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VIA E-MAIL CELESTE.HELMES@SAGE.COM AND FIRST CLASS MAIL

Celeste Helms
Corporate Counsel
Sage Software, Inc.
8800 N Gainey Center Dr Ste 200
Scottsdale, AZ 85258

Re: Sexual Discrimination / Sexual Harassment Claim of Traci Greenberg
Our File No.: 120185/166852

Dear Celeste:

Thank you for your call last week. I want you to know that I appreciate your professional approach to a very difficult situation. You did not create the situation and it appears to me that you are working to prevent this case from causing very significant harm to Sage Software. Perhaps someone or something within the company is standing in the way of you protecting the company's assets (and reputation). You still have the opportunity to save Sage Software hundreds of thousands of dollars (or more) in damages, significant lost productivity of employees during an EEOC investigation and civil litigation, hundreds of thousands of dollars of defense expenses and attorney fees, and a very serious "black eye" to the name of Sage Software.

Please let me explain why that is so and offer a proposal that might allow Sage to escape from its current "no win" situation and create the possibility of a "win-win" result.

As you know, Ms. Greenberg complained about harassment and retaliation in the Beaverton office of Sage, last year. The "counseling" by Sage of the primary offender did nothing to curb offensive conduct at company meetings, in e-mails, or in the every day conduct of employees throughout the Beaverton office. I do not need to repeat the

truly offensive activities that caused Ms. Greenberg to complain. What is unfortunate, however, is that the company's internal efforts did not solve the situation. Thus, Ms. Greenberg was forced to expend significant amounts of her own money to retain counsel.

In response to Ms. Greenberg's complaints of ongoing, continuing workplace discrimination, Sage told Ms. Greenberg that she would have to continue to work from the Beaverton office in her PR group. And while Sage offered to promote her to Senior Manager (at the lowest salary range for that position), Sage included website and newsletter maintenance to the job description, duties which are clerical in nature, and duties which no other senior manager in her group performs, and which make her job a 60-plus hours per week job.

Ms. Greenberg's resume is very impressive; she has a degree in journalism from Northwestern University. She has more than 15 years of experience in the communications field, having worked in the media as both a reporter and editor before moving into a broader role of public relations over five years ago. Sage has yet to offer an explanation of why Ms. Greenberg, given her educational and professional experience, would be assigned clerical tasks that no other Senior Manager performs. In fact, Cynthia Sutton agrees that those tasks are clerical and more properly performed by a clerk or the administrative assistant on the team. Ms. Sutton will state that when she was promoted to Senior Manager, Sage did not add any duties or tasks to her job.

Indeed, Ms. Greenberg formerly performed those clerical tasks as part of her current job. At that time, those tasks consumed so much of Ms. Greenberg's time that she requested to have them performed by an administrative clerk. Sage assigned the tasks to another employee, a Director, who failed to perform them properly and is now being laid off.

How can this be called a "promotion" is perplexing. Sage has suggested giving her a job she cannot possibly perform within a 40 hour workweek; assigns her tasks that are clerical, do not utilize her strengths, and that no other Senior Manager performs.

Furthermore, Sage would have Ms. Greenberg sign a contract giving Sage the right to fire her for failing to perform an impossible job. In exchange for this, Ms. Greenberg has been asked to give up all of her rights. We can all see the "handwriting on the wall": Ms. Greenberg misses a deadline in her 60-plus hour workweek, she is then fired, and she has no right to pursue any claims against Sage. Surely, you and other fair-minded people within Sage can understand why Ms. Greenberg suspects that this scenario is entirely disingenuous.

