

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK, COUNTY OF NEW YORK

CANDICE LUE, an individual,

Plaintiff

V.

JPMORGAN CHASE & CO. a Delaware Corporation; ALEX KHAVIN, an individual; FIDELIA SHILLINGFORD, an individual; JOHN VEGA, an individual; HELEN DUBOWY, an individual; PHILIPPE QUIX, an individual; THOMAS POZ, an individual; CHRIS LIASIS, an individual; MICHELLE SULLIVAN, an individual; and DOES 1 - 10, inclusive,

Defendants

Civil Action No.: 16 CV 3207 (AJN) (GWG)

Affidavit in Opposition/Response to  
“Declaration of **Helen Dubowy**  
in Support re: 89 Motion for Summary  
Judgment – (Docket # 96)”

I, pro se Plaintiff, Candice Lue hereby oppose/respond in good faith and under sworn oath to Defendant, Helen Dubowy’s (“Dubowy”) Declaration in support of the Defendants’ Motion for Summary Judgment as follows:

**Response to Helen Dubowy Exhibit A**

**“Sullivan Fought Tooth and Nail to Do My 2014 Year End Performance Review”**

No good intentioned, professional manager would be fighting tooth and nail to have her malicious, mendacious, rancorous and racially stereotypical comments and poor performance rating put on a **former** subordinate’s performance review unless the said manager wants to intentionally derail and/or inflict regression and stagnation on that employee’s career (Exhibit II, Exhibit II-1, JPMorgan Chase 000116 – 000122 - Exhibit A attached to Dubowy’s Declaration & “(2)(a) - Opposition/Response to Plaintiff Cannot Show a Triable Issue of Harassment” – “Memorandum of Law in Opposition to Defendants’ Motion for Summary Judgment” - pgs. 176 - 181).

On January 12, 2015, after feeling as if I had reached my “*wit’s end*”<sup>1</sup> with Defendant Michelle Sullivan (“Sullivan”) being hell-bent on intentionally derailing, regressing and stagnating the financial career I had worked so hard in college to pursue at JPMorgan Chase & Co. (“JPMorgan Chase”) with the malicious, mendacious, rancorous and racially stereotypical comments under the guise of “Manager Opportunities” she had put on my 2014 year end performance review, I sent an email with a Complaint attached to Julie Johnson, a Managing Director who reported directly to John Donnelly, Global Head of Human Resources with the Subject: “Complaint: Michelle Sullivan - I Need Help” (JPMorgan Chase 000123 - 000126 - Exhibit A attached to Dubowy’s Declaration). This Complaint initiated an “investigation” which was done by Nancy Sebastian, a HR representative - “investigation” because it’s a total farce - the JPMorgan Chase manager always wins (§ 137 – Am. Compl., Exhibit DDD).

#### Background

As the letter dated September 26, 2014 and the email dated October 3, 2014 (Exhibit JJ) show, due to the sale of JPMorgan Chase’s physical commodities business, the business in which I worked, I was officially terminated by the company from the Global Commodities Group - Energy Confirmations Department (“Confirmations”), the department that Sullivan managed, on Sunday, November 9, 2014. However, because November 9, 2014 was on a Sunday, my last day with the company would have been Friday, November 7, 2014.

On Thursday, November 6, 2014, the day before my slated last day, I was informed by a JPMorgan Chase HR representative that I was successful in securing a position as a Credit Reporting Risk Analyst in JPMorgan Chase’s Asset Management Counterparty Risk Group (“Counterparty Risk Group”) which I started the following Monday, November 10, 2014.

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<sup>1</sup> Am. Compl. - Sixth and Tenth Causes of Action – “*Intentional Infliction of Career Regression and Career Stagnation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*” and “*Defamation of Character on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*”.



With that said, as my IM conversation on November 6, 2014 with the said JPMorgan Chase HR representative (Exhibit JJ) shows, it would be more convenient for the said HR representative to have put me in the system as a “transfer”, regardless of my starting date in the Counterparty Risk Group, before my November 9, 2014 termination date because after my said termination date, I would have been automatically cleared out of the system and would have to be onboarded as a new hire - from scratch. This scenario further explains why after November 9, 2014, I should have been done with Sullivan and my previous position which after November 9, 2014 was no longer in existence. Meaning that, Sullivan should not have been doing anything further in the capacity of my manager which included doing my performance reviews.

As per the email dated December 10, 2014 (Exhibit H-5), it was the time for the 2014 end of year performance reviews to be done and Defendant Fidelia Shillingford (“Shillingford”) being inexperienced in her new, never before practiced role as my manager, like for everything else, either went to Alex Khavin (“Khavin”) or my former manager, Sullivan for them to tell her what to do (Exhibit EE-1 – Email dated May 14, 2015 – “*Sorry to bother you again*”).

As the said email shows, Khavin, as if oblivious to the fact that I was terminated on November 9, 2014 from the position I had in Sullivan’s department and that the said position was no longer in existence, advised Shillingford that Sullivan should do my 2014 year end performance review. With that said, at some point Shillingford added Sullivan as an additional manager to do my performance review (“PMC”). However, after noticing that Sullivan was ill-willed towards me (in a one on one I had with Shillingford, she mentioned Sullivan’s adamancy in wanting to do my 2014 year end performance review), Shillingford removed Sullivan’s access to my PMC and that was when Sullivan’s tooth and nail fight to get back access to my PMC ensued (Exhibit II & JPMorgan Chase 000116 – 000122 - Exhibit A attached to Dubowy’s Declaration). No good intentioned, professional manager would be fighting tooth and nail, as Sullivan was in those emails, to have her malicious, mendacious, rancorous and racially stereotypical comments and poor

performance rating put on a former subordinate's PMC unless the said manager wants to intentionally derail and/or inflict regression and stagnation on that employee's career.

