

Marilee Corr Clark

v.

CHRO No. 1710321

March 3, 2017

State of Connecticut, Department of Revenue Services

**AFFIDAVIT OF KEVIN B. SULLIVAN**

I, Kevin B. Sullivan, having been duly sworn hereby depose and say:

1. I am over eighteen years of age and understand the obligation of an oath.
2. I am employed by the State of Connecticut, Department of Revenue Services ("Department"). I was appointed and confirmed as Commissioner of Revenue Services on or about January 10, 2011 and have held said position continuously since that time.
3. As Commissioner of Revenue Services I am responsible for the overall operation and administration of the Department.
4. I am aware of and have read the complaint that was filed with the Commission on Human Rights and Opportunities ("CHRO") by Marilee Clark ("Complainant") on or about January 6, 2017. I have knowledge relevant to several of the allegations made by the Complainant.
5. I, therefore, make this affidavit upon my own personal knowledge.
6. As Commissioner of Revenue Services, I have two direct reports – Deputy Commissioner Joseph Mooney ("Mooney") and First Assistant Commissioner and General Counsel Louis Bucari ("Bucari").

7. As First Assistant Commissioner and General Counsel, Bucari currently oversees the Department's Legal Services Bureau, which is comprised of the Appellate Division, the Litigation and Collections Enforcement Unit, and the Criminal Investigations Division.

8. On or about July 1, 2013, Bucari was also oversight of the Legal Division. At that time, the day-to-day manager of the Legal Division was Frederick Clark. Clark held the position of Tax Legal Director.

9. Clark retired from state service as of July 1, 2013. As a result, in addition to his duties as First Assistant Commissioner, Bucari assumed the day-to-day responsibilities of the Department's Legal Division.

10. I subsequently made the decision to seek to refill the position of Tax Legal Director. The primary purpose of my seeking to refill the position of Tax Legal Director was to remove the day-to-day responsibilities from Bucari so that he could focus his attention on litigation matters, legislative matters, and on being the Department's General Counsel.

11. I directed that the posting for the position of Tax Legal Director be open to the public and to state employees. A copy of the posting is attached to the Department's response to the complaint.

12. The posting specifically provides that the Tax Legal Director will "report directly to the Department's General Counsel and assist in the day-to-day management and supervision of the Department's legal staff and its operations."

13. In paragraph 10 of the Complaint the Complainant make allegations regarding a posting the Department made for a paralegal in 2013. A copy of the posting is attached to the Department's response to the complaint. As evidenced by the date of this positing, said posting was made prior to the Complainant becoming Tax Legal Director.

14. It was my idea to post for a paralegal. More specifically, one of the reasons for recruiting a paralegal was to hire a person to provide direct assistance to Bucari. More specifically, I wanted a paralegal to primarily maintain Bucari's calendar and to provide support to Bucari in the performance of his litigation and other responsibilities as First Assistant Commissioner.

15. In paragraph 21 of the complaint the Complainant alleges that she is tasked with representing me before the General Assembly with respect to proposed legislation. Since being appointed Commissioner in 2011, I have personally appeared before the Finance, Revenue and Bonding Committee to testify in regard to all of the Department's legislative proposals. On certain occasions, I had Bucari, and other agency staff, appear with me before the Finance, Revenue and Bonding Committee.

16. With regard to paragraph 30, I am aware that the Complainant made an internal complaint regarding Bucari and did so in October 2015. Taking all complaints seriously, I instructed that the Department conduct an internal investigation into the Complainant's allegations. The internal investigation was conducted by Jeanette Perez, the Department's Human Resources Administrator.

17. I subsequently informed Bucari and the Complainant that they were to have no interaction with one another until the investigation was completed. To the extent that

work/legal/tax issues need to be addressed, I instructed Bucari and the Complainant to address such issues through me/and or Deputy Commissioner Mooney.

18. After the Department's internal investigation concluded, I confirmed for Perez that it was my expectation that Bucari had been and would continue to be responsible for all litigation matters and that he should continue to keep the Complainant informed as to said matters to the extent appropriate.

