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**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA**

In the Court of Appeals

[In the Supreme Court]

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**APPEAL FROM THE ADMINISTRATIVE LAW COURT**

Judge Phillip Lenski, Administrative Law Judge

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Case No. 23-ALJ-22-0379-AP  
Appellate Case No. 2024-000251

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South Carolina Department of Employment and Workforce and Wells Fargo & Company, Inc.  
Respondents,

v.

Bridgette Chabot,  
Appellant.

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**BRIEF OF APPELLANT**

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**TABLE OF AUTHORITIES & EXHIBITS:**

**Christopher Rumph v. South Carolina Department of Employment ) and Workforce and Ceilco Partnership,** Docket No. 14-ALJ-22-0425-AP decided by Honorable S. Phillip Lenski on May 12, 2015 ..... **10, 15-16**

**Cory Blackwell v. South Carolina Department of Employment and Workforce and Specialty Vermiculite Corp.,** Docket No. 11 - ALJ -22-0226- AP decided by Honorable S. Phillip Lenski on November 6, 2017 ..... **7, 23-24, 25, 32**

**Tyrell Davis v. South Carolina Department of ) Employment and Workforce and ) Wal-Mart Associates,** Docket No. 12-ALJ-22-0046-AP decided by Honorable S. Phillip Lenski on October 11, 2013 ..... **30, 31**

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## **QUESTIONS/ ARGUMENTS PRESENTED ON REVIEW/ ISSUES ON APPEAL**

**A.) Did The Hearing Officer and Appeals Panel Error and Abuse Their Discretion in Advocating For The Employer?**

**B) Did The Hearing Officer And Appeals Panel Error And Abused Its Discretion Finding In Favor Of The Employer When The Appellant Was Fired Prematurely? Did the Hearing Officer Have Substantial Evidence or Substantiated Testimony Provided from the Employer to Justify the Appellant's Termination?**

**C) Did the Hearing Officer and Appeals Panel Clearly Determine There was Deliberate and/or Malicious Misconduct as Defined by South Carolina Law and Demonstrated by the Appellant on a Reasonably and Well Known Policy?**

**D) Did The Hearings Officer And Appeals Panel Error Or Abuse Its Discretion In Finding In Favor of The Employer Even Though There Was No Authority To Fire The Appellant? Did the Hearing Officer Establish Without a Doubt With Substantial Evidence, it was in fact the Appellant who Completed the Transaction she was Terminated for?**

**E)Did The Hearing Officer or Appeal Panel Error Or Abuse Its Discretion To Introduce New Evidence Documentation?**

**F) Did The Hearing Officer And Appeals Panel Error And Abuse Its Discretion In Not Finding For The Appellant When The Employer Failed To Comply?**

## **STANDARD OF REVIEW**

The Administrative Law Court reviews findings of Employment Appeals Board decisions for substantial evidence and abuse of discretion. The ALC has jurisdiction to hear the matter pursuant to section 41-35-750 of the South Carolina Code (Supp. 2019 and section 1-23-600D (Supp. 2019)

## **STATEMENT OF THE CASE AND FACTS**

The Appellant incorporates by reference all statements in the prior proceeding and appeals to include documents submitted previously of this appeal as if fully set forth herein. Bridgette Chabot, the Appellant, hired in January 27, 2020 as a Bank Teller and terminated on May 9, 2023 by her Branch Manager Tracy McCarthy. Bridgette Chabot was terminated for "Falsification of