Taking Sullivan's side and alluding to me, Plaintiff, Candice Lue as a "transfer" which again based on Exhibit JJ, I was not, HR representative, Ana Cabrera-Vargas, threatened Shillingford telling her that if she, Shillingford did not reinstate Sullivan as an additional manager, she, Cabrera-Vargas would be doing so from her end (Email dated December 16, 2014 - JPMorgan Chase 000119 - Exhibit A attached to Dubowy's Declaration) – giving Sullivan free reign to write her malicious, mendacious, rancorous and racially stereotypical comments on my 2014 end of year performance review in her, Sullivan's unending quest to derail, regress and stagnate my career at JPMorgan Chase.

It was because of the above articulated reasons why on January 12, 2015 I sent an email with a Complaint attached to Julie Johnson, a Managing Director who reported directly to John Donnelly, Global Head of Human Resources with the Subject: "Complaint: Michelle Sullivan - I Need Help" which again, initiated an "investigation" which was done by HR representative, Nancy Sebastian.

"JPMorgan Chase's HR Department Is A Farce and the HR Representatives Are Only Looking Out for The Best Interest of JPMorgan Chase"

Just like the complaint I made to JPMorgan Chase's HR department about Khavin's racial discrimination against Blacks, the complaint I made to Julie Johnson about Sullivan's harassment (JPMorgan Chase 000123 - 000126 - Exhibit A attached to Dubowy's Declaration) was to no avail. HR representative, Nancy Sebastian found nothing "*wrong/malicious*" (Exhibit DDD).

JPMorgan Chase's HR department is a farce and the HR representatives are only looking out for the best interest of JPMorgan Chase whether it means making sure to not expose the racist culture within the company through unlawful retaliations, bogus investigations and cover-ups or to not take culpability for a manager willfully harassing an employee (Am. Compl. ¶ 137, Exhibit CC).



Case in point as it relates to the JPMorgan Chase HR representatives working in tandem, among the thousands of duplicated copies of emails I received from the Defendants, JPMorgan Chase & Co., et al attorneys' office on March 21, 2017 was an email invite from Terri Vernon dated June 10, 2015 saying: *"I have invited Nancy [Nancy Sebastian] because she worked on a previous case with Candice against another manager [Sullivan] as well"* (Exhibit CC - JPMorgan Chase 003336)<sup>2</sup>.

Case in point as it relates to *"unlawful retaliations, bogus investigations and cover-ups or to not take culpability for a manager willfully harassing an employee"*, after I informed Terri Vernon on May 29, 2015 that *"I consider myself to be a victim of racial discrimination"* (Exhibit CC - JPMorgan Chase 002722), when she forwarded my said email to Defendant John Vega ("Vega") for him to "investigate" my Employment Racial Discrimination claim, she made no mention of even the possibility of a JPMorgan Chase manager being in violation of Title VII and/or 42 U.S.C. § 1981. Instead, as is shown in the two emails to Vega, right off the bat, Terri Vernon was totally accusatory of me, Plaintiff, Candice Lue – saying that *"there is a history with this employee"* because I had previously filed a complaint against Sullivan (JPMorgan Chase 000123 – 000126 - Exhibit A attached to Dubowy's Declaration). However, considering that in my July 23, 2015 meeting with Vega he told me that he currently had **thirty (30)** other cases working on, maybe, *"there is a history with [the racially biased culture]"* at JPMorgan Chase.

#### "Nancy Sebastian's 'Investigation' into Complaint I Made about Sullivan"

Per Nancy Sebastian's ("Sebastian") investigation report, Sullivan mendaciously told her of *"the performance challenges [Sullivan] had faced with [me, Plaintiff, Candice Lue] especially during the time the business was closing down in 2014"* and *"Candice pushed back on several other*

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<sup>2</sup> In other words, "I have invited Nancy Sebastian to help with discrediting Plaintiff, Candice Lue's claim of Employment Racial Discrimination even though the case that Sebastian worked on did not include Employment Racial Discrimination because at the time I was naïve and oblivious to JPMorgan Chase's culture of Racial Discrimination which anyone of reasonable mind could understand why based on my "Response [under sworn oath] to Request # 31 - "Response to Defendants First Request for Production of Documents" - docket entry # 45.

*tasks that needed to be done*” (JPMorgan Chase 000111 - Exhibit A attached to Dubowy’s Declaration). Also, “*Candice’s unwillingness to take on work towards the end of the year played an important role in her receiving an M- rating*” (JPMorgan Chase 000112 - Exhibit A attached to Dubowy’s Declaration).

These two statements by Sullivan could not have been farther from the truth especially considering 1) Sullivan’s own comment on my 2014 mid-year performance review on July 24, 2014<sup>3</sup> (Exhibit G – 2014 Performance Review, page 10), 2) my “Retention Payment Agreement” (Exhibit JJ - 3<sup>rd</sup> page of letter dated May 19, 2014) about which Sullivan and I communicated via emails dated October 8, 2014 and October 10, 2014, respectively (Exhibit JJ) and 3) Sullivan’s email to me on November 7, 2014 (my last day in her department) “thanking me **again**” (Exhibit R and Am. Compl. ¶ 207b).