19. In paragraphs 38, 39, 48, 49, 50, and 51, the Complainant makes allegations with regard to a petition for declaratory ruling ("petition") received by the Department. The petition was received on or about November 30, 2015. An identical petition was filed with the Department of Social Services ("DSS").

20. Prior to receiving the petition, the Department had received related claims for refund. Given the substantial dollars associated with these claims, I asked Bucari to coordinate the Department's review of said claims. In addition, Bucari and I contacted the Governor's Office and the Office of Policy & Management to inform them of said claims.

21. Said refund claims are pending before the Department's Appellate Division. As First Assistant Commissioner & General Counsel, Bucari has direct oversight of the Department's Appellate Division. The Complainant has no authority over or any responsibility for the Department's Appellate Division.

22. Given the connection between the petition and the claims for refund, as well as the likelihood that the petition and the claims for refund would likely be litigated, I specifically assigned responsibility for the petition to Bucari.

23. As a result of discussions within the State's Executive Branch, a decision was made that the Department and DSS would jointly hold specified proceedings in connection with the petition. As a result, both the Department and DSS were required to appoint a hearing officer to conduct said specified proceedings. Given the likelihood that any ruling the Department would issue in response to the petition would be appealed to court and given that Bucari would represent the Department in court, I determined that it would be inappropriate to appoint Bucari as the hearing officer. Accordingly, by letter dated January 29, 2016, I appointed Attorney Erica McKenzie to be the Department's hearing officer for purposes of the specified proceedings.

24. In paragraph 44 of her complaint the Complainant makes allegations regarding when she was informed of my decision to appoint her as head of the Office of Legal & Research. The Complainant alleges that she was informed of this decision on July 12, 2016. I specifically informed the Complainant of my decision several weeks prior to that date.

25. To this end, I, Deputy Commissioner Mooney, and Perez met with the Complainant on or about June 27, 2016 for the specific purpose of informing the Complainant of decisions that were made regarding agency reorganization. At that meeting, I informed the Complainant that she now reported to Deputy Commissioner Mooney and headed the new Office of Legal and Research. As a result, the Research Unit and its three employees, which were under the direction of Bucari, were now under the Complainant's direction.

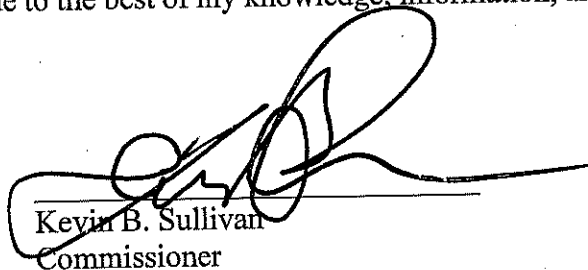
26. The Complainant responded positively when I informed her of these changes.

27. In paragraphs 44, 47, and 51 the complainant alleges that she is responsible for drafting all rulings and opinions about legal interpretations of Connecticut tax statutes, including Connecticut's Insurance Premiums and Health Care Provider taxes. This is not entirely accurate.

28. As set forth above, among the organizational changes that were made by the Department was the creation of the Litigation and Collections Enforcement Unit. In addition to being responsible for litigation and court-related collection matters, the Litigation and Collections Enforcement Unit is also responsible for providing internal and external guidance regarding Connecticut's Insurance Premiums and Health Care Provider taxes. A screenshot from the Department's internal website which outlines/describes the Litigation and Collections Enforcement Unit is attached to the Department's response.

29. Prior to finalizing the formation of the Litigation and Collections Enforcement Unit, I discussed with Bucari the preparation of legislative summaries related to Connecticut's Insurance Premiums and Health Care Provider taxes. I determined that the Litigation and Collections Enforcement Unit will draft said summaries in coordination with the Office of Legal & Research. The Litigation and Collections Enforcement Unit exercises primary responsibility for all aspects of Connecticut's Insurance Premiums and Health Care Provider taxes.

30. The foregoing statements are true to the best of my knowledge, information, and belief.



Kevin B. Sullivan  
Commissioner

Department of Revenue Services  
450 Columbus Boulevard – 11<sup>th</sup> Floor  
Hartford, Connecticut 06103



Marilee Corr Clark

v.