Bank Records” regarding the circumstances of using Manager Ariana Nati’s employee number to approve a transaction without Nati’s consent. *(ROA, page58, lines11-20)* Tracy McCarthy was out of the office on vacation and she allowed her delegate, (stand-in Manager) to go on vacation at the same time. *(ROA, page28)*. There was no manager present February 2, 2023 in which the transaction in question took place- which resulted in the Appellant’s termination. “There was no manager of any kind at the branch from January 30-February 3 [2023]” *(ROA, page25)* Upon Tracy McCarthy’s return to the office, the following week, McCarthy received the emails from her colleague and Manager Ariana Nati, McCarthy contacted the District Manager Shannon Murphy and called HR who started an investigation into the use of Nati’s employee number on the transaction on February 2, 2023. *(ROA, page51 lines18-26)*. In the Branch that February 2, 2023 were 2 Bank Tellers: the Appellant, Tyler Faizo and 1 Banker. “...there was no other employee available, there were 3 of us including [Appellant] total present during the transaction.” *(ROA, page117)* The Appellant was terminated May 9, 2023 by Tracy McCarthy because “they [Wells Fargo] were going to terminate her based on falsifying bank documents and under fraud because she didn’t have the permission to use that employee’s information.” *(ROA, page52, lines3-6)*. The Appellant filed for unemployment benefits on May 9, 2023. *(ROA, page11-13)*. Department of Employment mailed a notice on May 30, 2023, stating the Appellant was “ineligible for benefits from 05/07/2023 to 09/23/2023” with the determination reason being the Appellant was “discharged from your job ... for violation of company policy. ... Failure to comply with company policies was contrary to the employer’s best interests. [Ms.Chabot was] discharged for misconduct in connection with the work under the South Carolina Code Section 41-35-120(20) (a).” *(ROA, page83)* The Appellant appealed initial disqualification of

unemployment benefits (*ROA, page27-34*) and a Hearing Before the Appeal Tribunal was scheduled (*ROA, page36-39*) and executed by Telephone Conference on June 27, 2023 from 11:30am-12:15 with SC Department of Employment and Workforce Administrative Hearing Officer Cassandra Huggins. Present at trial was Attorney Jesse Goode, representing the Employer, the Employer's witness Tracy McCarthy and Appellant, Bridgette Chabot. (*ROA, page42-46*) July 7, 2023, the Appellant received notice that as a result of the trial, Hearing Officer Huggins holds the claimant disqualified for receiving benefits. (*ROA, page113*) July 17, 2023, the Appellant appealed this decision to the Appellate Panel (*ROA, page115-117*) August 15, 2023, the Appellate Panel mailed their decision to "affirmed the determination." (*ROA, page121*) The Appellant filed a Notice of Appeal on September 13, 2023 to Appeal her case to the South Carolina Administrative Law Court. Judge Phillip Lenski of the Administrative Law Court affirmed the decision on February 13, 2024. Chabot filed the Notice of Appeal to SC Court of Appeals March 7, 2024 and March 20, 2024 respectively.

1. The Hearing Officer is familiar with the Employer's attorney and allows attorney Jesse Goode to represent Wells Fargo during trial without Mr. Goode filing the appropriate paperwork, a Letter of Representation. (*ROA, page43, line3 & page44, lines11-12, 18-19*)
2. The Hearing Officer establishes "The issue in today's hearing is whether the claimant was discharged for misconduct as defined by South Carolina Law." (*ROA, page46, Line26-28*)
3. It is established by the Employer's witness Tracy McCarthy, that the reason the Appellant Chabot was terminated was for "falsifying bank documents and under fraud because

she didn't have the permission to use that [Ariana Nati] employee's information." (*ROA page 52 lines 4-6*).

4. As established by Tracy McCarthy at the beginning of her testimony, she was not present the week nor the day of the transaction which led to Bridgette Chabot's termination. Tracy McCarthy establishes her testimony at the outset as hearsay. (*ROA, page 51, lines 3-4*) The Employer called no other witnesses during trial. Chabot represents herself and calls no other witnesses during trial. Appellant Chabot begins her testimony to corroborate Tracy McCarthy was not present during the transaction she was terminated for. (*ROA, page 58 lines 22-23*).
5. During trial, the Hearing Officer made relevant a transaction that took place on January 31, 2023 (again, Tracy McCarthy was not present for that week) that Chabot completed for her customer. Tracy McCarthy testifies during trial that Ms. Chabot had Nati's verbal consent to use her employee number on Tuesday, January 31, 2023 (*ROA, page 51, lines 6-10*). The Hearing Officer asks if the Appellant had approval to use that manager's [Ariana Nati's] credentials? Tracy McCarthy answers, "Yes, on Tuesday, but she did not on Thursday." (*ROA, page 53, line 1*) Ms. Chabot corroborates that she had Nati's approval on Tuesday. To reiterate, the Appellant Chabot was terminated for the transaction that occurred on Thursday, February 2, 2023, not the Tuesday, January 31, 2023 transaction.
6. The Hearing Officer questions Tracy McCarthy on the Thursday, February 2, 2023 transaction; "who was the teller that actually completed the transaction?" Tracy McCarthy answers, "Tyler Faizo." (*ROA, page 53, lines 20-22*). The Appellant

