

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW YORK DISTRICT OFFICE**

-----X
[REDACTED] :
Claimant, :
v. :
UPSTREAM USA, :
Respondent. :
-----X

Claimant, [REDACTED], hereby alleges the following against Respondent, Upstream USA (“Upstream” or the “Company”) in support of his claims of unlawful discrimination and retaliation on the basis of his race and sexual orientation.

MATERIAL FACTS

A. [REDACTED] is Hired at Upstream and is Immediately Thrust into Upstream’s Toxic Culture of Discriminatory Behavior

1. On March 13, 2023, [REDACTED] was hired by former Chief of Staff, Nicole McKinney, as a Vice President of Equity, Diversity, and Inclusion (“EDI”) at Upstream USA at a starting salary of \$180,000. Given his demonstrated abilities in prior positions, education and training in Diversity, Equity, Inclusion and Human Resources, and his career-long cross-functional leadership experience in the nonprofit sector, [REDACTED] believed Upstream would be an organization where he could succeed and contribute to their mission.

2. Specifically, [REDACTED] was proud to work at an organization with a mission to expand accessible patient-centered contraceptive care to marginalized communities and felt that his role as the VP of EDI would give him the platform to further progress Upstream’s mission from within the Organization. Thus, [REDACTED] believed he had reached the pinnacle of his

career by landing a position at an esteemed organization whose mission he aligned with and that offered him an opportunity to design, build, and scale trailblazing EDI initiatives.

3. During the talent acquisition process, [REDACTED] applied for a Director of EDI role and was extended the more senior role of VP because of his experience, which came with higher expectations and more responsibilities than those of a Director, yet interestingly, his starting salary remained at the Director-level. Thus, [REDACTED], a Hispanic male, was paid less than the other VPs and even some Directors.

4. Despite [REDACTED] raising concerns to Ms. McKinney, Kay Hughston, and Dillon Turner about the discrepancy in his pay compared to his White colleagues both at the Director and VP level several times, Upstream did not address his concerns or offer him a raise.

5. Just three days into his role, [REDACTED] received several complaints from Upstream employees where he identified instances of workplace discrimination and symptoms of a toxic workplace. The first issue involved his colleague and fellow VP, Camille Cunningham, a Black woman and former VP of Communications, who reported to [REDACTED] that she was facing racial discrimination and harassment at the hands of Andrew Myers and asked him to escalate her complaint.

6. Additionally, the former Head of Marketing & Communications, Benish Shah, an Asian American woman, reported to [REDACTED] that two White senior leadership team (“SLT”) members referred to her as a "little brown girl" and as a “diversity hire.” Around the same time, the Partnership Director of Partnerships and Community Engagement, Rocio Anderson, made a separate complaint to [REDACTED] about discriminatory treatment, harassment, retaliation, and fear of physical violence and threats to her life she had been experiencing by members of the SLT and White Directors. [REDACTED] escalated Ms. Anderson's experiences of discrimination and threats to her life to HR and to Upstream's lawyers. In 2024, Upstream USA retaliated against Rocio

Anderson and wrongfully terminated her. In North Carolina, Ms. Anderson sued Upstream USA for racial, gender, and disability discrimination.

7. Additionally, an employee on the Practice Transformation Team reached out to [REDACTED] asking for help regarding disability discrimination and retaliation she was experiencing at the hands of Shruti Mehta and Ann Quandt, who are members of the Senior Leadership Team.

8. Fulfilling his responsibilities as VP of EDI, [REDACTED] escalated these complaints to Ms. McKinney, Anel Hazelwood from Human Resources, and the Co-Founder and CEO of Upstream, Mark Edwards, and advocated to Jessica Foster, Upstream President, to be included and no longer be iced out of investigations. [REDACTED] was never included in the investigations for Chelsea Gailey despite being a core witness to the disability discrimination and retaliation she endured under Shruti Mehta, Ann Quandt, and Upstream USA. . Despite his continuous attempts to follow the Employee Handbook, do his job as VP of EDI, and follow civil rights laws and workplace protections, [REDACTED] attempts to rid Upstream of discrimination were disregarded, and he eventually learned of Upstream's history of unlawful discrimination, retaliation, and termination of employees based on their protected class, which was often done under the guise of "restructuring", which was often done under the guise of "restructuring," rigged performance evaluations, and bogus and retaliatory employee relations cases.

