  
S.D. Texas No. 24524  
OBERTI SULLIVAN LLP  
712 Main Street, Suite 900  
Houston, TX 77002  
(713) 401-3555 – Telephone  
(713) 401-3547 – Facsimile  
ed@osattorneys.com – Email

ATTORNEYS FOR PLAINTIFF

DESCRIPTION OF EXHIBITS TO ORIGINAL COMPLAINT	EXHIBIT
E-mails between Crockett Oaks III and James Hall of 07/06/16 and 07/07/16	1
E-mail chain between Crockett Oaks III, James Hall, and Dana Croft of 09/09/16 and 09/14/16	2
E-mail chain between Crockett Oaks III and Dana Croft of 09/14/16, and other e-mails	3
Conflict of Interest Disclosure URID-000142369 submitted by Crockett Oaks	4
Job Offer Letter from Shell to Michael Oliveri of 10/03/16 and Proof of His Acceptance	5
E-mails from Crockett Oaks III to Jasper Smidtman of November 4, 7, 8, 10, 2016	6
Crockett Oaks III's EEOC Charge of 01/27/17	7
Michael Oliveri's EEOC Charge of 04/24/17	8
E-mail from Shell Recruitment to Michael Oliveri of 04/27/17	9

# EXHIBIT 1



Oaks, Crockett W SHLOIL-CSA

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From: Hall, James WD RDS-CS  
Sent: Thursday, July 07, 2016 1:39 AM  
To: Oaks, Crockett W SHLOIL-CSA  
Cc: Croft, Dana B SOPUS-HRN/AG  
Subject: RE: CSM - US Selection

Thanks Crockett. Let's indeed look to backfill Bob's role with some younger external talent.

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
Tel: +3170377 1431  
Mob: +316 296 24326  
Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

---

From: Oaks, Crockett W SHLOIL-CSA  
Sent: woensdag 6 juli 2016 23:11  
To: Hall, James WD RDS-CS  
Cc: Croft, Dana B SOPUS-HRN/AG  
Subject: CSM - US Selection

Confidential

Hello James,

As agreed, I wanted to follow up with you to confirm that Dana and I had the opportunity this afternoon to discuss the captioned subject. I did share with Dana our thoughts based on the discussion this morning. This note just serves to confirm our intent to offer Bob Schoen the CSM - US role, with Dana's concurrence as well. Dana advised that there is not a specific requirement that would compel us to interview the other candidates, unless we are suggesting that there is a "close candidate" both from a technical and behavioral perspective. Based on this point, I agree that we would be best served not to conduct interviews in an effort to 1) manage time more appropriately; and 2) not create 'false hope' for any candidate. I would like to break the news to Bob tomorrow, as well to send a note of regret to the other candidates.

As it relates to a backfill for Bob's role, I will be crafting a job description which will seek to combine elements of the Regulatory Assurance Manager and Security Advisor role at a JG-4. I anticipate getting this accomplished within the next couple of days in the hopes of posting this position externally within the next week. Many thanks for the support in this effort!

Kind regards,

Crockett Oaks III  
Regional Security Manager - Americas  
Shell Oil Company  
910 Louisiana



Houston, Texas 77002

Tel: +1713-241-1629  
Mobile: +1281-610-3521  
Fax: +1 713-241-0078  
Email: [crockettoaks@shell.com](mailto:crockettoaks@shell.com)  
Internet: [www.shell.com](http://www.shell.com)

# EXHIBIT 2

Oaks, Crockett W SHLOIL-CSA

From: Hall, James WD RDS-CS  
Sent: Wednesday, September 14, 2016 12:02 PM  
To: Oaks, Crockett W SHLOIL-CSA  
Subject: Re: U.S. Security Advisor - Update

Crockett, thanks. Just two points in response:

I absolutely want you to be part of the discussion with Dana and Klara. You remain in the lead on this decision. The issue has nothing to do with my view of your judgement or integrity. It is about different (regional and global) perspectives on skillpool management and a potential compromise between immediate and long term business requirements.

Mike may enable us to close today's gap. But we also need to consider whether we can use opportunities like this one to hire and develop our future security leadership. On diversity, for different reasons we have lost several women from our ranks over the last year or so and when we have an opportunity like this I would like to see what options we have to replace them.

Suggest we hold the debate here and discuss further on Friday. But do call if the above is not clear.

Thanks and Regards.

James

Sent from my iPhone

On 14 Sep 2016, at 18:01, Oaks, Crockett W SHLOIL-CSA <Crockett.Oaks@shell.com> wrote:

Hello James,

I will be glad to set something up with Dana and Klara. Please confirm if you would like for me to be a part of the discussion or not.

I do appreciate you sharing your concerns with me, in fact based on your prolonged silence, I did sense that something was amiss. Based on your shared concerns, I do feel like a bit awkward in that I am now left feeling like I need to defend my principles; primarily my sense of judgment and to a lesser extent integrity. You entrusted me to facilitate a process to select a US Security advisor, I then empowered Bob to proceed with the selection process, noting the core points highlighted below, i.e. diversity and experience. James, based on various discussions throughout the screening process with Bob and HR, I am sure that we were inclusive in both diversity and requisite experience of applicants. James I know that you are well-versed in your understanding of the laws governing employment rights in the U.S. The relevant law that suggests essentially, "Individuals can choose to work for as long as they are able (physically, mentally and willing) to" is the one at play here when considering whether a candidate is "still early in career". The candidate that we have selected fits all of criteria that was previously agreed and is in keeping with the parameters set forth by matters of employment law. Mike Oliveri brings a diverse background to our CS-USA organization. We have never hired a security professional from the U.S. Courts (Federal), nor have we viewed a decorated U.S. Army Veteran - Colonel (2 tours in Afghanistan - Bronze Star Recipient) serving in the reserves, as qualifying experience for such a role - US



Security Advisor. I do feel strongly that this candidate has the pedigree to move throughout this Global organization, caveated that he is left to be measured by his sole abilities and behaviors.

Additionally, I believe that the way in which we viewed Mike's yearlong contract assignment with the Team, was nothing short of innovative. This allowed the Team to have the first hand opportunity to vet something that we rarely have the ability to scrutinize, prior to hiring a candidate externally, their behaviors. The thing that I appreciated the most about this process is that for the first time, key players on this Team felt empowered to comment on Mike's witnessed behaviors over the last year. Moreover that, I take personal pride in the fact that I have led this Team to a point of realizing (and appreciating) that personal behaviors and conduct do matter, irrespective of how 'good' an individual may be perceived...