CHRO No. 1710321

March 3, 2017

State of Connecticut, Department of Revenue Services

**AFFIDAVIT OF JOSEPH W. MOONEY**

I, Joseph W. Mooney, having been duly sworn hereby depose and say:

1. I am over eighteen years of age and understand the obligation of an oath.
2. I am employed by the State of Connecticut, Department of Revenue Services ("Department"). I am Deputy Commissioner of Revenue Services. I have held said position continuously since August 26, 2011.
3. As Deputy Commissioner of Revenue Services I report directly to Commissioner Kevin Sullivan ("Commissioner Sullivan"). I assist Commissioner Sullivan in the overall operation and administration of the Department.
4. I am aware of and have read the complaint that was filed with the Commission on Human Rights and Opportunities ("CHRO") by Marilee Clark ("Complainant") on or about January 6, 2017. I have knowledge relevant to several of the allegations made by the Complainant.
5. I, therefore, make this affidavit upon my own personal knowledge.
6. In paragraph 42, the Complainant makes allegations regarding a managerial transfer. With regard thereto, I held a meeting with First Assistant Commissioner and General Counsel,



Louis Bucari ("Bucari") and the Complainant at which time the Complainant raised the issue of managerial transfer.

7. Specifically, I held a meeting to inform the Complainant of a decision Commissioner Sullivan had made with regard to the assignment of penalty waiver requests. The meeting was held in my office. After informing the Complainant of Commissioner Sullivan's decision, the Complainant became visibly upset, alluded to a need for transfer, and left my office.

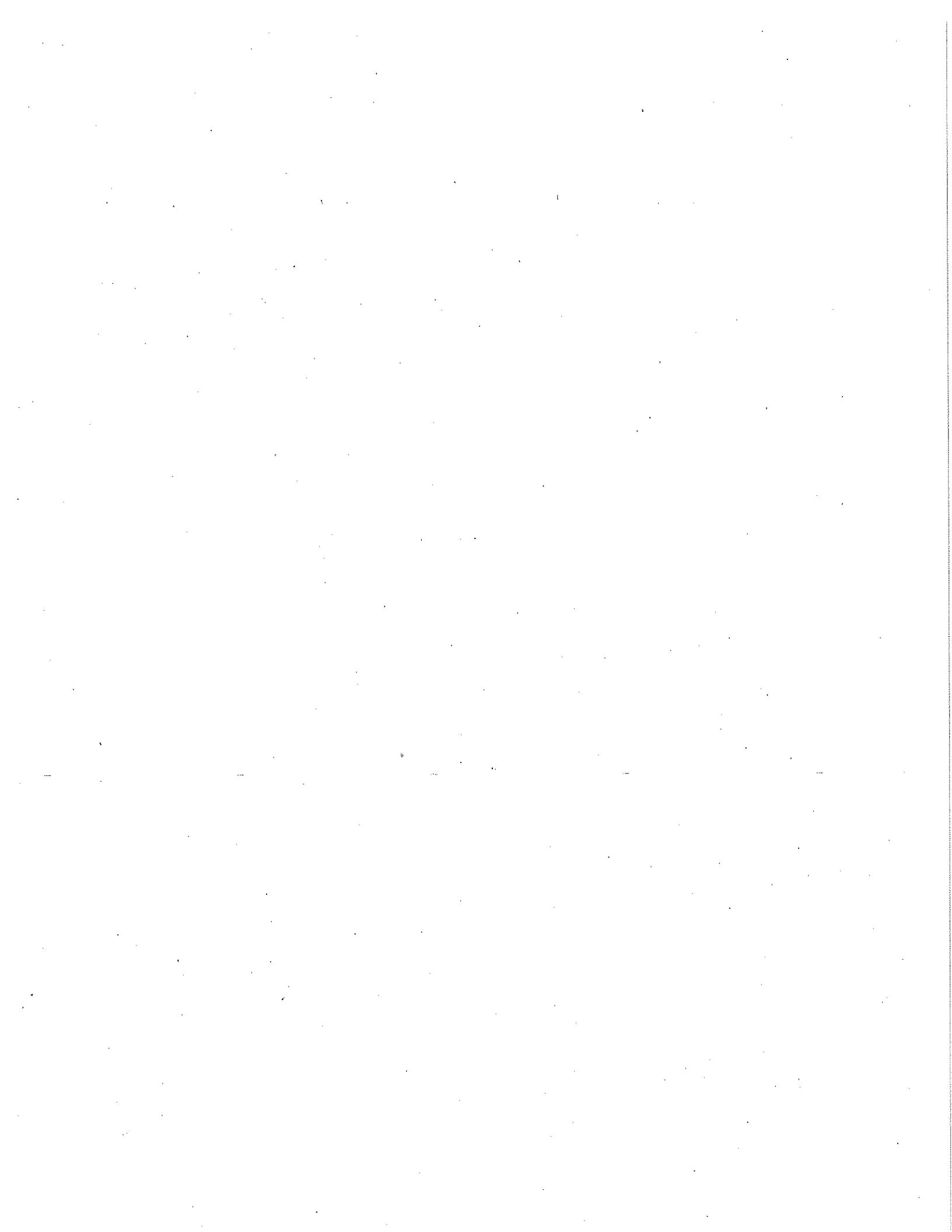
8. In paragraph 44 of her complaint the Complainant makes allegations regarding when she was informed of Commissioner Sullivan's decision to appoint her as head of the Office of Legal & Research. The Complainant alleges that she was informed of this decision on July 12, 2016. The Complainant was specifically informed of Commissioner Sullivan's decision on or before June 29, 2016.