corroborates “it was Tyler’s customer and Tyler’s transaction. I stepped away from the computer. Tyler printed the cashier’s check to complete his transaction for his customer [on Thursday].” (*ROA page60, lines 17-20*)

7. Bridgette Chabot and Tyler Faizo hold the same job title as Bank Teller with the same job description and same compensation. (*ROA, page29*).

8. The policy in question, “Approver Not Present” policy is not formally trained to employees. This is the policy cited that the Appellant allegedly violated that resulted in her termination. The “Approver Not Present” policy is a policy that is not exercised normally-as testified by McCarthy (*ROA page76 lines12-16*) and corroborated by the Appellant. (*ROA, page66-67, lines25-26, 1-7*)

9. There is contention between McCarthy’s and Chabot’s testimony during trial. Tracy McCarthy testifies repeatedly about footage (surveillance video) of the Appellant trying to call Ariana Nati on the phone Thursday February 2, 2023 and that the Appellant did not make any attempts to call anyone else. (*ROA page51, lines27-29*) The Hearing Officer continues to question McCarthy on the alleged surveillance footage, footage of which that was not entered in to evidence and it not found in the Record of Appeal. (*ROA, page54 lines3-4 and lines8-9*). The Appellant testifies that this is not true and that the footage should reveal it was Tyler Faizo who tried to call Ariana Nati on Thursday (*ROA page60 lines20-23*). The Appellant testifies “I didn’t make any phone calls at all that day [Thursday].” (*ROA page59 line27-28*) When the Appellant brings to question the footage that is not entered in to evidence/record, “I would be happy for somebody to subpoena that video and watch it,” The Hearing Officer replies, “Well, ma’am, that would

of have had to be done prior to the hearing today by you.” (ROA page61 lines8-11)

Although the footage is not entered in to evidence or on record and the Appellant establishes contention over what the footage captured and the hearsay testimony of the footage by McCarthy, the Hearing Officer pursues questioning McCarthy over the surveillance footage not entered in to evidence, “So when the claimant couldn’t reach Ms. Nati on that Thursday, what should she have done?” (ROA, page54 lines3-4)

10. The Appellant establishes in trial she was terminated over the transaction completed by Tyler Faizo on February 2, 2023 but testifies that “[Tyler] even printed the cashier’s check. I had confirmed with him on June 7th via text message that there was no disciplinary action for Tyler whatsoever. He was coached on how they wanted him to use the [Approver Not Present] policy-” Interrupted by Hearing Officer: “Ma’am, I’m asking you a very specific question and you are going off in many different directions-” (Some transcription missing from written transcription, please see EXHIBIT B, Audio of the trial @ 30:25 timestamp.)

## **QUESTIONS/ARGUMENTS PRESENTED ON REVIEW**

### **& SUMMARY OF ARGUMENT**

The Appellant Ms. Chabot incorporates by reference all statements in the prior proceeding and appeals to include documents submitted previously of this appeal as if fully set forth herein.

#### **A.) Did The Hearing Officer and Appeals Panel Error and Abuse Their Discretion in Advocating For The Employer?**

1. **The Hearing Officer allows the Employer’s attorney to represent the Employer during trial without filing the proper paperwork.** The Hearing Officer Huggins that

presided over the Appellant's trial on June 27, 2023, knows and is familiar with the Employer's Attorney Jesse Goode and allows him to represent the Employer during trial without filing the proper paperwork, the Letter of Representation. Hearing Officer: "I'm familiar with [Jesse Goode]. I don't believe I've received a letter of representation." (*ROA page43, lines3-4*). The Hearing Officer offers to file the Letter of Representation for him, day of the trial, only minutes before the Appellant Ms. Chabot was contacted. Hearing Officer: "I will say, I have not received a letter of representation from you. It's not an issue. ... I just entered your information now." (*ROA page44, lines11-13, 18-19*)