As I articulated in my “Complaint: Michelle Sullivan- I Need Help” (Exhibit D): “*During the transition period of the sale of the physical commodities business and even after I got my 60 day notice of termination, I continued to perform my duties at the highest professional level with optimal accuracy and quick turnaround time. In fact, one day before my date of termination, I got an email (on which Michelle was copied) from a senior co- worker with whom I was working on a transition project thanking me for the “speedy turnaround” in completing the project he had asked me to work on. **One day before my date of termination***” (Exhibit D – Email dated November 6, 2014).

*I was instrumental in providing thorough cross-training to the team* (Exhibit G – 2014 Performance Review, page 10). *I came into work on time<sup>4</sup>, all my work was on schedule and with optimal accuracy, my reports were run on time, if needs be that I stay late to complete a time sensitive task, I did so. I served as back up for teammates who were on vacation for extended periods of time and never called out sick to use any of my **seven unused sick days** as spite or malice*

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<sup>3</sup> Just over three (3) months before my termination from Sullivan’s department – E2E means “end to end”.

<sup>4</sup> Unless I had an interview in the morning for which, **as soon as** I was apprised of the interview, I always let Sullivan know that I would be in late.



for being terminated. In fact, on November 7, 2014 (my last day in the department), I had six unused sick days<sup>5</sup>.”

I had six unused sick days on November 7, 2014 because in addition to having to go on job interviews<sup>6</sup>, from October 6, 2014 through October 17, 2014 (three weeks before my termination date), I was the back up for my co-worker, Gavin Bennett who was on two weeks vacation. After having such a hectic two weeks going to multiple interviews, making sure that all my work was on schedule and backing up for Gavin for two (2) weeks straight, when my alarm went off at 5AM on Friday, October 17, 2014, I was so zombie-like that I had to take off one of the seven (7) sick days I had available before my termination in three weeks (Am. Compl. ¶ 207b and Sullivan’s “Thank you again” email dated November 7, 2014 – Exhibit R).

Was there ever a complaint by Sullivan herself, another co-worker, client, trader, marketer, Middle Office and/or Legal that because of my “performance” a deadline was not met, errors were made or my continued absence caused items to be backlogged, etc.? Never! I worked with dignity, maturity and professionalism to the point that on my last day in Sullivan’s department, November 7, 2014, I had **six unused** sick days left for the year.

As a Black person without the luxury of “White privilege” (Exhibit QQ – “Why Black Workers Really Need to be Twice as Good” and “Black Troops More Likely to Face Military Punishment”), the malicious, mendacious, rancorous and racially stereotypical (wink-wink)<sup>7</sup> comments that Sullivan made to Nancy Sebastian about me and put on my 2014 year end performance review making me out to be a lazy, “uppity”/“angry Black woman” were a defamatory

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<sup>5</sup> 100% Verifiable by JPMorgan Chase’s HR Department.

<sup>6</sup> I either did these interviews as early as possible in the mornings to not interfere with my work schedule or worked late if I went into the office late to make sure all my work was on schedule

<sup>7</sup> EEOC Compliance Manual Section 15 – Race and Color Discrimination - V(A)(2) – RACE-RELATED STATEMENTS (ORAL OR WRITTEN) MADE BY DECISIONMAKERS OR PERSONS INFLUENTIAL TO THE DECISION. “Race-related statements include not only slurs and patently biased statements, but also “code words” that are purportedly neutral on their face but which, in context, convey a racial meaning.<sup>(47)</sup> The credibility of the witness(es) attesting to discriminatory statements, and the credibility of the witness(es) denying them, are critical to determining whether such statements actually were made. If racially discriminatory statements were made, their importance will depend on their egregiousness and how closely they relate – in time and content – to the decision in question.” Also Exhibit A-1 - “Often, unconscious stereotypes or implicit biases are, [can be, and will be] at play” - Former Equal Employment Opportunity Commissioner, Stuart Ishimaru.

assault on my character (§§ 206 – 208 - Am. Compl., “Black People are Lazy”, Exhibit QQ – “Uppity Negro” and “Angry Black woman”). They were also the said comments that Sullivan used to give me a “Low Meets Expectation (M-)” rating as my overall rating for the said review in her quest to regress and stagnate my career at JPMorgan Chase. This resulted in me suffering a tangible employment action as, with a “Low Meets Expectation (M-)” rating, I was automatically deprived of the company’s progressive employment benefits.

Sullivan under the auspices of and in conjunction with her manager, Defendant Chris Liasis (“Liasis”), intentionally regressed and stagnated my career at JPMorgan Chase as well as stereotypically defamed my character on the basis of my race (wink-wink) (Am. Compl. - Sixth and Tenth Causes of Action – “*Intentional Infliction of Career Regression and Career Stagnation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*” and “*Defamation of Character on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*”). )

As I articulated in my Complaint to Julie Johnson about Sullivan and Liasis (JPMorgan Chase 000123 - 000126 - Exhibit A attached to Dubowy’s Declaration - last ¶ on page 1): “*It broke and continues to break my heart to know that the harder I tried to make beneficial contributions and to help to improve the process of my former team (as outlined in my PMCs), the more pushback I got from Michelle Sullivan and her reinforced help Chris Liasis*”.

And, as I further articulated in my “Response [under sworn oath] to Request # 13” - “Response to Defendants First Request for Production of Documents” - docket # 45, “*Sullivan is someone who, in high school, would be considered a “mean girl”. A mean person who would deceptively use whatever method was available and/or by whatever means possible to hold back and/or to take down anyone in her sick, mean mind she thinks need to be held back and/or taken down. The method that was available to Sullivan was JPMorgan Chase’s Performance Management Central (PMC) and the means she found possible was my race [wink-wink]*”.