9. Prior to June 29, 2016, Commissioner Sullivan, Jeanette Perez and I met with the Complainant the specific purpose of informing the Complainant of decisions that were made regarding agency reorganization. At that meeting, Commissioner Sullivan informed the Complainant that she now reported to me and headed the new Office of Legal & Research. As a result, the Research Unit and its three employees, which were under the direction of Bucari, were now under the Complainant's direction. The Commissioner further informed the Complainant of the formation of Litigation and Collections Enforcement Unit. The Complainant responded positively when informed of these changes.

10. The Complainant has reported directly to since that time.

11. The foregoing statements are true to the best of my knowledge, information, and belief.





Marilee Corr Clark

v.

CHRO No. 1710321

March 3, 2017

State of Connecticut, Department of Revenue Services

**AFFIDAVIT OF JEANETTE PEREZ**

I, Jeanette Perez, having been duly sworn hereby depose and say:

1. I am over eighteen years of age and understand the obligation of an oath.
2. I am employed by the State of Connecticut, Department of Revenue Services ("Department"). I am the Human Resources Administrator for of the Department. I have been employed by the State of Connecticut since May 9, 1986 and have been the Department's Human Resources Administrator since September 6, 2013.
3. As Human Resources Administrator for the Department I administer the human resources and labor relations programs and operations of the agency and direct the staff of the Human Resources Unit.
4. I am aware of and have read the complaint that was filed with the Commission on Human Rights and Opportunities ("CHRO") by Marilee Corr Clark ("Complainant") on or about January 6, 2017. I have knowledge relevant to several of the allegations made by the Complainant.
5. I, therefore, make this affidavit upon my own personal knowledge.

6. In paragraph 15 of her complaint, the Complainant states that in the fall of 2014 she talked to me regarding Bucari having an inappropriate relationship with McKenzie. The allegations in paragraph 15 are not wholly accurate. Several months prior to October 2015, the Complainant approached me with a vague "what if" question regarding a suspicion of a romantic relationship between First Assistant Commissioner and Ms. McKenzie. I indicated that such allegations are serious, have significant ramifications, and should be based on factual information and not office rumors/gossip. At no time during this discussion did the Complainant advise me of any statement made to her by Ms. McKenzie. In fact, in October 2015, when the Complainant initially raised Ms. McKenzie's disclosure with me, I questioned the Complainant as to why she had not brought this to my attention at the time of Ms. McKenzie's disclosure.
7. In paragraph 17 of her complaint, the Complainant again alleges that she made a report to me in the fall of 2014. This information is not accurate as set forth in paragraph 6 above.
8. In paragraph 28 of her complaint, the Complainant alleges that she complained to DRS Human Resources on October 6, 2015 about Bucari creating a hostile work environment with his sexual favoritism of McKenzie. The Complainant fails to state that she also made claim of constructive demotion at that time. I conducted an internal investigation into all of the Complainant's allegations.
9. In paragraph 33 of her complaint, the Complainant alleges that I told her that Bucari was too important to DRS for any serious discipline. I categorically deny making such a statement. In my twenty plus (20+) years conducting administrative investigations of

