# PORZIO, BROMBERG & NEWMAN, P.C.

100 Southgate Parkway Morristown, NJ 07962-1997 (973) 538-4006 Attorneys for Defendant ConocoPhillips Company VAG (1418) DCS (6343)

# UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

V.

CONOCOPHILLIPS COMPANY,

Defendant.

Civil Action No.: 07-6045 (KSH)

ANSWER TO COMPLAINT (ELECTRONICALLY FILED)

Defendant ConocoPhillips Company ("Defendant"), by way of an Answer to plaintiff's Complaint, states as follows:

# **NATURE OF THE ACTION**

Defendant denies the allegations contained in this paragraph.

# **JURISDICTION**

- 1. Defendant denies the allegations contained in paragraph 1 because they call for legal conclusions.
  - 2. Defendant admits the allegations contained in paragraph 2.

# **PARTIES**

- 3. Defendant denies the allegations contained in paragraph 3 because they call for legal conclusions.
  - 4. Defendant admits the allegations contained in paragraph 4.

- 5. Defendant denies the allegations contained in paragraph 5 because they call for a legal conclusion.
  - 6. Defendant admits the allegations contained in paragraph 6.

# STATEMENT OF CLAIMS

- 7. Defendant admits the allegations contained in the first sentence of paragraph 7, but is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in the second sentence of paragraph 7.
- 8. Defendant denies the allegations contained in paragraph 8 and states that Mr. Taylor has been employed at the Bayway Refinery in Linden, New Jersey since 1975.
  - 9. Defendant admits the allegations contained in paragraph 9.
- 10. Defendant is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 10.
- 11. Defendant denies the allegations contained in paragraph 11 and states that on occasion Mr. Taylor has been scheduled to work on Sundays at times that conflicted with his religious services, however Mr. Taylor did not protest this scheduling and worked his scheduled shift on these Sundays.
  - 12. Defendant denies the allegations contained in paragraph 12.
    - a) Defendant denies the allegations contained in subparagraph a of paragraph 12.
- b) Defendant denies the allegations contained in subparagraph b of paragraph 12 but admits that the temporary schedule would require Mr. Taylor to work on Sundays from 6 a.m. until 6 p.m. for approximately 12 weeks starting in May 2006.
  - c) Defendant denies the allegations contained in subparagraph c of paragraph 12.
  - d) Defendant denies the allegations contained in subparagraph d of paragraph 12.

- e) Defendant denies the allegations contained in subparagraph e of paragraph 12 but admits that Mr. Taylor did request several Sundays off during his weekend shift.
  - f) Defendant denies the allegations contained in subparagraph f of paragraph 12.
- g) Defendant admits that Mr. Taylor worked the remaining Sundays in his shift but is without knowledge or information sufficient to form a belief regarding his inability to attend church services.
  - h) Defendant denies the allegations contained in subparagraph h of paragraph 12.
  - i) Defendant denies the allegations contained in subparagraph I of paragraph 12.
  - 13. Defendant denies the allegations contained in paragraph 13.
  - 14. Defendant denies the allegations contained in paragraph 14.
  - 15. Defendant denies the allegations contained in paragraph 15.

# AFFIRMATIVE DEFENSES

# FIRST SEPARATE DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

### SECOND SEPARATE DEFENSE

On the facts alleged and the applicable law, neither plaintiff nor Mr. Taylor is entitled to the equitable or legal relief sought.

### THIRD SEPARATE DEFENSE

On the facts alleged and the applicable law, neither plaintiff nor Mr. Taylor is entitled to punitive damages and/or plaintiff's costs in this action.

### FOURTH SEPARATE DEFENSE

Defendant acted in a reasonable manner at all times.

# FIFTH SEPARATE DEFENSE

Defendant did not discriminate against Mr. Taylor on the basis of any protected status.

# SIXTH SEPARATE DEFENSE

Defendant engaged in the interactive process in a good faith manner with Mr. Taylor.

# SEVENTH SEPARATE DEFENSE

Any personnel actions taken by Defendant with respect to Mr. Taylor were based upon legitimate, non-discriminatory reasons.

# EIGHTH SEPARATE DEFENSE

Mr. Taylor did not suffer any adverse employment actions.

# **NINTH SEPARATE DEFENSE**

Any loss sustained by Mr. Taylor was due to his own acts or omissions.

# TENTH SEPARATE DEFENSE

Plaintiff's claims are barred in whole, or in part, on Mr. Taylor's waiver, estoppel, and/or release.

### ELEVENTH SEPARATE DEFENSE

Defendant followed the procedures set forth by the provisions of the collective bargaining agreement, and said procedures are non-discriminatory. Mr. Taylor did not follow said procedures.

# TWELFTH SEPARATE DEFENSE

Mr. Taylor's requested accommodations were not reasonable and would have caused Defendant to sustain an undue hardship.

# THIRTEENTH SEPARATE DEFENSE

Mr. Taylor did not sustain damages.

# FOURTEENTH SEPARATE DEFENSE

Defendant will rely upon all proper defenses lawfully available that may be disclosed by evidence and reserve the right to amend this Answer to state such defenses.

WHEREFORE, Defendant ConocoPhillips Company demands judgment in its favor and against plaintiff Equal Employment Opportunity Commission, dismissing the Complaint with prejudice, together with costs.

# PORZIO, BROMBERG & NEWMAN, P.C.

100 Southgate Parkway Morristown, New Jersey 07962-1997 Attorneys for Defendant ConocoPhillips Company

By

Vito A. Gagliardi, Jr. (VAG 1418)

An Attorney of the Firm

Dated: February 19, 2008

# **CERTIFICATION**

Pursuant to L. Civ. R. 11.2, I hereby certify that the matter in controversy is not the subject of any other action pending in any court or the subject of any pending arbitration or administrative proceeding.

By: Vito A. Gagliardi, Jr. (VAG 1418)

Dated: February 19, 2008