*Like all “mean girls”, Sullivan is a liar. And, through the said portal, JPMorgan Chase’s Performance Management Central (PMC), as is evidenced in the rebuttals I had the opportunity to make to the malicious and mendacious comments Sullivan put on my performance reviews, I was able to bring Sullivan’s malicious lies to light” (Exhibit G – 2014 Performance Review, pages 7 - 10).*

For Sebastian to have found absolutely “*nothing wrong/malicious*” on Sullivan’s part in my Complaint against Sullivan, proves that JPMorgan Chase condones and ratifies harassment from its managers and that could not be more evident than JPMorgan Chase providing legal representation for all the alleged perpetrators in my Employment Racial Discrimination and Retaliation lawsuit.

### **Response to Helen Dubowy Exhibit B**

#### **“John Vega’s ‘Investigation’”**

With all due respect, this drunken “investigation report” attached as “JPMorgan Chase 000101 – 000108 & 002095 - Exhibit B” to Dubowy’s Declaration in conjunction with Defendant John Vega’s display of impropriety as evidenced in Exhibit CC-1 explains why JPMorgan Chase & Co. (“JPMorgan Chase”) fired him (at least, I think Vega was fired).

Vega’s “investigation” of my Claim of Employment Racial Discrimination that I had brought against Khavin and Shillingford, which anyone of reasonable mind would assume was supposed to be neutral and fair, was not only “drunken” but as evidenced in Exhibit CC-1 and from my own first hand knowledge was biased, retaliatory and a total farce.

Among the thousands of duplicated copies of emails (just a mere fraction has been sent to the Court as “Exhibits”) I received from the Defendants, JPMorgan Chase & Co., et al attorneys’ office on March 21, 2017 were the following emails between Vega and the alleged perpetrators, Khavin and Shillingford during the time that Vega should have been “neutrally investigating” my claim of Employment Racial Discrimination against me, by the said alleged perpetrators, Khavin and Shillingford (Exhibit CC-1):

- An email showing that from my first correspondence with Defendant/“neutral investigator”, Vega in which he informed me that “*your matter has been raised to me for investigation*” (JPMorgan Chase 002285 – Exhibit CC-1), unbeknownst to me, he had been **blind copying** the alleged perpetrators, Khavin and Shillingford and continued to blind copy them on such subsequent emails. However, as the complaining party, I was never copied and/or blind copied on any email Vega sent to Khavin and/or Shillingford.
- Email trail dated July 8, 2015 – Unbeknownst to me, everything that Defendant/“neutral investigator”, Vega and I discussed was relayed to alleged perpetrator/Defendant Shillingford. However, as the complaining party, Vega had never relayed to me what he discussed with alleged perpetrator/Defendant, Shillingford about the matter.
- Pursuant to email dated July 8, 2015, email from Shillingford dated July 17, 2015 and time stamped 7:03 AM confirms that Defendant/“neutral investigator”, Vega had been keeping alleged perpetrator/Defendant, Shillingford “*updated*” as per Shillingford’s request (email dated June 30, 2015 – JPMorgan Chase 001242).
- Email dated July 27, 2015 – Unbeknownst to me, Defendant/“neutral investigator”, Vega who is an attorney by profession along with other HR representatives, who are quite likely attorneys as well, were liaising with alleged perpetrator/Defendant Shillingford in concocting the fallacious, pretextual and retaliatory Performance Improvement Plan (“PIP”) that was issued to me on July 30, 2015. I respectfully refer the Court to the additional emails showing this “PIP concoction”<sup>8</sup> provided in Exhibits CC and CC-1.
- Email dated July 28, 2015 - Unbeknownst to me, alleged perpetrator/Defendant Shillingford was among the people informed by Defendant/“neutral investigator”, Vega that he would be discussing the “*results of [his] investigation*” with me on July 29, 2015<sup>9</sup> saying: “*I will keep*

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<sup>8</sup> Among HR representatives whom I had never met and/or as much as had an email communication with, never even knew they existed (the only other HR personnel besides Vega whom I had email communication with was Terri Vernon).

<sup>9</sup> The day before my “impromptu” 2015 mid-year performance review.



*everyone apprised of this*”<sup>10</sup>. Shillingford then forwarded this email to her acting manager at the time, Defendant Thomas Poz. However, as the complaining party, the only thing that Vega told me with regards to the “*results of [his] investigation*” with Shillingford and/or Khavin was, he had “*found “nothing discriminatory”* and with the same intensity as alleged perpetrator/Defendant Khavin and in reminiscence of the 1800s plantation style living when slaves were ordered by force, he vehemently ordered me saying, “*when it comes time to get everything ready for the monthly meeting, [printing 13 copies of each of the non-Black team member’s presentation materials (one copy for each member of the team), collating, stapling and lugging of the said presentation materials to the monthly team meetings] get it ready so as not to derail your career here [JPMorgan Chase]*”. In my words, “turn a blind eye to the Employment Racial Discrimination against you and your financial career here at JPMorgan Chase, will be just fine”.

- Email dated July 31, 2015 (two pages) – Unbeknownst to me, when I sent an email the day after my 2015 mid-year performance review, where I was issued the fallacious, pretextual and retaliatory performance improvement plan (PIP), to alleged perpetrator/Defendant Shillingford informing her of my illness, which I later found out is due to Somatisation/Somatoform and Psychosomatic Disorders (Exhibit ZZ), Shillingford forwarded my said email, in ridicule, to Defendant/“neutral investigator” Vega with the statement: “*As expected....*”, Defendant/“neutral investigator” Vega then responded: “*I am not surprised....*”, alleged perpetrator/Defendant Shillingford’s response: “*I won’t be surprise[d] if she takes disability*” (because this was what I was voluntarily informed and believe, and on that basis allege that Baruch Horowitz, my first predecessor, did due to overwork, stress and the unrealistic expectation for one person to do a job that realistically requires two people to do)<sup>11</sup>.