In addition, Sage has created an intolerable workplace for Ms. Greenberg. Sage has assigned as her new manager, a person who almost broke down in tears when

announcing that the primary offender of the sexual harassment and discrimination against Mr. Greenberg would no longer be with Sage. The new manager arranged a highly public display of sorrow over the primary offender's termination. This manager treated the announcement as a "wake," expressing his dismay and displeasure, stating that he and the primary offender are and always will be "good friends," and offering to keep his door open for the remainder of the day so employees could express their grief. Can you imagine the devastating effect on Ms. Greenberg of this very public airing of the top manager's support for the primary offender who had caused Ms. Greenberg such distress? This scenario unfortunately appears to be further evidence of retaliation against Ms. Greenberg, and provides her with an additional legal claim in addition to discrimination and retaliation, that being the claim of infliction of emotional distress. Under Oregon law, this can lead to punitive damages as well as compensatory damages.

When Ms. Greenberg approached her new manager, hoping to be reassured that he held no ill will toward her, he instead launched into a speech about how terribly hard it was on him to announce the separation of employment of the primary offender. In fact, he told Ms. Greenberg that he was so upset and grief-stricken that he could not prepare or assist in preparing the e-mail announcement of the primary offender's departure and asked Ms. Greenberg to write it. Instead of offering reassurance, this manager increased the harm.

On the Sunday following the public "wake," a co-worker called Ms. Greenberg to say that rumor had it that the offender was fired for sexual harassment. The following day another person confided the same information. At that time, neither one appeared to know the source of the harassment complaint, but certainly the workplace gossip had reached an alarming level. To our knowledge nothing has been done to contain the rumor or protect Ms. Greenberg.

Since then, Ms. Greenberg has been blocked at almost every turn from performing her job. Ms. Greenberg discovered that no executives planned to attend Sage's largest trade show with 200 media attending, preventing Ms. Greenberg from arranging interviews. Furthermore, no executive wanted to attend the World of Concrete Press Conference scheduled for February, a project that Ms. Greenberg has worked on for months. Ms. Greenberg had an opportunity to have her new manager and the company president meet with Business Week editors and was told not to pursue it. Ms. Greenberg's performance is measured, in part, by the number of interviews and media appearances she arranges. If the executives refuse to work with Ms. Greenberg, she will ultimately fail in her job. This is retaliation. Perhaps it is subconscious, perhaps not. The effect is real: more harm to Ms. Greenberg.

When Ms. Greenberg was walking down the hall recently, a group of people who are normally friendly turned their backs when Ms. Greenberg said "hi." In a meeting,

Erin-Todd Hansen said “Here comes trouble” and everyone became very stiff and silent. Matt Lange broke the discomfort by saying “No, she’s one of the good guys.” Mr. Hansen and the primary offender are very close. Later in the meeting, a vice-president who works closely with Ms. Greenberg’s new manager said that the new manager did not want to terminate the employment of the primary offender but that “corporate” had forced his hand.

Just this past week Ms. Greenberg was not invited to an important meeting about the Insights trade show, where she is leading two educational seminars. She also was told—after it was too late--about meeting to discuss the content for a press conference scheduled for February 4th in Las Vegas. She was also left out of an important training call. Ms. Greenberg is very troubled that a sophisticated company like Sage has so much difficulty arranging meetings that are crucial to her job performance; prior to her complaint last year about workplace sexual harassment and discrimination, this was not a problem. It is telling that the confusion began only after she reported sexual discrimination and sexual harassment in the workplace.

Ms. Greenberg has other examples of retaliation and further harm, but what I have written about above is sufficient for you to understand the situation and advise your client accordingly. I expect that Sage managers may be able to come up with reasons for missed meetings, cancelled interviews, comments, and abrupt interactions that continue to prevent Ms. Greenberg from performing her job. However, former Sage executive Nina Smith told Ms. Greenberg in a recent telephone discussion that this is the exact type of subtle retaliatory conduct Ms. Greenberg should continue to expect at Sage. She told Ms. Greenberg that Sage would make Ms. Greenberg perform her job “with one arm tied behind her back” and then discipline her for failing to perform adequately. Ms. Smith’s prediction is proving to be correct.

Jennifer Amrein has also related to Ms. Greenberg her experience of getting fired after she complained of preferential treatment toward a woman who was sleeping with Sage Vice-President of Sales David Moyer. Other women at Sage are supporting Ms. Greenberg with other information about instances of harassment and unfair pay, apparently encouraged by Ms. Greenberg’s display of strength.