9. As [REDACTED] tried to fulfill his duties, he constantly ran into roadblocks from Mr. Edwards and members of the SLT, most of whom were White. In May 2023 during an organization wide retreat, [REDACTED] hosted two EDI workshops that he and the SLT believed aligned with the goals of the Organization. However, to his surprise and despite the SLT's initial

vetting, he was met with negative feedback from program senior leaders, including Mr. Edwards, Mr. Andrew Myers, and Ms. Ann Quandt.

10. Mr. Myers went as far as to say to [REDACTED] and the SLT that “EDI is not good for growth,” and Mr. Edwards told [REDACTED] that his EDI initiatives should be limited internally for the Upstream workforce rather than expanded to external initiatives as well, which [REDACTED] and the majority of Upstream’s workforce believed would be critical to growth and fulfilling part of Upstream’s mission.

11. Despite the critical response he received for his work, [REDACTED] continued to support employees of the Organization while promoting Upstream’s mission to the best of his ability. Around the same time, [REDACTED] expressed to Mr. Edwards that he would like the opportunity to have a position on the SLT because of the critical importance of EDI to the Organization, but Mr. Edwards quickly shut him down, noting that [REDACTED] couldn’t be on the SLT because his direct supervisor, Ms. McKinney, was already on the team.

12. Meanwhile, Lisa Leroy, a White woman, was given a seat on the SLT, despite the fact that she reported to the Chief Operating Officer, Ann Quandt. Thus, it was apparent that [REDACTED], a Hispanic male, and his supervisor Ms. McKinney, a Black woman, were subject to different rules when it came to holding leadership positions within Upstream compared to their White counterparts. At this point and throughout [REDACTED] time at Upstream USA, Mr. Edwards ensured that no Hispanic person and no member of the LGBTQ+ community would be a member of the SLT.

B. [REDACTED] is Subject to Retaliation and Discrimination Based on His Protected Complaints

13. By February 2024, [REDACTED] had reported multiple complaints of harassment, discrimination, and retaliation to the VP of People and Culture (“HR” or “People Team”), Kay

Hughston, and the Chief of Organizational Effectiveness and Culture (“OEC”), Ms. McKinney. Nevertheless, his efforts were often rejected in favor of the opinions of White leadership members, some of whom were the very ones named in the complaints and had a track record of discriminating against other employees.

14. Additionally, following ██████████ escalation of his fellow co-workers’ discrimination complaints, he began to experience retaliation from the SLT, including from Mr. Edwards. ██████████ noticed a blatant change in how he was treated within the Organization – his work was subjected to excessive scrutiny, his scope of responsibilities diminished, and his ability to foster transparency and accountability was dismantled, while his majority White colleagues were not held to the same standards nor were their ability to do their jobs hindered.

15. On or about March 19, 2024, Mr. Edwards informed ██████████ that Ms. Hughston from HR was being elevated to the SLT. ██████████ expressed his concerns to Mr. Edwards that EDI was still not represented on the SLT and asked if he could be considered for the team, but his request was brushed off. This was especially frustrating to ██████████ because at Upstream it was standard practice to advance interim SLT members in aligned departments following the opening of the SLT position, as was done with the majority White VPs under Ann Quandt after her departure. After this meeting, ██████████ expressed his concerns about being denied this opportunity to Ms. McKinney, Ms. Hughston, and the Chief Financial Officer of Upstream, Jessica Greenfield.