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<sup>10</sup> The July 29, 2015 “*results of [Vega’s] investigation*” consisted of all the fallacious and pretextual information, according to Vega, that Khavin and Shillingford gave him. These were the said fallacious and pretextual information that appeared on the “performance improvement plan” I was issued the very next day

<sup>11</sup> Am. Compl. ¶ 107; Khavin Dec., ¶ 12, 16; Dauber Dec., ¶ 5; Shillingford Dec., ¶ 11

- On or about August 13, 2015 when I was standing at alleged perpetrator/Defendant Shillingford's desk and her Outlook Inbox was opened on her computer, I was surprised to see a "Thank You and Farewell" email from Defendant/"neutral investigator", Vega to alleged perpetrator/Defendant Shillingford considering that when I first met with Vega, he appeared to have never known of or about Khavin and Shillingford prior to me raising the claim of Employment Racial Discrimination against them. Yet, in no time, he, Vega was "friendly" sending Shillingford, and possibly Khavin, his "Thank You and Farewell" email. However, it has now been revealed in the thousands of duplicated copies of emails that I received from the Defendants, JPMorgan Chase & Co., et al attorneys' office on March 21, 2017 that this "comfortable back and forth" between Defendant/"neutral investigator", Vega and the alleged perpetrators/Defendants, Khavin and Shillingford had been going on from the time my Claim of Employment Racial Discrimination against me to JPMorgan Chase's HR Department was "escalated" to Vega for him to "investigate".

My Claim of Employment Racial Discrimination for which Vega was "investigating" was based on the fact that undesirable tasks that were assigned solely to me, the only Black analyst in the Counterparty Risk Group led by Khavin, that had never been assigned to any of the non-Black analysts and/or associates (including my three non-Black predecessors) in the said group prior to me joining the group and/or after I joined the group, were racially discriminatory.

However, anyone of reasonable mind will notice in the emails I have provided in Exhibits CC and CC-1 that there is nothing about rectifying the issue pertaining to this unlawful act or the mention of even the possible violation of Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 - Race and Color Discrimination - VII(B)(1) - WORK ASSIGNMENTS which states: *"Work assignments must be distributed in a nondiscriminatory manner. This means that race cannot be a factor in determining the amount of work a person receives, or in determining who gets the more, or less, desirable assignments."*



It was all about concocting ways to unlawfully retaliate against me in their quest to protect the company from “litigation” - as Vega described himself in his LinkedIn profile summary: *“Trusted advisor and consultant to HR and business managers on diverse workplace issues with a proven track record of analyzing and resolving complex employment issues minimizing litigation risks”*.

Also, I respectfully ask that the Court take note of Exhibits CC and CC-1 whereby the ONLY tasks that Vega, et al are accusing me of refusing to do are the racially discriminatory tasks<sup>12</sup> that were off limits for the non-Black analysts and associates to do but were solely assigned to me, the only Black Analyst in the Counterparty Risk Group, to do – Bearing in mind that before I joined the said Counterparty Risk Group, the task of the taking of the minutes for the Monthly Governance Meetings, for example, was rotated among all the non-Black analysts and associates in the said group<sup>13</sup> and the tasks of the printing, etc. of all the team members’ presentation materials for the Monthly Governance Meeting never existed. There was also a White administrative assistant on the team to whom these tasks were never assigned even though those tasks would more likely fall into the administrative assistant job category. (I respectfully refer the Court to see more on the unfairness of these tasks being solely assigned to me in my “Affidavit in Opposition/Response to Declaration of Alex Khavin - Docket # 92” – “Response to Statement #s 12, 13 & 14”).

Anyone of reasonable mind will also notice that alleged perpetrator/Defendant Shillingford, who is Black and a servile employee, was coached into lying – “the Baruch Horowitz lie” (email dated July 24, 2015 – “Follow ups from our meeting”)<sup>14</sup> and was given step by step directives by the HR representatives in their quest to unlawfully retaliate against me for raising the issue of

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<sup>12</sup> The task of the taking of the minutes for the Monthly Governance Meetings and the tasks of printing 13 copies of each of the non-Black team member’s presentation materials (one copy for each member of the team), collating, stapling and lugging of the said presentation materials to the monthly team meetings where the non-Black team members including the ones on my job level would be sitting around the conference room table waiting to “be served”.

<sup>13</sup> Khavin was cognizant of not making any of the non-Black analysts and/or associates feel demeaned by solely assigning any one of them the undesirable task of taking the minutes for the Monthly Governance Meeting.

<sup>14</sup> I respectfully refer the Court to see my Response to “the Baruch Horowitz lie” in my “Affidavit in Opposition/Response to Declaration of Baruch Horowitz – Docket # 99” and my “Affidavit in Response/Opposition to Defendants’ Statement of Undisputed Material Facts - Docket # 90 - Defendants’ Undisputed Material Fact # 18”.