employee misconduct, at all levels, I have never been fearful of recommending appropriate disciplinary action when warranted and have in fact recommended such in managerial matters.

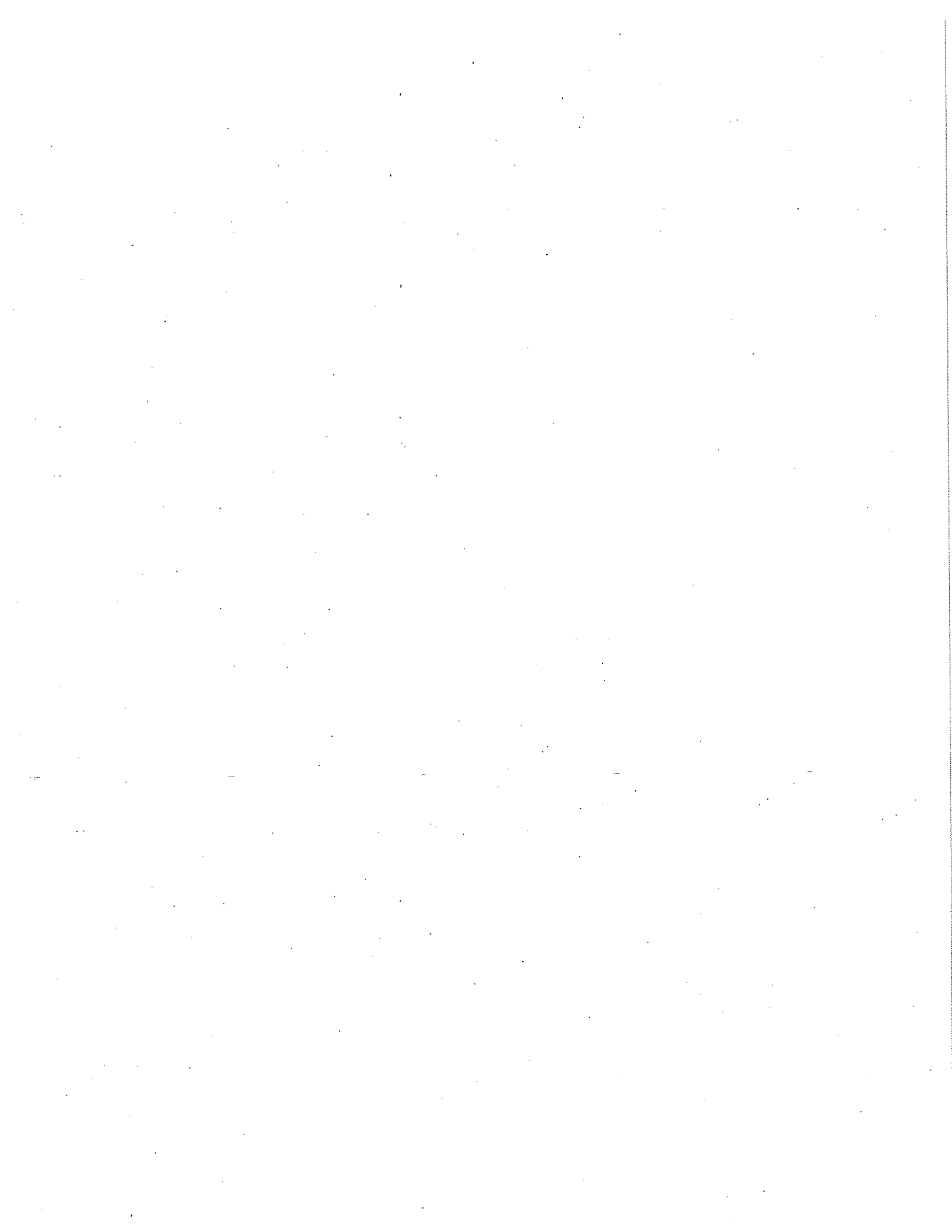
10. In paragraph 41 of her complaint the Complainant alleges that she asked the Department's Human Resources Unit for a managerial transfer. I did meet with the Complainant about this possibility of transfer. The Complainant specifically requested what I opined as special treatment not consistent with the merit system rules and regulations as I know and apply them. I refused to engage in such behavior and clearly advised the Complainant of such via email.
11. In paragraph 41 of her complaint the Complainant also alleges that she was unable to apply for open positions with other state agencies because her service rating for 2015 was not completed. The Complainant never advised me of such an impediment to her applying for any positions requiring performance appraisals nor did she inquire with me about any potential options. Had she done so, I would have explained to her that the respondent could have provided her a letter explaining the non-issuance of the performance appraisal and indicating her performance.
12. During the timeframe in which the Complainant and I had discussions regarding the topic of transfer, Bucari informed me that Complainant asked Bucari for a hug. Bucari informed me that the Complainant made this request to him in his office after a meeting.
13. In paragraph 44 of her complaint the Complainant alleges that she was constructively demoted. The Complainant made a claim of constructive demotion in October of 2015.