However, as you can understand from the information now provided to you, Sage has become an intolerable workplace for Ms. Greenberg. In addition to what is currently happening, the evidence of the prior sexual harassment and discrimination—the “CFMP” shoes, the discussions by males of sexual conduct in open meetings, the e-mails, the advertisements, the “freeze-out” after Ms. Greenberg’s initial complaints, the unequal pay, and all the rest—will be evidence in any government investigation or jury trial about this situation.

In response, Sage has (1) removed the possibility of Ms. Greenberg working in a position outside of her PR group; (2) publicly announced its disapproval of “corporate’s” decision to separate the primary offender, (3) allowed rumors to spread that the primary offender was fired because Ms. Greenberg filed a harassment complaint, and (4) gave Ms. Greenberg a “promotion” to a 60 hour per week job performing largely clerical work.

This situation never should have occurred. But it did. The stress has forced Ms. Greenberg to seek medical help. She has trouble sleeping and has stomach problems that appeared after she made her complaint of harassment and have become increasingly painful and unbearable as this situation continues to escalate.

Ms. Greenberg works hard for Sage. She has received only glowing evaluations since she started. I believe that fair-minded individuals within Sage recognize that Ms. Greenberg was subjected to harassment that should not have occurred. Instead of assuming an inflexibly defensive posture, Sage could recognize (1) the insurmountable problems that face the company if litigation erupts over Ms. Greenberg’s complaints, (2) that business realities prevent it from removing Ms. Greenberg from the situation or protecting her from backlash, and (3) honor Ms. Greenberg’s her years of service by allowing her and Sage to move on with dignity.

With Nina Smith and current and former employees at Sage as witnesses, Ms. Greenberg will have a convincing case. Any government investigation of or litigation over Ms. Greenberg’s case will likely uncover more evidence of sexual harassment and discrimination. However, we both recognize the destructiveness of litigation for and the costs to an employer in defending such a case. Therefore, Ms. Greenberg hopes Sage will carefully reconsider what I was told last week was its current position in this situation.

Here is what I suggest. For now, if we can agree on some interim steps, Ms. Greenberg will withhold from filing a formal complaint with the Oregon Bureau of Labor and Industries and the EEOC. First, as a show of good faith, Sage should provide for my review but not necessarily my possession, under a strict confidentiality agreement, (1) the files prepared in connection with Ms. Greenberg’s original complaint of workplace discrimination last year, and (2) the personnel file of the primary offender, including all investigation files relating to complaints against him (with identities of complainants other than Ms. Greenberg redacted) and his separation and severance agreements. Second, I propose that the parties agree immediately to a mediation, to be held here in Portland by the end of this month. I suggest that the company agree that both Melody Williams Dapp and the business person to whom she reports on this case, both attend the mediation in person.

I want to emphasize that Ms. Greenberg is looking for a sign of good faith from Sage. She had the courage to speak up against workplace harassment and discrimination—a decision which Sage has now affirmed and justified by the separation from employment of the primary offender—yet the retaliation continues. She did not create this situation and she resents the implication that she caused the separation of the primary offender from Sage. Sage made that decision in its own best interests and to attempt to burden Ms. Greenberg with responsibility or guilt for that corporate decision will only create more exposure for Sage.

Please get back to me with a positive response; it will not benefit Sage if Ms. Greenberg is pushed into a corner, a corner from which her only choice will be to “cry havoc, and let slip the dogs of war.”

You have a unique opportunity at this time to help Sage extricate itself from a “no win” situation. You can guide your client to the possibility of a “win-win” outcome. I hope that you are able to convince your client that its own best interests are served by creating the opportunity for that type of outcome. If not, only the law firms will win.

Sincerely,

Amanda T. Gamblin

ATG:lrh



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bcc: Traci Lynn Greenberg
Tom Dulcich