James I really do not want to make this issue about me per se, it is really about the Team and its dynamics. Bob was selected as the US - CSM because he was the right person for the job at the right time in this department's history. He was already doing 50% of the role, etc. There are several things that you are not aware of when it comes to the various "value drivers" that informed my decision to support Bob in this CSM endeavor; your trust in me is best illustrated when you are empowering for these types of issues.

James it does feel a bit like my judgment and to a lesser extent, my integrity, is under siege with this decision. I support and agree with the selection, but if you cannot offer your support at this time, I will need to work to rectify the situation... Ironically, a variety of things have dramatically improved in the Americas Region. One of the most notable improvements have been the quality and caliber of staff and their trust in Leadership (PULSE 83%). I will stop here, but I do welcome your follow up discussion.

Kind regards,

Crockett Oaks III  
Regional Security Manager - Americas  
Shell Oil Company  
910 Louisiana  
Houston, Texas 77002

Tel: +1713-241-1629  
Mobile: +1281-610-3521  
Fax: +1 713-241-0078  
Email: [crockett.oaks@shell.com](mailto:crockett.oaks@shell.com)  
Internet: [www.shell.com](http://www.shell.com)

---

From: Hall, James WD RDS-CS  
Sent: Wednesday, September 14, 2016 9:29 AM  
To: Oaks, Crockett W SHLOIL-CSA  
Subject: RE: U.S. Security Advisor - Update

Crockett,

I must be honest, I still don't feel comfortable about this decision. The principle I apply is that my direct reports should be free to choose their own staff, provided they take account of steer I have provided in discussion about broader issues like diversity, talent development, career progression and succession planning.



In this case you consulted me about the CSM role. I agreed to support Bob's appointment so long as we took the opportunity to backfill for Bob by going to the market and hiring someone with the potential for a longer career in Shell who could potentially move through a series of appointments and be future RSM material. We have also discussed (in the context of other appointments) prioritizing the hiring of female staff. The profile we discussed was ex-government agency, still early career and (based on previous conversations) you knew I would want you to look particularly at female candidates.

I have only seen the shortlist and your final recommendation. I have nothing against the individual, but I struggle to see how your proposed candidate brings fresh perspectives or diversity to your team. In short, I am concerned that we are guilty of a lack of imagination in looking for candidates and have opted for a safe option, at risk of failure to bring some fresh and different talent into Shell.

So before we go ahead, I would like to discuss our options with Dana and Klara. Can you set something up for us please? Friday is a good day for me if that works for others.

Thanks and Regards

James

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
Tel: +3170377 1431  
Mob: +316 296 24 326  
Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

---

From: Oaks, Crockett W SHLOIL-CSA  
Sent: Wednesday 14 September 2016 12:29  
To: Hall, James WD RDS-CS  
Subject: FW: U.S. Security Advisor - Update

Hello James,

I am encouraged to proceed on the below, but given that I did not hear directly from you, I would like to have your concurrence/support. Please note that the lead times for these things can be up to 4 weeks before HR clears their screenings etc. We are trying to commence with this role on Oct. 1... Please let me know if you have any more questions.

Kind regards,  
CO

---

From: Oaks, Crockett W SHLOIL-CSA  
Sent: Tuesday, September 13, 2016 8:32 AM  
To: Croft, Dana B SOPUS-HRN/AG  
Cc: Hall, James WD RDS-CS; Smits, Klara M SI-HRGF/C  
Subject: Re: U.S. Security Advisor - Update

All - based on the various thoughts/guidance shared, I am comfortable that we have vetted this candidate, via the recognized processes, to the extent that we can. Are we clear to proceed with the hire process?

Kind regards,  
CO

Sent from my iPhone

On Sep 12, 2016, at 2:44 PM, Croft, Dana B SOPUS-HRN/AG <[dana.croft@shell.com](mailto:dana.croft@shell.com)> wrote:

James,  
While I can appreciate the desire to factor in longer term potential for this role I'm afraid we are beyond the point at which we can do that. The steer I am getting from Recruitment is that we shouldn't be doing a headroom assessment for a JG4 individual contributor role as it would be a clear step out in the US.

With Michael being a contractor within the team currently, we could do a "mock" CEP assessment using the matrix based on performance/behavioral data seen to date but I wouldn't consider it a formal assessment. If we were to complete a headroom assessment on Michael, we would also need to complete on the other 3 applicants to ensure all candidates were assessed similarly.

I am sensitive to your preference here but given US employment guidelines we need to ensure candidates are vetted through the XP hire process for JG4 and the selected candidate is chosen based on job qualifications as described in the job posting.

Regards,  
Dana

---

From: Hall, James WD RDS-CS  
Sent: Monday, September 12, 2016 10:18 AM  
To: Croft, Dana B SOPUS-HRN/AG  
Cc: Oaks, Crockett W SHLOIL-CSA; Smits, Klara M SI-HRGF/C  
Subject: RE: U.S. Security Advisor - Update

Dana,

OK, thanks. It is just that Crockett and I had talked about using this position as an opportunity to bring some talent into the organization which could, with development, be credible for senior roles including the RSM Americas. Is there some alternative means to determine his potential?

Regards

James

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
Tel: +3170377 1431  
Mob: +316 296 24 326  
Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

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From: Croft, Dana B SOPUS-HRN/AG  
Sent: maandag 12 september 2016 16:34  
To: Hall, James WD RDS-CS  
Cc: Oaks, Crockett W SHLOIL-CSA  
Subject: RE: U.S. Security Advisor - Update

Hi James,

The headroom assessment is an exercise that we do for roles requiring no less than LC or SEG potential for JG2 and above roles. There have been exceptions for JG3 roles/candidates who will be hired as a JG2 or promoted very soon after hire. Completing a headroom assessment for a JG4 role/candidate would be a deviation from policy. Additionally we would be asking Michael to complete an assessment that no other JG4s have been asked to complete. Regardless of the outcome, I would be concerned with treating Michael differently from others at the same job grade level and would not support a headroom assessment.

Regards,  
Dana

---

From: Hall, James WD RDS-CS  
Sent: Monday, September 12, 2016 9:12 AM  
To: Oaks, Crockett W SHLOIL-CSA  
Cc: Croft, Dana B SOPUS-HRN/AG  
Subject: RE: U.S. Security Advisor - Update

Crockett,

Thanks for taking the time to brief me on the background to your thinking.

Dana: before we proceed, is there an opportunity to give Michael a headroom interview? I have found them to be a valuable validation of individuals and a good source of developmental feedback. Please let me know.

