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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS WORKFORCE COMMISSION
AUSTIN, TEXAS

PUBLIC MEETING)
FOR THE TEXAS)
WORKFORCE COMMISSION)

COMMISSION MEETING
TUESDAY, AUGUST 13, 2019

BE IT REMEMBERED THAT at 9:00 a.m. on
Tuesday, the 13th day of August 2019, the above-entitled
matter came on for hearing at the Texas Workforce
Commission, TWC Building, 101 East 15th Street, Room 244,
Austin, Texas, before RUTH R. HUGHS, Chair; JULIAN ALVAREZ
and BRIAN DANIEL, Commissioners.

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P R O C E E D I N G S

TUESDAY, AUGUST 13, 2019

(9:00 a.m.)

AGENDA ITEM NO. 1

CHAIR HUGHS: All right, good morning. This meeting is called to order.

AGENDA ITEM NO. 2

CHAIR HUGHS: Mr. Trobman, has anyone signed up for public comment?

MR. TROBMAN: Yes. Commissioners, good morning. We do have one person who'd like to address the commission, it's regarding docket 32, and we have Mervin Smith (ph) here. Mr. Smith.

CHAIR HUGHS: Good morning, Mr. Smith. If you'll just, for the record, state your name and we'll hear your comments after that, thank you.

MR. SMITH: All right. Good morning to everybody. My name is Mervin Smith. And the appeal number 2395686-1-2. And I came here today to testify on the appeal case. Because my time is limited I will do this as quickly as possible.

Number one, the reason for my termination on the original termination later, which I would like to read if that's all right.

CHAIR HUGHS: Okay.

1 MR. SMITH: The termination letter reads, Mr.
2 Smith, WLX is sending this correspondence to inform you that
3 your employment with WLX, LLC has been terminated. You had
4 a scheduled vacation that ended on 12-5-18. We had made
5 arrangement with you for that day to make contact with us so
6 we could have the truck you were driving returned to the
7 Penske Rental Shop. We did not hear from you on that date,
8 and made repeated attempts to contact you.

9 I have two documents here that was a part of
10 the record of contact made with WLX on 12-5.

11 Second, a statement by WLX's Benefits
12 Coordinator which I'd like to read that one also to you if
13 that's possible. And it says, Mervin Smith contacted me
14 around November the 20th, 2018 asking about family medical
15 leave and taking care of his wife, who had foot surgery. He
16 stated he would be the only care provider for his wife. I
17 forwarded all the info to Premium of Tennessee, so all
18 paperwork could be sent out. In the conversation with
19 Mervin he told me he would be gone from 11-28-2018 till
20 January 17, 2019.

21 In this conversation I told Mervin he would
22 not -- he would need to return the truck back to a Penske
23 location, that he could not keep the truck at his home. I
24 told him he would need to contact our Manager of
25 Maintenance, Clive Sheets on what location the truck needed

1 to be returned to.

2 I have three documents here that is a part of
3 the record of contact made with Clive, but no response on
4 where I was supposed to return the truck. And I also have
5 conversation documents that I spoke with my immediate
6 supervisor where she disregarded the first order that I had
7 from the Benefits Coordinator and she also said that I
8 didn't need to take the truck anywhere, that it was all
9 right if I just took the truck home and that they would
10 contact me after that, which I have a copy of that
11 conversation which is here, and it is a part of the record
12 also.

13 And, finally -- just a second, I'm sorry.
14 The findings of fact for the appeal tribunal, which Ms. E.
15 Clarose (ph) presided over. In her findings and facts she
16 said this, and I quote, The claimant's supervisor and
17 employer's Office Manager instructed him to contact the
18 Maintenance Manager to obtain further instructions to return
19 the employer's vehicle. The claimant contacted the
20 Maintenance Manager. He discussed other issues, but failed
21 to ask where and when to return the truck. The claimant
22 waited for further instructions from dispatch regarding when
23 and where to return the truck.

24 And my comment is, is that when my immediate
25 supervisor advised me that I didn't have to take the truck

1 anywhere, that I needed -- I could take the truck home and
2 just to contact them on 12-5. And I followed all those
3 instructions, but I was still denied my employment because
4 the hearing officer said that I failed to ask a question,
5 but all the information was already out there for what I
6 needed to do.

7 CHAIR HUGHS: Thank you, Mr. Smith.

8 MR. SMITH: Yes, ma'am. Thank you.

9 CHAIR HUGHS: At this time I'm going to turn
10 the meeting over to Commissioner Daniel to preside over
11 Agenda Items 3 through 7. Good morning, and welcome.

12 AGENDA ITEM NO. 3

13 Discussion, Consideration and Possible Action
14 Regarding Whether to Assume Continuing Jurisdiction on
15 Unemployment Compensation Cases, Wage Claim Cases, and/or
16 Tax Liability Cases and Reconsideration of Unemployment
17 Compensation Cases, Wage Claim Cases, and/or Tax Liability
18 Cases, if Any.

19 No Discussion.

20 AGENDA ITEM NO. 4

21 Discussion, Consideration and Possible Action
22 Regarding Tax Liability Cases Listed on the Texas Workforce
23 Commission Dockets 32 and 33. Cases were heard for Dockets
24 32 and 33.

25 AGENDA ITEM NO. 5

1 Discussion, Consideration and Possible Action
2 Regarding Fair Housing Cases listed on the Texas Workforce
3 Commission Dockets 32 and 33. No cases heard on Dockets 32
4 and 33.