16. On March 27, 2024, ██████████ was retaliated against when he was excluded from the Inclusive Leadership Training, a meeting where complaints of discrimination and retaliation within the Organization were discussed among SLT members. His exclusion from the training and meeting was a clear attempt at silencing him since his input was vital to the successful

planning and administration of the Inclusive Leadership Training – not to mention the word “Inclusion” is plainly in his job title and that [REDACTED] was the operator of the MyVoice Portal, the inclusion platform that received the complaints of discrimination and retaliation.

17. In April 2024, [REDACTED] continued to raise issues of the discrepancy of his pay compared to other White VPs to Ms. Hughston, thirteen months after he initially raised the same concerns with Ms. McKinney to no avail.

18. In fact, at that point [REDACTED] was being paid less than employees two levels below him, both of whom are White, and yet, rather than discuss [REDACTED] concerns in a constructive manner, Ms. Hughston and Ms. Greenfield interrogated [REDACTED] about the details of his hiring and the history of his role, previous work experience, and the work he had completed at Upstream since starting in March 2023. This response made clear that [REDACTED] was not being supported but instead being placed under greater scrutiny than his colleagues as Ms. Hughston and Ms. Greenfield were looking to diminish his work, his credentials and experience, questioning whether he belongs in the workplace, revisiting the talent acquisition process more than 1 year after his start date in order to justify the Organization’s mistreatment of him in direct violation of the law.

19. On or about April 4, 2024, [REDACTED] sent a formal complaint of retaliation and discrimination to Mr. Edwards. On or about April 9, 2024, [REDACTED] met with Mr. Edwards in Boston for a one-on-one meeting, during which Mr. Edwards inappropriately inquired into [REDACTED] national origin, ethnicity, marital status, familial status, socioeconomic status, gender identity (specifically his use of he/they pronouns), and work and education experience.

20. [REDACTED] felt like he had to justify his value to the Organization, similar to the interrogation Ms. Hughston and Ms. Greenfield put [REDACTED] under. He found this demeaning

and retaliatory, considering he had been at Upstream for thirteen months without anyone inquiring into his background until he raised concerns about the discrimination and retaliation he was facing.

21. Additionally, ██████████ felt humiliated by the interrogation questions about his identity and upbringing that he did not belong to the dominant culture in Upstream USA, ran by predominantly white, straight, cis senior leadership team. Similar to the discriminatory experience that his other colleagues of color experienced, ██████████ was asked to rehash his education and experience even though he had already been hired more than one year prior, a discriminatory and retaliatory practice not applied to members of the dominant culture of the SLT.

22. ██████████ informed a fellow co-worker and the Director of OEC, Samantha Smith that he believed he was being set up to fail by being given projects that SLT members knew would never be approved by Mr. Edwards. Ms. Smith, in return, shared her own experiences of discrimination and retaliation at the Organization, which solidified ██████████ belief that there was a clear pattern of discriminatory and retaliatory behavior at Upstream.

23. In the summer of 2024, ██████████ became entangled in the web of retaliatory behavior across multiple departments and at the hands of various individuals within the Organization, which included, but was not limited to: denying ██████████ superuser access to AllVoices; promoting ██████████ White, heterosexual female colleagues to the SLT while denying him a seat on the SLT multiple times; excluding ██████████ from MyVoice racism complaint training sessions with senior leaders; preventing ██████████ from doing his job of facilitating repair through a third party diversity, equity, and inclusion mediator, implementing increased scrutiny following an Organization retreat that was not required of the White retreat event host; ignoring ██████████ reported concerns over discrimination in hiring; blocking ██████████ from backfilling vacancies in the EDI department while allowing White, heterosexual,

female VPs to backfill theirs; and preventing [REDACTED] from participating in the investigations into Ms. Mckinney's, Ms. Anderson's, and Ms. Gailey's complaints of discrimination.

24. Each time [REDACTED] would alert members of the SLT to this behavior, he faced instant retaliation as he would be shut down without any further inquiry. On multiple occasions, [REDACTED] explained to the SLT members how he felt singled out or that his work was being undermined, and instead of appropriately discussing his valid concerns, he would be questioned as to whether he still had the support to complete his job.