During the course of the internal investigation I conducted in 2015, I conducted several interviews of the Complainant. During these interviews, the Complainant specifically told me that she believed that she had been marginalized by Bucari resulting in what the Complainant considered a constructive demotion.

14. Upon review of paragraphs 7-36 Complainant's complaint, the allegations set forth therein are substantially similar to the allegations the Complainant made to me in connection with the internal complaint she filed with the Department in October of 2015.
15. In paragraph 44 of her complaint, the Complainant claims she was effectively demoted on July 12, 2016 when she was reassigned to head the Office of Legal & Research. The Complainant was informed of her reassignment on or before June 29, 2016. At which point she reported she was pleased with the reorganization and was looking forward to working in the new structure.
16. A holiday gift was left on Bucari's on his chair during the week leading up to Christmas 2016. Bucari was uncertain as to who the gift was from. Bucari brought the gift to my office and advised me that he speculated that it may have been from the Complainant. The gift was still wrapped. Upon receipt, I placed the present on the floor next to my office cabinet. During the course of a subsequent meeting I was having with the Complainant, the Complainant noticed the gift in my office. The Complainant got up, got the gift and attempted to remove the gift from my office. The Complainant ripped off the wrapping paper and again attempted to take the gift. I did not let the Complainant take the gift as I did not know what if any evidentiary value it could have and I still retain possession of the gift.







Marilee Corr Clark

v.

CHRO No. 1710321

March 3, 2017

State of Connecticut, Department of Revenue Services

**AFFIDAVIT OF CHERYL BURDICK**

I, Cheryl Burdick, having been duly sworn hereby depose and say:

1. I am over eighteen years of age and understand the obligation of an oath.
2. I am employed by the State of Connecticut, Department of Revenue Services ("Department"). I have been employed by the Department for over thirteen (13) years as the Director of Internal Audit.
3. As the Director of Internal Audit, I am responsible for directing the Department's internal audit programs. In the course of my duties, I often consult Jonathan Reid ("Reid"), the Department's System Security Compliance Officer, with regard to system related questions.
4. On October 20, 2016 Marilee Clark ("Clark"), the Department's Tax Legal Director, requested a meeting with me. At this meeting Clark was questioning whether it was possible for another DRS employee to have access to her work email account without her knowledge.
5. I, therefore, make this affidavit upon my own personal knowledge.
6. At this meeting Clark provided me with a July 6, 2015 email from Bucari to Erica McKenzie ("McKenzie"). McKenzie is a Tax Attorney in the Department's Litigation and Collection Enforcement Unit. A copy of the email Clark provided is attached hereto. Clark stated

that she was working on the Sarah Kaufman Freedom of Information Request and came upon the email.