5 AGENDA ITEM NO. 6

6 Discussion, Consideration and Possible Action
7 Regarding Higher Level Appeals in Wage Claim Cases Listed on
8 the Texas Workforce Commission Dockets 32 and 33.

9 The Commission considered and took action on
10 all wage claim cases listed on Dockets 32 and 33.

11 AGENDA ITEM NO. 7

12 Discussion, Consideration and Possible Action
13 Regarding Higher Level Appeals in Unemployment Compensation
14 Cases Listed on the Texas Workforce Commission Dockets 32
15 and 33.

16 The Commission considered and took action on
17 all unemployment compensation cases listed on Dockets 32 and
18 33.

19 AGENDA ITEM NO. 10

20 CHAIR HUGHS: We're back in session, since we
21 didn't take a break, and there's nothing for items 8 and 9.
22 That's going to bring us to Item 10. Discussion,
23 Consideration and Possible Action Regarding Approval of
24 Local Workforce Development Board Nominees. Ms. Williams.

25 MS. WILLIAMS: Good morning, Chair Hughs,

1 good morning, Commissioner Alvarez and Commissioner Daniel.
2 Today before you -- I am Shunta Williams with Workforce
3 Development Division.

4 And before you for consideration and approval
5 is Workforce Development Board nominations for Workforce
6 Solutions Heart of Texas.

7 CHAIR HUGHS: Commissioners, are there any
8 questions?

9 COMM. DANIEL: No questions.

10 CHAIR HUGHS: Commissioner Alvarez, is there
11 a motion?

12 COMM. ALVAREZ: Yes, ma'am. I move that we
13 approve the board nominees for Heart of Texas.

14 CHAIR HUGHS: And I second the motion. Oh,
15 go ahead, you can second it.

16 COMM. DANIEL: I can second it.

17 CHAIR HUGHS: Okay. We are unanimous, thank
18 you.

19 AGENDA ITEM NO. 12

20 CHAIR HUGHS: All right, there is nothing
21 for Item 11, and that brings us to any updates that we might
22 have from our Executive Director. Is anyone standing in for
23 him? Are there any updates at this time? Yes, Lowell, if
24 you could come to the podium, please.

25 MR. KEIG: Lowell Keig, Business Operations

1 Director here for Ed Serna today. He had nothing to report.

2 CHAIR HUGHS: Thank you. Commissioners, any
3 questions or comments?

4 COMM. ALVAREZ: I do have something -- yes,
5 thank you Chair Hughs. Lowell, I know you're taking Ed's
6 place today and this was something that I was going to share
7 with Ed regarding Agenda Item 12. And so, if I may, may move
8 forward on it.

9 So, as you know, we just finished the 86th
10 Legislative Session and there were some things that came in
11 -- acme out of that, that were mandates specifically
12 addressed to Texas Workforce. With that I would like for
13 staff to explore funding and pilot program that provides
14 Texas Education Agency recognized high school diplomas or
15 the equivalent for incarcerated individuals in state and
16 private correctional facilities. I'd also stress that staff
17 confer with TEA during development of this pilot to ensure
18 that high school diplomas awarded carry the full value of
19 those authorized by the State Education Agency.

20 An eligible provider would be an entity or
21 consortia that is available to serve incarcerated
22 individuals to obtain any high school diploma or its
23 equivalent. This pilot would meet the goal set forth under
24 Senate Bill 1055 Workforce Diploma Pilot Program, introduced
25 by Senator Zaffirini and House Bill 001 -- 0001, article 7,

1 TWC rider 42 of the 86th session by Representative Zerwas
2 and Senator Nelson.

3 Also, I would like staff to incorporate
4 services as set forth in House Bill 0918 relating to
5 providing discharged or released inmates with documents to
6 assist the inmates in obtaining employment. Providers would
7 work with TDCJ in providing documentation of the education
8 and training achievements. For example, transcripts,
9 diplomas and certificates of the pilot participants. Thank
10 you.

11 CHAIR HUGHS: Thank you, Commissioner
12 Alvarez. Commissioner Daniel, anything to add? Thank you.
13 Thank you for the update.

14 MR. KEIG: Thank you.

15 AGENDA ITEM NO. 13

16 CHAIR HUGHS: At this time, we're going into
17 Executive Session Pursuant to Government Code Section
18 551.074(a)(1): The Appointment, Employment, Evaluation,
19 Reassignment, Duties, Discipline, or Dismissal of the
20 Executive Director, Internal Auditor, Executive Staff, and
21 other Personnel. The time is now 10:27, thank you.

22 AGENDA ITEM NO. 14

23 CHAIR HUGHS: All right, we are back on the
24 record. The Executive Session is now concluded, and the
25 time is 10:51. Is there a motion to adjourn?

1 COMM. ALVAREZ: I move that we adjourn.

2 COMM. DANIEL: Second.

3 CHAIR HUGHS: Okay, we are adjourned, thank
4 you everyone. Have a great day and we'll see you tomorrow.

5

6 (Proceedings concluded at 10:52:54 a.m.)

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C E R T I F I C A T E

STATE OF TEXAS)
COUNTY OF TRAVIS)

I, Kimberly C. McCright, Certified Vendor and Notary in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of August, 2019.

/s/ Kimberly C. McCright
Kimberly C. McCright
Certified Vendor and Notary Public

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