Employment Racial Discrimination. These step by step directives included Defendant Dubowy sending Shillingford the performance improvement plan (PIP) template on July 6, 2015 with the message: “*As discussed. Thanks*” (JPMorgan Chase 002992 - Exhibit CC-1) and the HR representatives trying to make it seem that Shillingford, who again is Black and not Khavin who is White was the main perpetrator of the claim of Employment Racial Discrimination that I reported to JPMorgan Chase’s HR department (Exhibit CC - JPMorgan Chase 001392 & 003342, ¶ 114 - Am. Compl., Exhibit F and Declaration of Fidelia Shillingford - Docket # 93).

In light of the foregoing and as is obvious in the above-referenced emails and other emails in Exhibit CC and Exhibit CC-1, Vega’s “investigation” was not only biased and a total farce but it was retaliatory<sup>15</sup> which is in violation of Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION which states: “*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*”.

Also, drawing from Canon 3(A)(4) which states: “*A judge should accord to every person who has a legal interest in a proceeding, and that person’s lawyer, the full right to be heard according to law. Except as set out below, a judge should not initiate, permit, or consider ex parte communications or consider other communications concerning a pending or impending matter that are made outside the presence of the parties or their lawyers. If a judge receives an unauthorized ex parte communication bearing on the substance of a matter, the judge should promptly notify the parties of the subject matter of the communication and allow the parties an opportunity to respond, if requested*”, Defendant Vega’s conduct, as is evidenced in his email correspondence with the alleged perpetrators, Khavin and Shillingford reflects impropriety and his investigation, a lack of integrity.

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<sup>15</sup> The ONLY tasks that I refused to do were the racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group – Tasks which were not even assigned to the White administrative assistant in the said group to do even though they would more likely fall into the administrative assistant job category.



“Response to John Vega’s call with Alex Khavin”

I respectfully refer the Court to my “Affidavit in Opposition/Response to Declaration of Alex Khavin - Docket # 92”

“Response to John Vega’s meeting with Fidelia Shillingford”

I respectfully refer the Court to my “Affidavit in Opposition/Response to Declaration of Fidelia Shillingford - Docket # 93”

“Response to John Vega’s meeting with Kimberly Dauber”

I respectfully refer the Court to my “Affidavit in Opposition/Response to Declaration of Kimberly Dauber - Docket # 97”

**Response to Helen Dubowy Exhibit C**

“Recommendation for Termination”

The only thing right about the “Recommendation for Termination” is that I had numerous conversations with Employee Relations (Defendant Vega) and Management (Defendants Khavin and Shillingford) whereby, I tried my best to articulate that “*Alex Khavin has been treating me as if I am the help, as if it is 1910*”, Shillingford is the enabler, the facilitator, the coordinator and the enforcer of the said racist treatment that Khavin had been meting out to me and that it was unfair as the only Black analyst on the team to be treated at a double standard, but to no avail.

If the “Recommendation for Termination” had explicitly declared the racially discriminatory “*assigned tasks*”<sup>16</sup> it states I refused to perform and the fact that Khavin who had assigned these tasks solely to me had never assigned these said tasks to any of the non-Black analysts and/or associates to do, whether exclusively or on a rotational basis in the two years prior to me joining the Counterparty Risk Group, which she, Khavin headed, and/or after I joined the said group, then anyone of reasonable mind would see that this act by Khavin was a disparate/racially discriminatory act on her part.

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<sup>16</sup> The tasks of the printing, etc. of 13 copies of each of the non-Black team member’s presentation materials for the Monthly Governance Meeting.

As the only Black Analyst in the Counterparty Risk Group, as if I were the help/house slave for the non-Black members of the group<sup>17</sup>, including the members on my own job level, and reminiscent of the 1800s plantation style living, in the era of slavery when Blacks had to serve their masters and their masters' families, Khavin solely assigned me the task of taking the minutes for the Monthly Governance Meetings (a task which was rotational among the analysts and associates before I joined the team as I was told in my interview and per Kimberly Dauber's email dated February 4, 2015<sup>18</sup> – Exhibit B) and the tasks of printing 13 copies of each of the non-Black team member's presentation materials (one copy for each member of the team), collating, stapling and lugging of the said presentation materials to the monthly team meetings where the said non-Black team members will be waiting to "be served" (tasks which never existed before I joined the team or tasks that were not even assigned to the White administrative assistant on the team to do). (I respectfully refer the Court to my "Affidavit in Opposition/Response to Declaration of Alex Khavin - Docket # 92" – "Response to Declaration Statement #s 12, 13 & 14").

In light of the aforesaid and Khavin being condescending, unapologetic and unrepentant during my meeting with her on April 24, 2015 where I tried my best to articulate to her how I felt about her treating me "*as if I am the help and as if this is 1910*" (Am. Compl. ¶¶ 9 & 172a), I was made to feel as if I shared the same sentiment as a house slave working on a plantation. And, as someone of slave ancestry, I found the unessential (as it related to benefiting the department or the company as a whole) and undesirable task assignment of doing the printing, etc. of the non-Black team members' presentation materials for the Monthly Governance Meeting and the task of solely being assigned to take the minutes for the said Monthly Governance Meeting racially demeaning and degrading (Exhibit B – my email dated May 27, 2015/time stamped 8:39 AM).

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<sup>17</sup> I was on the Credit Reporting side of the group and all these non-Black members were on the Credit Analysis side (Shillingford Dec., ¶ 8).