7. The email Bucari forwarded to McKenzie was an email Clark sent to several individuals in the Department's Audit Division on July 2, 2015. As Bucari was not copied on said email, Clark wanted to know how Bucari obtained said email. Clark also reported that she questioned if Bucari, at some point during her FMLA leave, had been given access to her emails resulting in contemporaneous access. To the best of my knowledge, it was this email that lead Clark to believe Bucari had contemporaneous access to her work email.

8. I advised Clark that a very plausible explanation was that one of the many recipients of her original email had forwarded the email to Bucari. Bucari could have then deleted the forwarding data prior to sending it to McKenzie. Clark was not satisfied with my explanation.

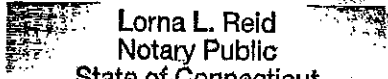
9. I contacted Reid as he possess the technical knowledge and system access to address Clark's inquiry. On October 21, 2016, Reid, Clark and I met. Reid reported that he would need to conduct research in order to respond to Clark's inquiries.

10. Reid subsequently determined and informed Clark that neither Bucari nor any other DRS employee had current contemporaneous access to Clark's work email account.

11. The foregoing statements are true to the best of my knowledge, information, and belief.

*Cheryl Burdick*  
Cheryl Burdick  
Director of Internal Audit  
Department of Revenue Services  
OATH

Subscribed and sworn to before me this 3<sup>rd</sup> day of March, 2017.

  
Lorna L. Reid  
Notary Public  
State of Connecticut  
Commission Expires 8/31/2020  
*Lorna L. Reid*

**Clark, Marilee**

**From:** Bucari, Louis  
**Sent:** Monday, July 06, 2015 5:46 PM  
**To:** McKenzie, Erica  
**Subject:** FW: Estate of Kuhn; Case

*NOTE: Friday, July 3<sup>rd</sup> was a HOLIDAY*

**From:** Clark, Marilee  
**Sent:** Thursday, July 02, 2015 5:29 PM  
**To:** Samadi, Barry; Perry, Eloise  
**Cc:** Romeo, Michael; Collins, Barbara  
**Subject:** Estate of Case No.