Thanks and Regards

James

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
Tel: +3170377 1431  
Mob: +316 296 24 326  
Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

---

From: Oaks, Crockett W SHLOIL-CSA  
Sent: vrijdag 9 september 2016 18:13  
To: Hall, James WD RDS-CS  
Cc: Croft, Dana B SOPUS-HRN/AG  
Subject: U.S. Security Advisor - Update



Hello James,

I just wanted to send you a quick note to advise that we have aligned on a candidate for the captioned role; Michael Oliveri, currently serving as our Security Contractor, is the leading candidate. Dana, Bob and I have met this morning and are prepared to move forward in the hire process, but before proceeding I just wanted to ensure your visibility on the matter. Do let us know if you have any questions, enjoy your weekend ahead.

Kind regards,

*Crockett Oaks III*  
Regional Security Manager - Americas  
Shell Oil Company  
910 Louisiana  
Houston, Texas 77002

Tel: +1713-241-1629  
Mobile: +1281-610-3521  
Fax: +1 713-241-0078  
Email: [crockett.oaks@shell.com](mailto:crockett.oaks@shell.com)  
Internet: [www.shell.com](http://www.shell.com)

# EXHIBIT 3

**Oaks, Crockett W SHLOIL-CSA**

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**From:** Croft, Dana B SOPUS-HRN/AG  
**Sent:** Wednesday, September 14, 2016 11:15 AM  
**To:** Oaks, Crockett W SHLOIL-CSA  
**Subject:** RE: U.S. Security Advisor - Update

Thanks for sharing Crockett – know that I will not share or forward.

James did respond to my email and mentioned his concerns (female talent and early career) and suggested that we connect Friday. I told him I'd be happy to join a call.

I do think your note below provides additional insights into the diversity that Mike brings to the team. What might also be helpful is for James to understand the gender balance of the candidate pool. I couldn't recall the figures but shared with James the applicant pool was quite large with minimal female applicants and they didn't meet the minimum qualifications.

**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** Wednesday, September 14, 2016 11:05 AM  
**To:** Croft, Dana B SOPUS-HRN/AG  
**Subject:** FW: U.S. Security Advisor - Update

**Confidential**  
**Do Not Forward**

Dana – To ensure your continual visibility.

Kind regards,  
CO

**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** Wednesday, September 14, 2016 11:02 AM  
**To:** Hall, James WD RDS-CS  
**Subject:** RE: U.S. Security Advisor - Update



Hello James,

I will be glad to set something up with Dana and Klara. Please confirm if you would like for me to be a part of the discussion or not.

I do appreciate you sharing your concerns with me, in fact based on your prolonged silence, I did sense that something was amiss. Based on your shared concerns, I do feel like a bit awkward in that I am now left feeling like I need to defend my principles; primarily my sense of judgment and to a lesser extent Integrity. You entrusted me to facilitate a process to select a US Security advisor, I then empowered Bob to proceed with the selection process, noting the core points highlighted below, i.e. diversity and experience. James, based on various discussions throughout the screening process with Bob and HR, I am sure that we were inclusive in both diversity and requisite experience of applicants. James I know that you are well-verse in your understanding of the laws governing employment rights in the U.S. The relevant law that suggest essentially, "individuals can choose to work for as long as they are able (physically, mentally and willing) to" is the one at play here when considering whether a candidate is "still early in career". The candidate that we have selected fits all of criteria that was previous agreed and is in keeping with the perimeters set forth by matters of employment law. Mike Oliveri brings a diverse background to our CS-USA organization. We have never hired a security professional from the U.S. Courts (Federal), nor have we viewed a decorated U.S. Army Veteran - Colonel (2 tours in

Afghanistan – Bronze Star Recipient) serving in the reserves, as qualifying experience for such a role - US Security Advisor. I do feel strongly that this candidate has the pedigree to move throughout this Global organization, caveated that he is left to be measured by his sole abilities and behaviors.

Additionally, I believe that the way in which we viewed Mike's yearlong contract assignment with the Team, was nothing short of innovative. This allowed the Team to have the first hand opportunity to vet something that we rarely have the ability to scrutinize, prior to hiring a candidate externally, their behaviors. The thing that I appreciated the most about this process is that for the first time, key players on this Team felt empowered to comment on Mike's witnessed behaviors over the last year. Moreover that, I take personal pride in the fact that I have led this Team to a point of realizing (and appreciating) that personal behaviors and conduct do matter, irrespective of how 'good' an individual may be perceived...

James I really do not want to make this issue about me per se, it is really about the Team and its dynamics. Bob was selected as the US – CSM because he was the right person for the job at the right time in this department's history. He was already doing 50% of the role, etc. There are several things that you are not aware of when it comes to the various "value drivers" that informed my decision to support Bob in this CSM endeavor; your trust in me is best illustrated when you are empowering for these types of issues.

James it does feel a bit like my judgment and to a lesser extent, my integrity, is under seize with this decision. I support and agree with the selection, but if you cannot offer your support at this time, I will need to work to rectify the situation... Ironically, a variety of things have dramatically improved in the Americas Region. One of the most notable improvements have been the quality and caliber of staff and their trust in Leadership (PULSE 83%). I will stop here, but I do welcome your follow up discussion.

Kind regards,

**Crockett Oaks III**

Regional Security Manager - Americas  
Shell Oil Company  
910 Louisiana  
Houston, Texas 77002

**Tel:** +1713-241-1629

**Mobile:** +1281-610-3521

**Fax:** +1 713-241-0078

**Email:** [crockett.oaks@shell.com](mailto:crockett.oaks@shell.com)

**Internet:** [www.shell.com](http://www.shell.com)

**From:** Hall, James WD RDS-CS

**Sent:** Wednesday, September 14, 2016 9:29 AM

**To:** Oaks, Crockett W SHLOIL-CSA

**Subject:** RE: U.S. Security Advisor - Update

Crockett,

I must be honest, I still don't feel comfortable about this decision. The principle I apply is that my direct reports should be free to choose their own staff, provided they take account of steer I have provided in discussion about broader issues like diversity, talent development, career progression and succession planning.

In this case you consulted me about the CSM role. I agreed to support Bob's appointment so long as we took the opportunity to backfill for Bob by going to the market and hiring someone with the potential for a longer career in Shell



who could potentially move through a series of appointments and be future RSM material. We have also discussed (in the context of other appointments) prioritizing the hiring of female staff. The profile we discussed was ex-government agency, still early career and (based on previous conversations) you knew I would want you to look particularly at female candidates.

I have only seen the shortlist and your final recommendation. I have nothing against the individual, but I struggle to see how your proposed candidate brings fresh perspectives or diversity to your team. In short, I am concerned that we are guilty of a lack of imagination in looking for candidates and have opted for a safe option, at risk of failure to bring some fresh and different talent into Shell.

So before we go ahead, I would like to discuss our options with Dana and Klara. Can you set something up for us please? Friday is a good day for me if that works for others.