**2. The Hearing Officer's demeanor and execution of the trial shows an impartial and unbalanced bias for the Employer.** Ms. Chabot incites *Cory Blackwell v. South Carolina Department of Employment and Workforce and Specialty Vermiculite Corp.* Docket No.11- ALJ -22-0226- AP decided by Honorable S.Phillip Lenski on November 6, 2017, in which during trial, the Employer and the Department bolstered findings to re-characterize the Appellant's actions. Much like in this trial in which the Hearing Officer makes relevant a phone call Ms.Chabot made on January 31st and the Hearing Officer's excessive questioning of the Appellant on that phone call four times (*ROA, page64 line6; line12-14; ROA page65 lines14-15; lines23-26*) and why Ms.Chabot told her co-worker Tyler Faizo to call a manager on Thursday an excessive seven times: (*ROA page67 lines26-27; ROA page68 lines9-10; line15; line20-21; ROA page69 line1-2; ROA page70 lines3-4; line18-19*) Ms.Chabot believed she gave a sufficient answer the second time the Hearing Officer asked: "Why, instead of entering

her information, didn't you tell [Tyler] to contact someone else?" Ms.Chabot: "I don't know. I'm not the manager at the branch. Me and Tyler are both tellers." (*ROA page68 lines9-12*) The Hearing Officer must of mistaken Ms.Chabot for Tyler Faizo's superior or manager when they are only peers. The excessive questioning demonstrates she was acting as a prosecuting attorney rather than an impartial party. During the excessive questioning, the Hearing Officer leads Ms.Chabot: "So you made a judgement call?" Ms.Chabot: "You can say I made a judgement call..." (*ROA page64, lines25-26*). The Hearing Officer also falsely accuses and leads Ms.Chabot, even after she asked six times, the seventh time she asks: "Why did you testify earlier that you told Tyler the procedure was to call Nati or another manager?" Ms.Chabot: "I never told him that was the procedure. I just said try to call." (*ROA, page70 18-21*). Hearing Officer: "Okay. So you understood that to be the procedure?" Ms.Chabot answers: "No." (*ROA, page70, lines18-24*). Reading or listening through the transcript of the trial (*Exhibit B*), you will not hear Ms.Chabot testify she told Tyler Faizo to call because it was procedure. Not only is that a way to bolster, the Hearing Officer was clearly erroneous and deceitful. In addition, the Hearing Officer asks if Ms.Chabot clarified the Approver Not Present policy prior to the Thursday transaction (although this seems brazenly retroactive and inconsequential to the event on Thursday February 2, 2023.) a number of three times. Ms.Chabot gives consistent testimony, apparently not to the liking of the Hearing Officer who is leading the Appellant. Earlier in the trial, Ms.Chabot answers the Hearing Officer when she asks why Ms.Chabot told Tyler to call Nati, "Well, just to touch base with her...." (*ROA, page69 line3*)

In contrast, the Hearing Officer does not redundantly question the Employer's witness even when McCarthy gives inconsistent testimony. The Hearing Officer even leads the Employer's witness to a desired answer: Hearing Officer: "Does this policy exist for circumstances where there is no one present that's able to approve?" McCarthy: "No. You would have to contact someone to have this approval..." Hearing Officer: "Ms. McCarthy, I think maybe my question wasn't clear..." (*ROA, page 76, lines 17-22*). **The Hearing Officer abused her discretion in the manner in which she conducted herself during trial.** Ms. Chabot knows that the written word cannot account for tone and if up for debate, you can hear the Hearing Officer's change of tone in her questioning of the Employer's witness vs. the Appellant Ms. Chabot (*The entirety of EXHIBIT B, Audio of the trial.*) with the obvious bias leading the Hearing Officer exhibited as outlined here.