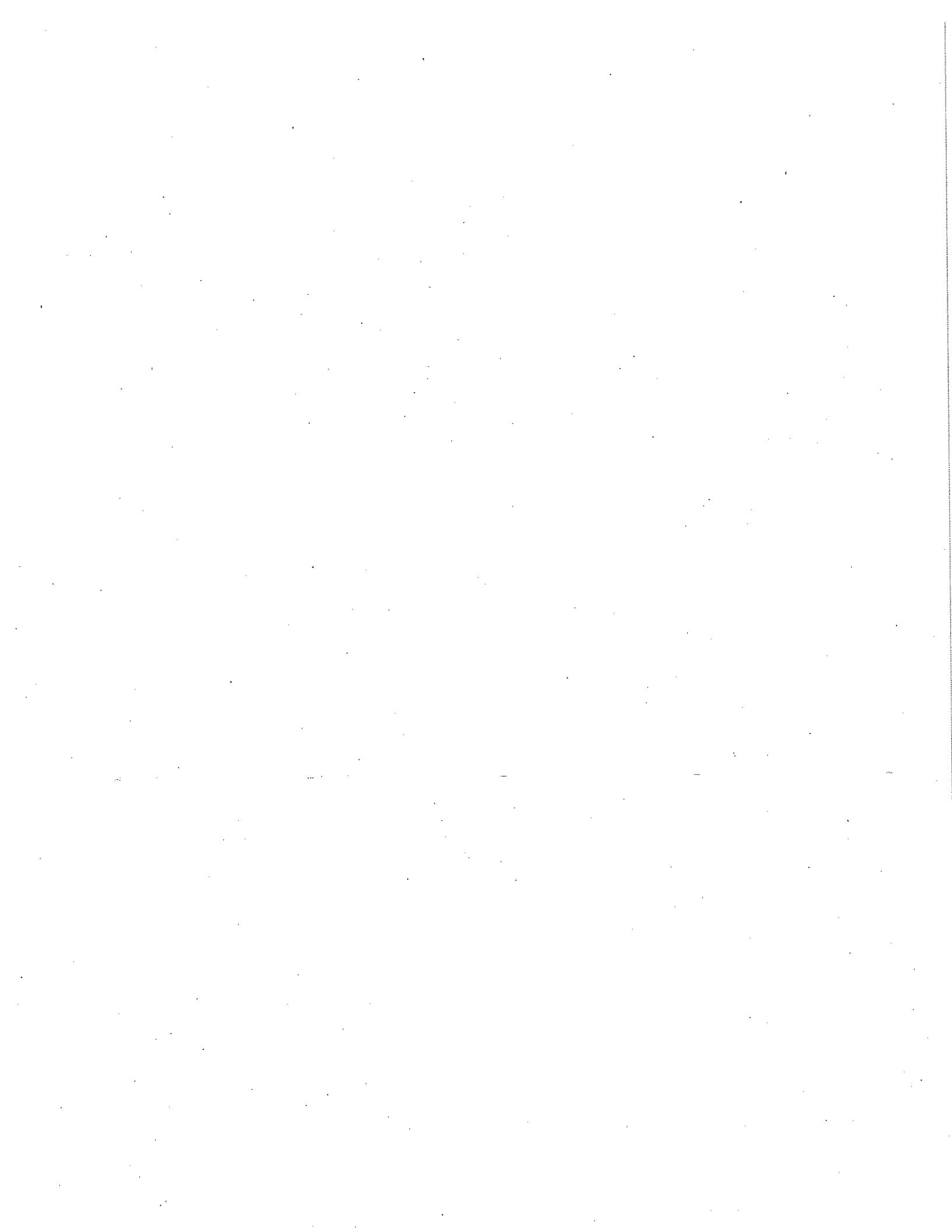
*M. Clarke "verified" (via no record of email received by Louis Bucari from any of these*

Having reviewed the documents submitted with the Estate of Ralph W. Kuhn, I am of the opinion that, for Connecticut estate tax purposes, was a resident of Connecticut at the time of his death.

Marilee A. Clark  
Director, Office of Counsel  
Connecticut Department of Revenue Services  
Email: [Marilee.Clark@po.state.ct.us](mailto:Marilee.Clark@po.state.ct.us)  
Tel: (860) 297-5634  
Fax: (860) 297-5684

*people.  
MC did NOT send it to him.  
Others could have though!*

*E.M. had recommended Kuhn was NOT a resident.  
@ time EM working for MC.*



Marilee Cotr Clark

v.

CHRO No. 1710321

March 3, 2017

State of Connecticut, Department of Revenue Services

**AFFIDAVIT OF JONATHAN REID**

I, Jonathan Reid, having been duly sworn hereby depose and say:

1. I am over eighteen years of age and understand the obligation of an oath.
2. I am employed by the State of Connecticut, Department of Revenue Services ("Department"). I am the Systems Security Compliance Officer in the Department's Information Services Division. I have been employed by the Department since December 29, 1989 and have been the Department's Systems Security Compliance Officer for over four (4) years.
3. As the Department's Systems Security Compliance Officer, I am responsible for maintaining the safety, security, and integrity of the Department's various computer systems and data. I am often consulted by Cheryl Burdick ("Burdick"), the Department's Internal Auditor, with regard to system related questions.
4. I was contacted by Cheryl Burdick in the Fall of 2016 with regard to an issue raised to her by Marilee Clark ("Clark"). Clark is the Department's Tax Legal Director.
5. I, therefore, make this affidavit upon my own personal knowledge.
6. As a result of discussions with Clark and Burdick, I researched whether or not any other DRS employee's had contemporaneous access to Clark's work email mailbox and discovered that no one had such access. I relayed my findings to Clark and Burdick.
7. The foregoing statements are true to the best of my knowledge, information, and belief.