Thanks and Regards

James

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
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Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** woensdag 14 september 2016 12:29  
**To:** Hall, James WD RDS-CS  
**Subject:** FW: U.S. Security Advisor - Update

Hello James,

I am encouraged to proceed on the below, but given that I did not hear directly from you, I would like to have your concurrence/support. Please note that the lead times for these things can be up to 4 weeks before HR clears their screenings etc. we are trying to commence with this role on Oct. 1... Please let me know if you have any more questions.

Kind regards,  
CO

**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** Tuesday, September 13, 2016 8:32 AM  
**To:** Croft, Dana B SOPUS-HRN/AG  
**Cc:** Hall, James WD RDS-CS; Smits, Klara M SI-HRGF/C  
**Subject:** Re: U.S. Security Advisor - Update

All - based on the various thoughts/guidance shared, I am comfortable that we have vetted this candidate, via the recognized processes, to the extent that we can. Are we clear to proceed with the hire process?

Kind regards,

CO

Sent from my iPhone

On Sep 12, 2016, at 2:44 PM, Croft, Dana B SOPUS-HRN/AG <[dana.croft@shell.com](mailto:dana.croft@shell.com)> wrote:

James,

While I can appreciate the desire to factor in longer term potential for this role I'm afraid we are beyond the point at which we can do that. The steer I am getting from Recruitment is that we shouldn't be doing a headroom assessment for a JG4 individual contributor role as it would be a clear step out in the US.

With Michael being a contractor within the team currently, we could do a "mock" CEP assessment using the matrix based on performance/behavioral data seen to date but I wouldn't consider it a formal assessment. If we were to complete a headroom assessment on Michael, we would also need to complete on the other 3 applicants to ensure all candidates were assessed similarly.

I am sensitive to your preference here but given US employment guidelines we need to ensure candidates are vetted through the XP hire process for JG4 and the selected candidate is chosen based on job qualifications as described in the job posting.

Regards,  
Dana

**From:** Hall, James WD RDS-CS  
**Sent:** Monday, September 12, 2016 10:18 AM  
**To:** Croft, Dana B SOPUS-HRN/AG  
**Cc:** Oaks, Crockett W SHLOIL-CSA; Smits, Klara M SI-HRGF/C  
**Subject:** RE: U.S. Security Advisor - Update

Dana,

OK, thanks. It is just that Crockett and I had talked about using this position as an opportunity to bring some talent into the organization which could, with development, be credible for senior roles including the RSM Americas. Is there some alternative means to determine his potential?

Regards

James

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
Tel: +3170377 1431  
Mob: +316 296 24 326  
Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

**From:** Croft, Dana B SOPUS-HRN/AG  
**Sent:** maandag 12 september 2016 16:34  
**To:** Hall, James WD RDS-CS

**Cc:** Oaks, Crockett W SHLOIL-CSA  
**Subject:** RE: U.S. Security Advisor - Update

Hi James,

The headroom assessment is an exercise that we do for roles requiring no less than LC or SEG potential for JG2 and above roles. There have been exceptions for JG3 roles/candidates who will be hired as a JG2 or promoted very soon after hire. Completing a headroom assessment for a JG4 role/candidate would be a deviation from policy. Additionally we would be asking Michael to complete an assessment that no other JG4s have been asked to complete. Regardless of the outcome, I would be concerned with treating Michael differently from others at the same job grade level and would not support a headroom assessment.

Regards,  
Dana

**From:** Hall, James WD RDS-CS  
**Sent:** Monday, September 12, 2016 9:12 AM  
**To:** Oaks, Crockett W SHLOIL-CSA  
**Cc:** Croft, Dana B SOPUS-HRN/AG  
**Subject:** RE: U.S. Security Advisor - Update

Crockett,

Thanks for taking the time to brief me on the background to your thinking.

Dana: before we proceed, is there an opportunity to give Michael a headroom interview? I have found them to be a valuable validation of individuals and a good source of developmental feedback. Please let me know.

Thanks and Regards

James

James WD Hall  
VP Corporate Security

Shell International B.V.  
PO Box 162, 2501 AN The Hague, The Netherlands  
Tel: +3170377 1431  
Mob: +316 296 24 326  
Email: [James.WD.Hall@shell.com](mailto:James.WD.Hall@shell.com)  
Internet: <http://www.shell.com>

**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** vrijdag 9 september 2016 18:13  
**To:** Hall, James WD RDS-CS  
**Cc:** Croft, Dana B SOPUS-HRN/AG  
**Subject:** U.S. Security Advisor - Update

Hello James,

I just wanted to send you a quick note to advise that we have aligned on a candidate for the captioned role; Michael Oliveri, currently serving as our Security Contractor, is the leading candidate. Dana, Bob

and I have met this morning and are prepared to move forward in the hire process, but before proceeding I just wanted to ensure your visibility on the matter. Do let us know if you have any questions, enjoy your weekend ahead.

Kind regards,

***Crockett Oaks III***

Regional Security Manager - Americas  
Shell Oil Company  
910 Louisiana  
Houston, Texas 77002

**Tel:** +1713-241-1629

**Mobile:** +1281-610-3521

**Fax:** +1 713-241-0078

**Email:** [crockett.oaks@shell.com](mailto:crockett.oaks@shell.com)

**Internet:** [www.shell.com](http://www.shell.com)



# EXHIBIT 4

**Conflict of Interest URID-0000142369 submitted  
by Crockett Oaks**

**Entry Details**

Submitted by Crockett Oaks

Unique  
Request ID URID-0000142369

Date of  
Submission Sep 28, 2016

Business Human Resources & Corporate

Class of  
Business Corporate Security

Type of  
Conflict Family or personal interest or relationship

James - Based on recent discussion regarding the US Security Advisor Role, specifically potential perceptions of a conflict of interest that have been shared with you regarding the nature of my relationship with the selected candidate, Michael Oliveri, I would like to address the matter via these means, to promote a transparent and proactive approach. I have known Michael Oliveri, via the US Army Reserve (USAR) for a number of years (approximately 15). Throughout the years we have served in a number of capacities that have required us to work together. It is for this reason that I have acquired historic knowledge of Michael's personal effectiveness as a follower, leader and Team member. Michael currently maintains a more senior rank than I within the USAR, he is a Colonel (O-6) and I am a Lieutenant Colonel (O-5). There is not a reporting relationship between us, nor do we enjoy a social relationship whereby our families are encouraged to interact, i.e. we do not visit each other's home for social engagements. The extent of our historical relationship can best be summed up as "good colleagues".

**COI  
Description**

Over the past year, Michael has worked within CS as the Special Events security contractor. This period of time represents the most consecutive opportunity that I have been exposed to Michael. As I explained to you, Michael has availed himself to be a consummate professional that has consistently demonstrated the ability to perform at a high level for the CS organization. The feedback which has come to my attention as well as other CS colleagues has always reflected a high degree of knowledge and professionalism in Michael's actions. He has proactively filled a needed gap within our department, primarily due to vacancies.