25. [REDACTED] saw these as discriminatory and retaliatory attempts to push him out of the Organization, a tactic he learned was commonly used when employees speak up about discrimination and retaliation.

C. After [REDACTED] Courageously Reported Discrimination and Retaliation and Fought to Continue in His Role, His Role is Limited and He is Wrongfully Terminated

26. On or about September 3, 2024, [REDACTED] role in the Organization was significantly reduced. Jessica Foster, the incoming President and COO, prohibited [REDACTED] from sharing his reports of EDI Strategic Plan focus groups. Ms. Foster also removed [REDACTED] authority to foster accountability and progress through compliance and monitoring of goals. However, EDI Consultant, Jackie Glenn, in addition to colleagues such as Ms. Hughston and Ms. Foster, still had the ability to share similar findings with the leadership team and entire Organization.

27. On or about December 9, 2024, [REDACTED] bravely spoke up at a SLT Diversity Performance Management Meeting about the retaliation he was experiencing and warned the senior leaders that employees of color at Upstream were disproportionately being given poor performance reviews, a clear sign of systemic discrimination within the Organization. Rather than hear out [REDACTED], whose role is directly related to this area of work, he was constantly

interrupted and discredited by SLT members. In response to this, [REDACTED] filed another formal complaint with Sarah Pierson, the Chief of Development and External Affairs, Ms. Hughston, Ms. Greenfield, and the Director of Learning and Development, Jen Paragas.

28. On or about January 13, 2025, [REDACTED] was informed by Danna Freedman-Shara, then VP of Technical Assistance Design and Partnerships and Community Engagement, that he would not be included on the project team's task of defining equity for programmatic/social impact purposes, despite social impact being the third pillar of the EDI body of work and despite [REDACTED] already fulfilling EDI programmatic work in his first year.

29. By this time, [REDACTED] was essentially only a figurehead, given he was being prevented from doing his job and was intentionally excluded from matters that he was directly hired to handle – in other words, the VP of EDI was intentionally excluded from the project team that was defining equity.

30. [REDACTED] reported this retaliatory action to Ms. Hughston. At approximately the same time, [REDACTED] was not provided with his performance review when the rest of his White, straight, female colleagues received theirs. [REDACTED] was the last on his team to receive his performance review and had limited time to review it before the mandatory review meetings were held. This was a breach of Upstream policy, which required advance notice be given to all employees.

31. As expected by [REDACTED], given recent circumstances, he received a poor review from his supervisor Ms. Hughston. This poor review was given to [REDACTED] despite finishing 38.5 out of 40 on-time milestones in the EDI Strategic Plan 2023-2024, completing 40 out of 40 milestones by the end of 2024, and receiving accolades about how much progress had been done in EDI work through [REDACTED] leadership and accomplishments at Upstream.

32. Additionally, Ms. Hughston informed [REDACTED] that Mr. Edwards and SLT members contributed to feedback on his performance. [REDACTED] raised to Ms. Hughston that this is a retaliatory and discriminatory action given that it is outside of Upstream's standard operating procedure.

33. On or about January 19, 2025, after [REDACTED] submitted a complaint to HR, the President, the CEO, the CFO, and the Board of Directors reiterating his experiences of discrimination and retaliation, [REDACTED] was alerted via email that he had been locked out of his Upstream email and Organization operating systems. He immediately notified his supervisor and was granted access but only to some of his required accounts. [REDACTED] missed half a day of work and was unable to attend that day's meeting with an executive due to this "unexpected error" in security.

34. [REDACTED] then attended a Leadership Day Planning meeting in which he had a conversation with Ms. Glenn, where she made it clear that she believed his time at Upstream had come to an end. Ms. Glenn made comments about management not supporting [REDACTED] in his role, indicated that the budget in his department was indicative of an organizational desire to end EDI, and many other comments that made [REDACTED] feel intimidated, disempowered, and unwelcome.

