UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 17 2012

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested
Certified Mail#: 7004-2510-0004-2241-6749

In Reply Refer to:
EPA File No.: 06Dr-12-R4

[redacted]

Re: REJECTION/REFERRAL OF ADMINISTRATIVE COMPLAINT

Dear Mr. [redacted]:

This is in regards to your complaint received by the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) on January 13, 2012, and the clarifying information you provided on April 17, 2012. In your complaint you allege that the Alabama Department of Finance, the Alabama Department of Public Health, the Alabama Department of Economic & Community Affairs, the Alabama Department of Human Services, the Alabama State Personnel Department, the Alabama Public Service Commission, and the Alabama Department of Transportation have violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulations implementing Title VI found at 40 C.F.R. Part 7.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of discrimination complaints to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Part 7 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, would violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, or disability). Third, it must be filed within 180 days of the alleged discriminatory act. Finally, the complaint must be filed against a recipient of EPA assistance that committed the alleged discriminatory act. (A copy of EPA's nondiscrimination regulations is enclosed for your convenience.)

Your complaint alleges that you were fired from your position at the Alabama Public Service Commission on [redacted], based on your disability and in retaliation for being a whistle-blower about a "pattern of wrongdoings" in several agencies. In your response to EPA's request for clarification regarding the date of discrimination and the specific allegations of discrimination against the various named agencies in your complaint, you clarified that you were terminated on [redacted], and that your allegations of discrimination were specifically against the Alabama Public Service

Commission for your termination, and the Alabama State Personnel Department for a pattern of harassment culminating in your receipt, on [redacted], of a "formal notice blackballing you from state employment". While your original complaint named various responsible agencies, based on your clarification, OCR only considered the agencies named in your subsequent clarification.

After careful review, OCR is rejecting your complaint because the allegations you describe do not meet EPA's jurisdictional requirements. One of OCR's jurisdictional requirements to be accepted for investigation is that the complaint must be filed against a recipient of EPA assistance that allegedly committed the discriminatory act(s). The Alabama State Personnel Department and the Alabama Public Service Commission are not recipients of EPA financial assistance and therefore, are not within EPA OCR's jurisdiction to investigate.

In addition, the allegation related to your termination is untimely. As stated in the jurisdictional requirements above, a complaint must be filed within 180 days of the alleged discriminatory act. You allege that your termination in 2009 was discriminatory, but because your complaint was not filed until 2011, this allegation is untimely.

However, because of the employment nature of your complaint, OCR is referring it to the Birmingham District Office of the U.S. Equal Employment Opportunity Commission for their consideration. A copy of the letter to the EEOC is enclosed with this correspondence. Please contact them with future questions. The official to contact is Delner Franklin-Thomas. Contact Ms. Franklin-Thomas via phone at (800) 669-4000, via email at Delner.Franklin-Thomas@eeoc.gov, or via mail at U.S. EEOC, Ridge Park Place, 1130 22nd Street South, Suite 2000, Birmingham, AL 35205.

If you have any questions about this letter, please contact Jonathan Stein at (202) 564-2088, via e-mail at Stein.Jonathan@epa.gov, or via mail at U.S. EPA, Office of Civil Rights, Washington, D.C., 1200 Pennsylvania Avenue, N.W., Mail Code 1201A, Washington, D.C., 20460.

Sincerely,

Rafael DeLeon

Rafael DeLeon
Director

Enclosure(s)

cc: Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (MC 2399A)