The hiring process has been concluded for the U.S. Security Advisor role and as you are aware, Michael was recommended and ultimately selected to fill this vacancy. We do believe that he is the right person for this role, due primarily to the yearlong opportunity that the Team had to observe Michael's behavioral attributes. His professional competencies were sufficient and will only be enhanced with each new opportunity afforded to him. I am particularly keen to address this matter, via these transparent means, as I would hope and trust that should future perceptions



come to your attention regarding Michael Oliver's hiring and my direct or indirect involvement in the same, this will serve as a clear step in mitigating any perceptions of a conflict of interest. I sincerely do appreciate you bringing this type of issue to my attention. This type of clear dialog only serves to 1) strengthen relationships; and 2) alleviate areas of doubt, i.e. quash the old rumor mill!! Do advise if more information is needed, I do want to ensure that both you and I have exactly what is needed to aggressively address such perceptions, should they continue to persist.

Current  
Status

Pending Acknowledgement

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# EXHIBIT 5



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**Confidential**

Michael Oliveri  
11 Dunlin Meadow Court  
The Woodlands, TX 77381

October 3, 2016

Dear Michael,



Please review the offer carefully. Your full name should be the same as it appears on your legal identifying documents, such as social security card, passport, etc.

To formally accept this conditional offer, you must do so via the Candidate Portal no later than October 7, 2016.

**OFFER DETAILS:**

**Position and Salary**

Your employing company will be SHELL OIL COMPANY in Houston, TX. Your starting base salary will be \$9500.00 per month, which is equivalent to \$114000 (Annual Salary) for the position of U.S. Security Advisor (Houston, TX) at salary grade 4.

**Bonus Program**

In addition to your base salary, you will be eligible for a bonus as determined by the Company's Performance Bonus Program. You will be eligible for 15% of your base salary, based upon your grade, but the actual amount is subject to vary depending on your individual performance and Shell business results. You will be eligible for a prorated bonus amount for 2016 in February 2017 as determined by Company policy. Shell management retains the discretion to award or deny any Bonus payment and to change the terms and conditions of its Bonus at any time without prior notification. The amount of this bonus is subject to federal and (if applicable) state and other income and employment tax withholdings.

**Vacation**

You are eligible for 240 hours of vacation per year, which will be pro-rated your first year. Future vacation eligibility will be increased based on your years of service with the Company.

**Standard Benefits**

You will be eligible to receive the full range of benefits, in the attached benefit summary, that are available to Shell employees in the U.S. in accordance with our normal policy.

**OFFER CONDITIONS:**

This employment offer is conditional upon your satisfying the pre-employment requirements of Shell.

**I-9 Documentation**

Providing documentation that you are lawfully authorized to work in the U.S. on your first day of employment. In accordance with the Immigration Reform and Control Act of 1986, we are required to examine original documents verifying that prospective employees are either United States citizens or are lawfully authorized to work in the U.S. Please note that this documentation requirement applies to both U.S. citizens and non-citizens. If you plan to present a Social Security card as part of your documentation, please note that laminated copies of Social Security cards will not be accepted if the cards state that they are "not valid if laminated." For a list of acceptable documents: <http://www.uscis.gov/i-9-central/acceptable-documents>. If they are not provided within 3 days after your employment date, it may be necessary to withdraw our offer of employment.

**Background Check**

- Successful completion of a background screening that includes, but is not limited to, the verification of your education, employment history, social security number, and certification or licenses you have stated you possess. Upon your acceptance of our offer, you will be contacted with further instructions by your Single Focal Point.
- Submission and successful completion of the pre-employment hair and oral fluids drug test, followed by successful

completion and clearance of a Medical History Questionnaire. These items, including the background screen, must be completed within 90 days prior to your hire date.

**Disability Accommodations**

- Being able to perform the essential functions of the job for which you receive an offer either with or without a reasonable accommodation. Please email [GXSHLOILjobaccommodation@shell.com](mailto:GXSHLOILjobaccommodation@shell.com) regarding any accommodations that you may require.

**Please note: This Conditional Offer of Employment Letter, including the Offer Details, (and any attached or related documents and conversations) is not a contract of employment on the part of Shell and your employment will be on an "at-will" basis. Furthermore, as a matter of routine, since this is a conditional offer of employment we suggest that you not indicate plans to resign, move, sell property or begin any coordinating discussions for your replacement with any current employer until we notify you that all the pre-employment requirements have been met.**

Regards,



**Steven France**  
**Regional Recruitment Manager – Americas**



**From:** "Guevarra, Ma. Eunice M SSSCMLA-HRR/VAUS" <Ma-Eunice.Guevarra@shell.com>  
**Date:** October 10, 2016 at 1:21:02 PM EDT  
**To:** "Oliveri, Michael SHLOIL-CSA" <Michael.Oliveri@shell.com>  
**Subject:** Offer Acceptance Confirmation - Michael Oliveri

Hello Michael,

We are very pleased you have accepted our offer and this email verifies that I have received your signed job offer acceptance documents. Your tentative start date is November 1, 2016.  
(Dependent on passing the pre-employment requirement)

**Your pre-employment process consists of the following next steps:**

- 1) **Background Check** – You should receive an email invitation from First Advantage with a request to input your personal details into their on-line system to start your pre-employment process. Please log in immediately as your link will expire and may cause you to miss your opportunity.
- 2) **Drug Screens** - Upon completion of the First Advantage entry, you will receive an email to schedule your drugs test. Make sure you provide the 3-letter CODE listed in that email and schedule as soon as possible since it takes about a week to receive results. If you do not receive this email, please contact me. **All drug testing kits are mailed overnight to your current physical address (these kits cannot be shipped to a P.O. box). Please take this kit with you to your appointment.** Attached document titled "Drug Testing Kit Instruction Sheet", outlines the materials you will receive in your drug testing kit and its use.
- 3) **Medical History & Physical (if required)** – While we wait for your background check and drug screen to be completed, you'll receive a separate email to complete a medical history form and instructions on how to schedule your physical (if required).

Please be aware that the entire pre-employment process from start to finish can take 6 weeks or longer. *If you are currently employed, it is recommended that you not resign, as a start date is not determined until pre-employment is complete.*

**NOTE:** During onboarding on your first day you will be required to present proper documentation to verify your I9. If you plan to present a Social Security card as part of your documentation, please note that laminated copies of Social Security cards will not be accepted if the cards state that they are "not valid if laminated." If your card is laminated and says "not valid if laminated," and you do not have another second form of ID (passport, birth certificate, etc.) please start making arrangements now to get a new Social Security card. A list of acceptable documents has been included for your review.