35. On or about February 12, 2025, [REDACTED] was informed that the Organization would no longer be including EDI training for the upcoming Leadership Day. When the Leadership Day Planning meeting occurred, none of [REDACTED] insights were taken into consideration by the committee members, and candidates of color were aggressively screened out. After the Leadership Day Planning meeting, [REDACTED] filed a formal complaint recounting his treatment at Upstream with Mr. Edwards (CEO & Co-Founder), Ms. Foster (President & COO), Ms.

Greenfield (CFO & Risk/Compliance), Ms. Hughston (Interim Chief of OEC and VP of People and Culture/HR) and the Board of Directors.

36. ██████████ sounded the alarm regarding the hostile and discriminatory work environment being perpetuated by Upstream. ██████████ courageous attempt to bring an end to the abuse he and many others had suffered and were continuing to suffer fell upon deaf ears as he was threatened with termination if he continued raising concerns regarding this mistreatment.

37. On or about February 24, 2025, ██████████ was once again locked out of Upstream systems and immediately contacted HR to be regranted access. However, before his access to the systems necessary to do his job were granted, ██████████ was ambushed into a meeting with Ms. Hughston, in the role of Interim Chief of OEC and Vice President of People and Culture (HR), and Ms. Greenfield, the CFO, where he was told he was being terminated. ██████████ was shocked and disheartened that despite his multiple years of quality work and efforts to uphold a standard of equity at Upstream, they had officially succeeded in their campaign of discrimination and retaliation against him because of his race, sexual orientation, and gender.

38. Since his termination, ██████████ has been deeply distraught and crestfallen. Indeed, ██████████ physical and emotional distress and physical pain and suffering is clear and cognizable given the reality that Upstream's leadership pressed their unlawful biases and campaign against him without repercussion, while ignoring their obligations to seriously investigate ██████████ reports of unlawful discrimination and retaliation in the workplace.

39. Based on the foregoing recitation of facts, it is clear that the Respondent has engaged in a pattern and practice of discrimination and retaliation against Charging Party by treating him adversely on the basis of his race and gender, in continuing violation of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978

and by the Civil Rights Act of 1991, Pub. L. No. 102-166 (“Title VII”), Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“§ 1981”), the New York State Human Rights Law, New York State Executive Law, §§ 296 *et seq.* (“NYSHRL”); and the New York City Human Rights Law, Administrative Code §§ 8-107, *et seq.* (“NYCHRL”).

40. As a result of the foregoing, the Charging Party has been unlawfully discriminated and retaliated against, humiliated, and degraded, and thus has suffered loss of rights, physical and emotional distress, as well as loss of income and earnings.

41. As a result of the Respondent’s actions, the Charging Party feels extremely degraded, victimized, embarrassed, physically and emotionally distressed.

42. Specifically, as a result of the acts and conduct complained of herein, Charging Party has suffered and will continue to suffer the loss of income, the loss of a salary, bonuses, benefits and other compensation which such employment entails, as well as future pecuniary losses, emotional pain, loss of enjoyment of life, and other non-pecuniary losses. [REDACTED] further experienced severe emotional and physical distress.

43. Because its conduct has been malicious, willful, outrageous, and done with full knowledge of the legion of law to the contrary, the Charging Party demands punitive damages as against the Respondent.

44. The Respondent’s discriminatory and retaliatory conduct is flagrant, pervasive, and constitutes a systemic pattern and practice of lawlessness worthy of adjudication by the EEOC in light of that administrative agency’s National and Strategic Enforcement Plans.

EEOC Charge & Narrative

Final Audit Report

2025-12-17


Created:	[REDACTED]
By:	[REDACTED]
Status:	[REDACTED]
Transaction ID:	[REDACTED]t


"EEOC Charge & Narrative" History

 [REDACTED]
2025-12-16 - 11:33:53 PM GMT

 [REDACTED]
2025-12-16 - 11:33:58 PM GMT

 [REDACTED]
2025-12-17 - 0:13:32 AM GMT

 [REDACTED]
Signature Date: 2025-12-17 - 3:21:39 PM GMT - Time Source: server

 Agreement completed.
2025-12-17 - 3:21:39 PM GMT