<sup>18</sup> "*Every analyst and/or associate on this team has been the minute taker of our Extended meetings at some time during the last 2 years. I don't think this is a function that is specifically written out in job duties because it's an adhoc function. However, Alex would pick a different person each time during our meetings....*"



As the “Recommendation for Termination” attached as “JPMorgan Chase 000060 - Exhibit C” to Dubowy’s Declaration shows, for taking a stance against this disparate treatment, the unlawful act of Employment Racial Discrimination, through peaceful defiance<sup>19</sup>, by reporting the matter to JPMorgan Chase’s HR Department and by filing a Charge against the said company with the Equal Employment Opportunity Commission (EEOC), I was severely punished by JPMorgan Chase and its managers. These severe punishments included being placed on a retaliatory and pretextual “performance improvement plan” on July 30, 2015 (Exhibit C), issued a “written warning” on September 24, 2015 (Exhibit F) and ultimately terminated on January 6, 2016.

The **only** “expectation” for the “written warning” that was issued to me on September 24, 2015 for my stance against the racially discriminatory tasks that were solely assigned to me, the only Black analyst in the Counterparty Risk Group, was: *“It is my expectation that Candice perform the job responsibilities for which she was hired; she is expected to print all materials for our monthly team meeting and provide copies for each member”* (Exhibit F) – meaning, be the house slave for the non-Black members on the team including the ones on my job level, **who are not even members of the Reporting side of the group as I was** (Shillingford Dec., ¶ 8) **and whose presentation materials for the monthly team meeting had nothing to do with mine**, or else.

In contrast, while I was severely punished by way of a poor performance review and put on a retaliatory and pretextual “performance improvement plan”, given a written warning, (both of which barred me from accessing the company’s progressive benefits) and ultimately terminated on January 6, 2016 for taking a stance against obvious disparate treatment against me in the assignments that were off limits for the non-Black analysts on the team but were solely assigned to me to do, without fear of being punished, my White co-worker, Ryan Vroom was unabashed about his outright refusal to do the Reconciliation Report which is an essential task of the Counterparty Risk Group. This is a tedious task that I ended up having to do (Am. Compl. ¶ 69).

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<sup>19</sup> 2<sup>nd</sup> paragraph of the said “Recommendation for Termination” and Shillingford’s email dated August 26, 2015/time stamped 4.25 PM (Exhibit CC-1)

Ryan Vroom is the said White employee who, when another co-worker left the company and a task that the exited co-worker previously did was passed on to him to do, he also flat out refused to do it, throwing a tantrum shouting, **"I am not taking this on!"** and just like the Reconciliation Report that he refused to do, I, Plaintiff, Candice Lue, am the one who also had to end up doing this task as well (Exhibit PP - ¶ 2 of page 10 -"Response to "Defendants' Responses to Plaintiff's First Set of Document Requests" Dated November 16, 2016").

However, unlike me, White employee, Ryan Vroom was not severely punished by means of a poor performance review and put on a retaliatory and pretextual "performance improvement plan", he was not given a written warning, both of which would have barred him from all of the company's progressive benefits and most of all, he was not terminated. As a matter of fact, he got **promoted** – Bearing in mind that for this White employee to have gotten a promotion, his performance rating would have to be, per JPMorgan Chase's "promotion criteria", at least 2 years of Meets Expectation (M) or above performance, with rating of Meets Expectation Plus (M+) or Exceeds Expectation (E) in the year of the promotion (Exhibit QQ – "Why Black Workers Really Need to be Twice as Good", "Black Troops More Likely to Face Military Punishment", Am. Compl. ¶ 69 & Exhibit H-3).

With regards to my "professionalism", any issue with my professionalism is a direct result of the racially discriminatory treatment I endured working at JPMorgan Chase. With that said, admonishing racial discrimination should not be misconstrued as being *"disrespectful"*. The days when Black people had to stand up straight and look downward to the ground because it was "disrespectful" to look a racist in the eye as the said racist was demeaning them and treating them as second class citizens, are over. The days when a racist addressed an adult Black male as "boy" and the adult Black male had to stand there and be respectful to the racist while being demeaned by being referred to as "a boy", are over. And, so are the days when as a Black employee working for JPMorgan Chase, it is *"disrespectful"* of me to take a stance against or to not accept second class



treatment meted out to me on the basis of my race from racist managers or conduits of racist managers who for their own job security, these conduits engage in horizontal racism. Racism **must** be admonished in whatever way necessary without violence and without care as to whether or not the racist thinks that doing so is being disrespectful to him or her.

It is despicable and shameful of Defendants JPMorgan Chase & Co., et al to intentionally misconstrue my admonition of racial discrimination against me by using my said stance<sup>20</sup> as a defense for my unlawful and retaliatory termination. Further, and pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION – “*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.*”(156)”.

## CONCLUSION

Defendant Helen Dubowy (“Dubowy”), whom I had never seen or met before she presented herself with Shillingford at my 2015 mid-year performance review or with whom I had never even as much as done an email correspondence was not only supporting everything that was purported on the fallacious, pretextual and retaliatory “performance improvement plan” (Exhibit C) that Shillingford presented me with on July 30, 2015 at my said performance review, as if I had previously worked with her in some capacity or another or as if barring what she was told by the alleged perpetrators, Khavin and Shillingford and Defendant/“neutral investigator” John Vega<sup>21</sup> she

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<sup>20</sup> The said stance Martin Luther King, Jr. was found “disrespectful” for taking that landed him in jail, the said stance Nelson Mandela was found “disrespectful” for taking that landed him in prison for twenty-seven (27) years, the said stance Rosa Parks was found “disrespectful” for taking that landed her in jail, the said stance Harriett Tubman would have been found “disrespectful” for taking if she was caught and was sent to jail, the said stance Congressman John Lewis was found “disrespectful” for taking that caused him to get bloodied on Bloody Sunday and the said stance Bob Marley advocated in his songs that just like Martin Luther King, Jr., Nelson Mandela and Rosa Parks propelled him to worldwide fame.