If you have any questions, feel free to contact me directly.

Regards,

**Eunice**

**Ma. Eunice Guevarra**

---

**Single Focal Point Hiring (US Operations)**  
**Shell Business Operation - Manila**  
**Tel no:** 832-337-6105  
**Email:** [ma-eunice.guevarra@shell.com](mailto:ma-eunice.guevarra@shell.com)

This e-mail may include data and attachments containing confidential personal data, which should only be processed and used for the purpose of this communication. Whilst in your possession, it should be stored securely, not shared with unauthorized persons and deleted after its legitimate use.

# EXHIBIT 6



Oaks, Crockett W SHLOIL-CSA

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From: Oaks, Crockett W SHLOIL-CSA  
Sent: Thursday, November 10, 2016 11:54 AM  
To: Smidtman, Jasper SI-FA/I  
Subject: RE: Military Policy ( AR 600 - 20) and UMR

Hello Jasper,

I was sitting here reflecting upon my discussion with you last week and I recall the point made to you regarding the issue of precedent. The example that I cited for you was the fact that Bob Schoen, now a retired U.S. Coast Guard Reserve Commander and current CSM - US, worked for Rob Ream, my predecessor and U.S. Coast Guard Reservist, first as a contractor and then eventually as staff while they both served in the same Coast Guard unit (where there was a direct reporting relationship between them). Rob hired Bob as a FTE in 2013. My question for you is as follows:

- 1) As you stated during the interview, you are of the opinion that a Col should have been registered regarding the military relationship with Oliveri. Did a Col get registered in the aforementioned matter; and
- 2) You also stated that James Hall claims that he was not aware of a military reporting relationship between Oliveri and I, was he also not aware of the aforementioned matter as well; this would have been during his tenure as VP CS?

My point in highlighting this issue to you is really to ensure your awareness of the fact that this scenario is not really as unique as you may have originally thought. James certainly would have had a previous opportunity to address this exact same scenario and as I previously asserted, I find it suspicious that it is now being exploited in my instance at this time...

It is apparent to me that a Staff feels aggrieved that he was not successful in a competitive hiring process and now is trying to rationalize the matter. I do not believe that any CS staff should be made to feel bad or non-compliant in this matter as it only serves to perpetuate the whole notion of the intentional misuse of the helpline, i.e. complaints made in bad faith...

Kind regards,  
Crockett

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From: Oaks, Crockett W SHLOIL-CSA  
Sent: Thursday, November 10, 2016 8:21 AM  
To: Smidtman, Jasper SI-FA/I  
Subject: Re: Military Policy ( AR 600 - 20) and UMR

Hi Jasper,

The below example is not really a good one given that this transfer was from outside of the current unit. Naturally I would have some email traffic for this, given that I would have an action to follow upon with the "losing unit".

The transfer that I made a few months ago was within the current unit, i.e. Just a Team Change, therefore no action for me to follow up on. Let's see what I have, but do understand that the UMR is the true verification and that is what I am pursuing...

Kind regards,



Crockett

Sent from my iPhone

On Nov 10, 2016, at 7:18 AM, Smidtman, Jasper SI-FA/I <[Jasper.Smidtman@shell.com](mailto:Jasper.Smidtman@shell.com)> wrote:

Hi Crockett,

Thanks for your email. Let's wait to see if you can get clearance to provide the documents.

Erica is not working with me, she only sat in during the interview. I'm sure we can find some kind of solution to verify things.

I was wondering if you would have emails detailing this transfer. I noticed the attached emails with respect to your previous transfer. If you would have something similar that would also be helpful.

Kind regards,

Jasper

---

**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** Thursday, November 10, 2016 1:12 PM  
**To:** Smidtman, Jasper SI-FA/I  
**Subject:** RE: Military Policy (AR 600 - 20) and UMR

Hi Jasper,

Just a quick note to acknowledge the delay in my production of the verification of the Date of Assignment to the REPLO position. The unequivocal verification will come from the Unit Manning Report (or Roster). For reference as to how the UMR is used and what information is contained on the document access this link <https://www.part-time-commander.com/unit-manning-report-tips-for-small-unit-leaders/>.

Given the classification of this document, I am delayed in getting a response regarding my need to allow for the verification of a single piece of information ONLY RELEVANT TO MY DATA. I am not able to print, forward or alter the UMR in any way, given the safeguards that are in place for the military IT system and this particular document etc... I will give it until today, if in fact, this document is not able to be provided to you in any format, I will be able to allow someone here to view the document on my military computer for verification of dates, etc. I trust that this will suffice. I assume that Erica Slain, HR is still working with you and will be the suitable person to act in your stead to verify the date of assignment within the document? Please confirm and I can make contact with her later on to agree time/location etc., if needed be.

Kind regards,  
Crockett

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**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** Tuesday, November 08, 2016 5:57 AM  
**To:** Smidtman, Jasper SI-FA/I  
**Subject:** Military Policy (AR 600 - 20) and UMR

Hello Jasper,

I have taken the liberty to attach the relevant military policy (in excerpt) which sets forth the appropriate guidance relevant to Army Reserve personnel who are engaged in a business relationship (civilian occupation or employment). The relevant sentence that I was referred to by the Army Staff Judge Advocate (JAG), is highlighted within the attached AR 600-20 Extract. The JAG did explain that the scenario involving Army Reservist working with/for each other in a civilian, private capacity is not an unusual scenario, hence the policy which attempts to address this situation... Furthermore, JAG has provided clear advice relevant to the point regarding the existence of a Col between Milke Oliveri and I due to our business relationship... no conflict.

As it relates to the verification of the REPLO assignment, I am in the process of seeking guidance on the most suitable way to achieve this, i.e. release the document. Understand that the Unit Manning Roster (UMR) that will contain this information, is full of PII and SSI information of fellow Soldiers, that must be addressed prior to my release of information. I will be able to provide verification, however I do need to obtain guidance on the best way to provide information (redaction should be an option). At a minimum, I will be able to allow the HR person (that was present for the interview) to verify the document, with particulars, from my military PC. She can look at my screen and take notes, if necessary. Let's wait and see, I should be able to advise later on today. Thanks

Regards,  
Crockett

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From: Oaks, Crockett W SHLOIL-CSA  
Sent: Monday, November 07, 2016 10:51 AM  
To: Smidtman, Jasper SI-FA/I  
Subject: RE: Congratulations and Thank You!

Hello Jasper,

I trust that your trip back to NL was uneventful. I will send you the documentation this evening (US time). My military computer is at home. Thanks

Kind regards,  
Crockett

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From: Smidtman, Jasper SI-FA/I  
Sent: Monday, November 07, 2016 7:05 AM  
To: Oaks, Crockett W SHLOIL-CSA  
Subject: RE: Congratulations and Thank You!