**3. The Hearing Officer abused her discretion by reframing the events of a separate transaction on January 31, 2023 by the Appellant Chabot, to manipulate the narrative of the trial and to re-characterize Ms. Chabot and her actions.** During trial, the Hearing Officer made relevant a transaction that took place on January 31, 2023 (again, Tracy McCarthy was not present for that week) that Chabot completed for her customer. Tracy McCarthy testifies during trial that "On Tuesday.. [Ms. Chabot] called another branch manager to get an approval for a transaction that was over her limit. And the branch manager [Ariana Nati] gave her her information to approve that particular transaction." (*ROA, page 51, lines 6-10*) The Hearing Officer asks if the Appellant had approval to use that manager's credentials? Tracy McCarthy answers, "Yes, on Tuesday, but she did not on Thursday." (*ROA, page 53, line 1*) The Appellant

corroborates that she had Ariana Nati’s verbal consent via telephone conversation for her transaction that occurred January 31, 2023, “I called Ariana Nati [on January 31] .. to get her approval for \$300,000. .. She said, I trust your judgment. You can use [my numbers] any time. So she did not ask to review that transaction, whatsoever.” (*ROA, page59, lines6-17*) To reiterate, the Appellant Chabot was terminated for the transaction that occurred on Thursday, February 2, 2023, not the Tuesday, January 31, 2023 transaction.

The examples above illustrate the Hearing Officer’s abuse of discretion and the Appellant Ms.Chabot relies on *Christopher Rumph v. South Carolina Department of Employment ) and Workforce and Ceilco Partnership*, Docket No. 14-ALJ-22-0425-AP decided by Honorable S.Phillip Lenski on May 12, 2015 in which it was founded, “The hearing officer must be impartial. S.C. Code Ann. Regs. 47-5 1(C)(l) grants the hearing officer the ability to “examine and cross-examine such party and his witnesses, and may examine and cross-examine the witnessed of any opposing party.” However this ability does not extend to allow a hearing officer to serve as the advocate of the Department’s position while simultaneously rendering an impartial final decision.” The Hearing Officer was clearly erroneous during trial.

**B) Did The Hearing Officer And Appeals Panel Error And Abused Its Discretion Finding In Favor Of The Employer When The Appellant Was Fired Prematurely? Did the Hearing Officer Have Substantial Evidence or Substantiated Testimony Provided from the Employer to Justify the Appellant’s Termination?**

**1. The Employer’s only witness in trial, Tracy McCarthy, provides a hearsay testimony.**

As established by Tracy McCarthy at the beginning of her testimony, she was not

present the week nor the day of the transaction which led to Bridgette Chabot's termination. Tracy McCarthy establishes her testimony at the outset as hearsay. The Employer called no other witnesses during trial. Appellant Bridgette Chabot represented herself and testified from the outset as well to corroborate that Tracy McCarthy was not present during the transaction in question. McCarthy begins her testimony, "So in January, and I apologize. I don't have the exact dates. I was out of the office." (*ROA, page51 lines3-4*) Chabot begins her testimony, "On February 2, 2023, my Branch Manager, Tracy was out on vacation. That week she was on vacation." (*ROA, page58 lines22-23*). The only testimony the Hearing Officer heard of the reasons why the Appellant was terminated was from a witness that was not present during the transaction. **The Hearing Officer displays a bias and abuses her discretion in favor of the Employer by allowing hearsay testimony to be entered in to the trial.**

**2. The Appellant Chabot objects to Tracy McCarthy's hearsay testimony.** The Appellant Ms. Chabot objected to Tracy McCarthy's testimony because McCarthy was not present during the transaction Chabot was terminated for and most of McCarthy's testimony was false and misleading, however, the Hearing Officer interrupted the Appellant's objection and would not acknowledge the objection. Ms. Chabot: "Other than that, I just want to state that it is false-" Hearing Officer: "Well, no. Do you have any questions for her? No. No, Ma'am." (*EXHIBIT B, Audio of trial @23:57-24:10, Also found ROA page57 lines19-20*) The Hearing Officer allowed the hearsay testimony to be entered on record.

That hearsay testimony drove the Employer's defense and it was the only defense the Employer had during trial against the Appellant, Ms. Chabot.