<sup>21</sup> JPMorgan Chase’s managers and its HR representatives work in tandem. The HR representatives’ job is to protect and look out for the best interest of JPMorgan Chase whether it means making sure to not expose the racist culture

was personally aware of the quality of work I had or was able to produce, but, as is evidenced in Exhibits CC and CC-1, Dubowy was instrumental in writing the said fallacious, pretextual and retaliatory “performance improvement plan” (Exhibit C) as well as the equally fallacious, pretextual and retaliatory “written warning” (Exhibit F) on which I was placed<sup>22</sup>. As Exhibits CC and CC-1 also show, Defendant Helen Dubowy had substantial input/involvement in the unlawful retaliations that were perpetrated against me and displayed as much or even more vehemence than Defendant/”neutral investigator”, Vega and the other HR legal representatives in her quest to take tangible employment actions against me, up to and including my termination.

Take for instance my detailed “Chronology of Events of Racial Discrimination” email dated July 21, 2015 that I had sent to John Vega, upon his request, that he forwarded to Dubowy. Dubowy’s July 23, 2015 (Exhibit CC-1 - JPMorgan Chase 001603- 001606) response to my said “Chronology of Events of Racial Discrimination” was: “[*Kiss teeth*] *We need to bring this to a close asap [we need to terminate Plaintiff, Candice Lue]. This has been going on for too long and all Terri and I have been able to tell the mgmt [alleged Perpetrators/Defendants Khavin and Shillingford] is to hold*” – Bearing in mind that Dubowy had already sent Shillingford the “performance improvement plan” (PIP) template on July 6, 2015 (two weeks prior) with the message: “*As discussed. Thanks*” (JPMorgan Chase 002992 - Exhibit CC-1).

But even so, after reading through my “Chronology of Events of Racial Discrimination”, did Dubowy even consider the possibility that Khavin and her servile employee and conduit, Shillingford might be in violation of Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII(B)(1) – WORK ASSIGNMENTS which states: “*Work assignments must be distributed in a nondiscriminatory manner. This means that race*

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within the company through unlawful retaliations, bogus investigations and cover-ups or to not take culpability for a manager willfully harassing an employee.

<sup>22</sup> The first time I ever knew of Helen Dubowy was on July 30, 2015, the day of my 2015 mid-year performance review and the issuance of the PIP. I have never even as much as had an email communication with her yet she was not only instrumental in writing the “performance improvement plan” (Exhibit C) and the written warning (Exhibit F) that were issued to me but, she was the one who signed off on my “Recommendation for Termination”.



*cannot be a factor in determining the amount of work a person receives, or in determining who gets the more, or less, desirable assignments”?* And/or;

Before Dubowy sent her said response to John “[*Kiss teeth*] *We need to bring this to a close asap [we need to terminate Plaintiff, Candice Lue]. This has been going on for too long and all Terri and I have been able to tell the mgmt [alleged Perpetrators/Defendants Khavin and Shillingford] is to hold*” did she consider or was she aware that pursuant to Title VII of the Civil Rights Act of 1964 - EEOC Compliance Manual Section 15 – Race and Color Discrimination – VII - C. RETALIATION – “*Employees have a right to be free from retaliation for their opposition to discrimination or their participation in an EEOC proceeding by filing a charge, testifying, assisting, or otherwise participating in any manner in an investigation, proceeding, or hearing under Title VII.(156)*”?

 Or;

For Dubowy, was it just: “who the heck cares? If she [Plaintiff, Candice Lue] sues us, we will just have the case sent to mediation, get it dismissed and send her off with the equivalent of or less than what it costs us for our Board of Directors to have lunch.

Also, I respectfully ask that the Court take note of Dubowy’s emphatic “*Yes!*” response to John Vega’s email dated July 30, 2015 (JPMorgan Chase 001467) when Vega mentioned the possible need for “corrective actions” against me if I continued to oppose the Employment Racial Discrimination that was being perpetrated against me and Dubowy’s email dated July 21, 2015 (JPMorgan Chase 001611).

As an Executive Director and HR Business Partner, Helen Dubowy, instead of taking steps to rectify and/or to prevent the unlawful racial discrimination, retaliation and harassment that I reported to JPMorgan Chase’s HR Department as being perpetrated against me, Dubowy aided and abetted the said violations of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 and she was most instrumental in JPMorgan Chase’s unlawful retaliatory efforts.

The above actions by Dubowy as revealed by the thousands of duplicated copies of emails I received from the Defendants, JPMorgan Chase & Co., et al attorneys' office on March 21, 2017 make Dubowy worthy of the charges of Unlawful Retaliation and Harassment, Aiding and Abetting in Employment Racial Discrimination and Unlawful Retaliation and Failure to Take Steps to Prevent Employment Racial Discrimination – my Second, Third and Fifth Causes of Action, respectively – “*Unlawful Retaliation on the Basis of Race in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*”, “*Aiding and Abetting Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981 Violations*” and “*Failure to Take Steps to Prevent Discrimination, Retaliation and Harassment in Violation of Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981*”.

DATED: July 28, 2017

CANDICE LUE

Candice S.M. Lue  
Signature

[REDACTED]  
Address

[REDACTED]  
City, State, Zip Code

Sworn to before me this 28<sup>th</sup> day of July, 2017

Frank D. Rotelli

Notary Public

FRANK D. ROTELLI  
NOTARY PUBLIC OF NEW JERSEY  
Commission Expires 9/26/2017  
License # 2292270