Hi Crockett,

Hope all is well. Thank you for the email you forwarded. I will include the content in the report.

I do have an additional question: you mentioned you recently (3-4 months ago) transferred out of Milke's unit (SEPLO) into the regional unit (REPLO). How can I verify this and/or can you provide emails or letters to confirm this?

Many thanks in advance.

Kind regards,

Jasper Smidtman

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**From:** Oaks, Crockett W SHLOIL-CSA  
**Sent:** Friday, November 04, 2016 12:04 AM  
**To:** Smidtman, Jasper SI-FA/I  
**Subject:** FW: Congratulations and Thank You!

Hello Jasper,

As discussed, please do let me know if you have additional questions.

This email does clearly illustrate the transparency in the relationship with Mike. If James or anyone else, needed to better understand the nuances of the role and relationship that Mike and I had, this email should have perhaps triggered a discussion, if one was necessary. From a historical perspective, the details of my reserve obligation has not extended past an acknowledgement of their being an ability to affect a financial position between Shell and the Department of Defense. If I felt that the relationship that I had with Mike, in the Reserves, constituted a Col for Shell then it surely does not feel correct that I would send such an email or invite a Shell colleague to speak at a military event. I do not feel that I ever had anything to hide, hence we did not have any guilty intent on this matter...

Regards,

**Crockett Oaks III**  
Regional Security Manager - Americas  
Shell Oil Company  
910 Louisiana  
Houston, Texas 77002

Tel: +1 713-241-1629  
Mobile: +1 281-610-3521  
Fax: +1 713-241-0078  
Email: [crockett.oaks@shell.com](mailto:crockett.oaks@shell.com)  
Internet: [www.shell.com](http://www.shell.com)

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**From:** Powell, Billy J SEPCCO-UAS/R/E  
**Sent:** Sunday, December 06, 2015 8:26 PM  
**To:** Newberry, Derek SERC-UAS; Oliveri, Michael SHLOIL-CSA; Smith, Phillip B SERC-UAS/R  
**Cc:** Oaks, Crockett W SHLOIL-CSA; Hall, James WD RDS-CS  
**Subject:** RE: Congratulations and Thank You!

Good evening,

I'd like to thank you all for the recognition. I truly enjoyed giving the presentation, and it was a great opportunity to meet the Emergency Preparedness Liaison Officers for FEMA Region VI. It was an excellent opportunity to share Shell's preparedness and response capabilities, and the presentation fit in well with FEMA's interest in engaging and working with the Private Sector during emergencies.

Please let us know if we can be of assistance in the future.

Best Regards,



Billy J. Powell  
Manager, Shell Americas Emergency Management (UA/DS)

150 N Dairy Ashford A0454-E  
Houston, Texas 77079  
Tel: (832) 337-3468  
Fax: (832) 337-5032  
Mobile: (281) 352-1798  
E-mail: [billy.powell@shell.com](mailto:billy.powell@shell.com)

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From: Newberry, Derek SERC-UAS  
Sent: Sunday, December 06, 2015 11:58 AM  
To: Oliveri, Michael SHLOIL-CSA; Smith, Philip B SERC-UAS/R  
Cc: Oaks, Crockett W SHLOIL-CSA; Powell, Billy J SEPSCO-UAS/R/E; Hall, James WD RDS-CS  
Subject: RE: Congratulations and Thank You!

Billy,

Thank You for representing Shell so excellently in an external setting.

Cheers,  
Derek

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From: Oliveri, Michael SHLOIL-CSA  
Sent: Sunday, December 06, 2015 9:48 AM  
To: Smith, Philip B SERC-UAS/R  
Cc: Oaks, Crockett W SHLOIL-CSA; Powell, Billy J SEPSCO-UAS/R/E; Hall, James WD RDS-CS; Newberry, Derek SERC-UAS  
Subject: Re: Congratulations and Thank You!

Just to pile on even further. We have a military workshop every six months in a different host city. Billy has definitely set a new bar which will be difficult to replicate for the next event.

Thank you!

Michael G. Oliveri  
Corporate Security-Americas

Shell Oil Company  
910 Louisiana Street  
Houston, Texas 77002  
Mobile: +1 281-216-6595  
Office: +1 713-241-4327  
Email: [michael.oliveri@shell.com](mailto:michael.oliveri@shell.com)

my iPhone

On Dec 6, 2015, at 9:39 AM, Smith, Philip B SERC-UAS/R <[phil.b.smith@shell.com](mailto:phil.b.smith@shell.com)> wrote:

Crockett, glad it went well and thank you for the invite. When emergencies occur, I do consider the military and corporate security as key partners - all one family in working to minimize impacts.

Billy, thanks for your time and carrying the message.

Regards,

Phil Smith  
GM - Emergency Management & Deepwater Regulatory  
Shell Energy Resources Company  
O: +1 504.425.4252 | M: +1 504.606.4252

-----Original Message-----

From: Oaks, Crockett W SHLOIL-CSA  
Sent: Sunday, December 06, 2015 9:23 AM  
To: Powell, Billy J SEPCO-UAS/R/E  
Cc: Smith, Philip B SERC-UAS/R; Oliveri, Michael SHLOIL-CSA; Hall, James WD RDS-CS  
Subject: Congratulations and Thank You!

Hello Billy,

I just wanted to follow up with you regarding yesterday's briefing. The manner and style in which you presented Shell's process and methodology for delivering emergency management services was exceptional, to say the least. In fact, presenters that came after you continued to reference elements of your presentation as an example of "best in class" for private sector capability and response.

Billy and Phil, thank you both so much for your willingness to support me and the U.S. Military Service Members serving as Emergency Preparedness Liaison Officers (EPLOs). We really benefited from hearing about the "Shell Experience" for emergency management and I do believe that Billy's presentation has set a new standard for our workshops going forward. Thank you very, very much!