**3. Although both Appellant Chabot and McCarthy both establish McCarthy's**

**testimony as hearsay, the Hearing Officer continues to question McCarthy on her**

**hearsay testimony.** During Tracy McCarthy's hearsay testimony, she references false

accusations; stating the Appellant called Ariana Nati, manager, on Thursday, (*ROA page51 lines27-29*) which is false and made imperative to the trial by the Hearing

Officer. Again, McCarthy was not present and is only repeating hearsay information.

The Appellant Chabot contends during her testimony that it was in fact, Tyler Faizo who tried to call Ariana Nati on the Thursday transaction. (*ROA page59, lines27-28*).

Ms.Chabot also asserts the footage would also show Tyler Faizo completing the transaction (*ROA page60 lines17-20*) in which she was terminated for. The Hearing

Officer allows Tracy McCarthy to testify and reference surveillance footage of

Ms.Chabot allegedly calling and completing the transaction in question (*ROA page51 lines28-29*) although the surveillance footage was not entered in to evidence and not

found in the Record Of Appeal. The Appellant Chabot also contends throughout both

of her appeal letters and asserts here, that the surveillance footage referenced should

also in fact show Tyler Faizo completing the Thursday February 2, 2023 transaction in which Chabot was terminated for. The Hearing Officer was clearly erroneous by

accepting these accusations and hearsay without thoroughly establishing which teller in

fact is responsible for the transaction the Appellant Chabot was terminated for.

**4. The Hearing Officer abused her discretion in accepting testimony and questioning the Employee's witness over non-existent evidence that was not entered in to the trial.** The Appellate Panel decision, mailed August 15, 2023, cited in their background that "The Employer conducted its investigation by interviewing all of the parties involved, and reviewing surveillance video..." (*ROA page122*) The Hearing Officer displays a bias for the Employer by letting Tracy McCarthy testify to footage/ surveillance video of the transaction and the Employee Handbook, neither of which were entered in to evidence and not found in the Record of Appeal. Tracy McCarthy testifies repeatedly about footage/surveillance video of Ms.Chabot trying to call Ariana Nati on the phone Thursday February 2, 2023 and that the Chabot did not make any attempts to call anyone else. (*ROA page51, lines27-29*) The Hearing Officer continues to question McCarthy on the alleged surveillance footage, footage of which that was not entered in to evidence and it not found in the Record of Appeal. Hearing Officer: "So when the claimant couldn't reach Ms. Nati on that Thursday, what should she have done?" (*ROA, page54 lines3-4 and lines8-9*). Hearing Officer: "did the claimant make any attempts to contact anyone other than Ms. Nadi/Nati?" McCarthy: "To my understanding, no. According to the footage that they reviewed." (*ROA, page54, lines8-11*). Ms.Chabot asserts: "I didn't make any phone calls at all that day [Thursday]." (*ROA page59 line27-28*) The Appellant Ms. Chabot contends that the footage, if entered in to evidence for the Hearing Officer, would show Tyler Faizo completing the transaction: "So this was from Tyler's computer because it was Tyler's customer and Tyler's transaction. I stepped away from the computer. Tyler printed the

cashier's check to complete his transaction for his customer... Tyler reported back to me that he tried calling, I think, the North Myrtle Beach branch, I believe he told me three times and nobody answered," (ROA, page 60 lines 17-23) "Again, it was ignored three times in a row. To my knowledge, the [Wells Fargo] investigator did not access the phone records that showed that Tyler had called there to get somebody on the phone. Also, I didn't feel it was my responsibility to get in touch with anyone because it was Tyler's transaction." (ROA page 60-61, lines 28-29 and lines 1-4). When the Appellant brings to question the footage that is not entered in to evidence/record, "I would be happy for somebody to subpoena that video and watch it," The Hearing Officer replies, "Well, ma'am, that would of have had to be done prior to the hearing today by you." (ROA page 61 lines 8-11) Although the footage is not entered in to evidence or on record and the Appellant establishes contention over what the footage captured and the hearsay testimony of the footage by McCarthy, the Hearing Officer pursues questioning McCarthy over the surveillance footage not entered in to evidence making a conclusion to accept McCarthy's testimony, even after she establishes she was not present; and dismiss Ms. Chabot's assertions on what the footage captured.