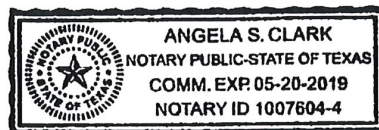
Kind regards,  
Crockett Oaks III  
Regional Security Manager -Americas, Shell Oil Company Office +1713-241-1629 Mobile +1281-610-3521

This message was sent from a Blackberry, please excuse any typos! Thank you  
<Example transfer email.pdf>

# EXHIBIT 7

<b>CHARGE OF DISCRIMINATION</b>		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
<b>Texas Workforce Commission—Civil Rights Division</b> and EEOC <small>State or local Agency, if any</small>			
NAME (Indicate Mr., Ms., Mrs.) <b>Mr. Crockett W. Oaks III</b>	HOME TELEPHONE (Include Area Code) <b>(936) 228-4397</b>	DATE OF BIRTH <b>10/9/1970</b>	
STREET ADDRESS <b>2615 Streeter Lane</b>		CITY, STATE AND ZIP CODE <b>Spring, Texas 77388</b>	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME <b>Shell Oil Company</b>	No. Employees, Members <b>500+</b>	Phone No. (Include Area Code) <b>(713) 241-1893</b>	
STREET ADDRESS <b>One Shell Plaza</b>		CITY, STATE AND ZIP CODE <b>Houston, Texas 77002</b>	
NAME	No. Employees, Members	Phone No. (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest: <b>2016</b> Latest: <b>Dec. 2016</b> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>In 2003, I began working for Shell as a Security Generalist. I was promoted multiple times over the years. In 2013, I was promoted to the position of Regional Security Manager – Americas. My supervisor in that role was James W.D. Hall, a British citizen who worked out of Shell's Global Headquarters located in The Hague, Netherlands.</p> <p>In August 2016, an opening was posted in my organization. The opening was the result of Bob Schoen being reassigned. Around the time Mr. Schoen was reassigned, Mr. Hall sent me an e-mail stating, "[let's indeed look to backfill Bob's role with some younger external talent." (Ex. A-2). Mr. Hall also wanted a female to fill the opening. In September 2016, I instead recommended that a male applicant over the age of 50 be hired, because he was best qualified applicant for the opening as determined by a group of individuals who vetted the applicants, including but not limited to me. Mr. Hall objected to my recommendation, stating in an e-mail on September 14, 2016, that: (a) he had wanted someone "with the potential for a longer career in Shell"; and (b) wanted me to "to look particularly at female candidates." (Ex. A-3 at p. 3).</p> <p>I refused to hire based on age and sex, and instead continued to recommend hiring the best qualified applicant for the job, who, as mentioned above, happened to be a male over 50 years old. Very shortly thereafter, in retaliation for my opposition to his desire to hire using age and sex as selection criteria, Shell falsely accused me of having a conflict of interest and ultimately fired me based on that pretextual accusation in early December 2016. Prior to my opposing Mr. Hall's discriminatory hiring desires, I had never been disciplined once during my approximately 13 years with Shell, and had uniformly positive performance evaluations.</p> <p>I was terminated because I opposed Mr. Hall's desires to hire by using age and sex as selection criteria. My retaliatory termination violated the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq., Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., and the Texas Commission on Human Rights Act ("TCHRA"), Tex. Lab. Code Ann. § 21.001 et seq. This is explained in greater detail in a letter my lawyer sent Shell on December 22, 2016, which is attached hereto as Exhibit A. The facts stated in the letter are true and correct.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date <b>1-26-2017</b>	SIGNATURE OF COMPLAINANT <b>Mr. Crockett W. Oaks III</b>		
Charging Party (Signature) <b>Mr. Crockett W. Oaks III</b>	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) <b>1-26-2017</b>		

EEOC FORM 5 (REV. 3/01)

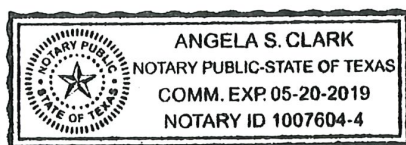




# EXHIBIT 8

<b>CHARGE OF DISCRIMINATION</b>		AGENCY <input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC		CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.				
Texas Workforce Commission—Civil Rights Division				and EEOC
State or local Agency, if any				
NAME (Indicate Mr., Ms., Mrs.) Mr. Michael Oliveri		HOME TELEPHONE (include Area Code) (210) 428-9891		DATE OF BIRTH 06/14/1963
STREET ADDRESS 11 Dunlin Meadow Court		CITY, STATE AND ZIP CODE The Woodlands, Texas 77381		
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)				
NAME Shell Oil Company		No. Employees, Members 500+		Phone No. (Include Area Code) (713) 241-1893
STREET ADDRESS One Shell Plaza		CITY, STATE AND ZIP CODE 910 Louisiana Street Houston, Texas 77002		
NAME		No. Employees, Members		Phone No. (Include Area Code)
STREET ADDRESS		CITY, STATE AND ZIP CODE		
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))				DATE(S) DISCRIMINATION TOOK PLACE
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)				Earliest 11/1/16 Latest 4/24/17
				<input type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):				
<p>I began working for G4S on August 31, 2015, as a private security professional, assigned to Shell. In August 2016, Shell posted for an open position with its company as a Security Advisor.</p> <p>I applied for the position. After a competitive process, I was offered the position by Shell, which I accepted, and I was set to begin on November 1, 2016. On October 27, 2016, I was informed that there was an investigation by Shell and that the hiring process stopped. Later, I learned that I did not get the job. I did not get the job because of my age and sex. I know this because of a federal lawsuit filed against Shell by Crockett Oaks, Civil Action 4:17-cv-979, in which there are exhibits showing that I did not get the job due to illegal discrimination.</p> <p>Shell re-posted the position in 2017, and I re-applied for the position. On April 24, 2017, I was informed that I would not receive the job and that Shell was canceling my contract with G4S at the end of 2017.</p> <p>I did not receive either job because of my age and sex and retaliation in violation of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq., Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. ("Title VII"), and the Texas Commission on Human Rights Act ("TCHRA"), Tex. Lab. Code Ann. § 21.001 et seq.</p>				
I want this charge filed with both the EEOC and the State or local Agency, if any I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)		
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.		
Date 4/24/17 Charging Party (Signature)		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)		

EEOC FORM 5 (REV. 3/01)



# EXHIBIT 9

**Oliveri, Michael G SHLOIL-CSA**

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**From:** Recruitment@shell.com <Enterprise@trm.brassring.com>  
**Sent:** Thursday, April 27, 2017 10:50 AM  
**To:** Oliveri, Michael G SHLOIL-CSA  
**Subject:** Your application with Shell has been withdrawn



Your Ref No:17701496

Dear Michael,

Unfortunately, the vacancy U.S. Security Advisor (Houston, TX) has been withdrawn. We apologize for any inconvenience this may have caused you. We will retain your application and resume in our database and inform you of any future opportunities that closely match your skills and qualifications.

We invite you to [join our Shell Talent Community](#) so you can stay up to speed on future job opportunities and the latest developments in your field of interest.

We would like to take this opportunity to thank you for your interest in the Shell Group.

Kind regards,

Shell Recruitment

**Disclaimer**

The term "Shell Recruitment" is used for convenience sake; it refers to the recruitment function within Shell and not to a specific legal entity. However, the corporate structure of Shell is a group of separate companies.

\* This is a system generated communication. Please do not reply to this email.