Tracy McCarthy falsely testifies that the "Approver Not Present" policy is found in the Employee Handbook; Hearing Officer: "Well, with regards to this approval, and Approver Not Present policy, how is that communicated to employees?" McCarthy: "The policy?" Hearing Officer: "Yes, Ma'am." McCarthy: "It is written in the Employee Handbook, which I have sent over. I sent over to Jesse, and he has copies of that." (ROA page 55 lines 20-25) Attorney Jesse Goode: "are you aware of whether or not the claimant

signed an acknowledgment of having received the Employee Handbook?” McCarthy: “She did, yes.” (*ROA, page 56-57 line26 & line1-3*). Ms. Chabot has a copy of the Employee Handbook and the Employee Handbook does not contain the “Approver Not Present” policy. The Employee Handbook is not entered in to trial or Record of Appeal. The signature recognition of this handbook is made imperative to the trial by the Employer’s Attorney to the Hearing Officer as a reference and exemplification of the Appellant’s understanding of the Approver Not Present Policy, however, **is irrelevant considering the Approver Not Present policy is NOT contained within the Employee Handbook**. The Hearing Officer Huggins decision to deny benefits under REASONS in the “Decision of Appeal Tribunal” mailed June 7, 2023, “Though elements of the testimony are disputed the Tribunal finds the greater weight of evidence lies with the employer witness with firsthand knowledge due to the method and manner in which she presented their case, the corroborative documentation provided to the Tribunal” (*ROA, page 112*). The Hearing Officer was clearly erroneous and erred to make a decision based on the only Employer’s witness who’s testimony is clearly hearsay and on evidence NOT entered in to trial/Record of Appeal. Therefore, Ms.Chabot’s recognition of the Handbook and signature as testified by McCarthy is irrelevant to Chabot’s understanding of the Approver Not Present policy. The Hearing Officer accepts testimony from the Employer’s witness McCarthy who evokes evidence repeatedly without it being substantiated because the evidence was not entered in to the trial.

Ms. Chabot relies greatly on **Christopher Rumph v. South Carolina Department of Employment and Workforce and Ceilco Partnership**. Docket No. 14-ALJ-22-0425-AP decided

by Honorable S. Phillip Lenski on May 12, 2015 in which “The Hearing Officer must be impartial.” Through the multitude of examples outlined here of the Hearing Officer’s bias and manipulation of the narrative, we see the Hearing Officer was not impartial in Chabot’s trial.

**C) Did the Hearing Officer and Appeals Panel Clearly Determine There was Deliberate and/or Malicious Misconduct as Defined by South Carolina Law and Demonstrated by the Appellant on a Reasonably and Well Known Policy?**

**1. The Hearing Officer establishes the trial’s objective which was whether or not Ms.**

**Chabot demonstrated misconduct.** The Hearing Officer establishes the June 27, 2023 trial’s objective as: “The issue in today’s hearing is whether the claimant was discharged for misconduct as defined by South Carolina Law.” (*ROA, page46, Line26-28*)

““Misconduct” includes conduct showing willful disregard of an employer’s interests, such as found in deliberate violations or disregard of an employer’s interests, such as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee. No finding of misconduct may be made for discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance.” Section 41-35-120(2)(a).

**2. The Approver Not Present Policy, the policy in which Ms. Chabot allegedly violated**

**and was terminated for, is not a common policy nor a policy practiced by Wells**

**Fargo’s employees regularly and thus cannot be expected to be utilized by**

**Employees as a regular and well-known policy.** The policy in question, “Approver Not

Present” policy is not formally trained to employees. This is the policy cited that Ms.

Chabot allegedly violated that resulted in her termination. The “Approver Not Present”

policy is a policy that is not exercised normally-as testified by McCarthy and corroborated by the Appellant. Ms.Chabot testifies, “We were never formally trained on how to use this policy. As I told Seth Bowers, the [Wells Fargo] investigator during the investigation, because it’s not gone over in initial training, it’s not done in any of our [ECODs] that we do. We do trainings like every three months [ECODS] . It’s not there. I told him all that. He said, well, you can access the policy in branch portal. So that’s the computer database that we would use to access the policy. Tyler is also trained on how to access the policy as well.” (ROA, page66-67, lines25-26, 1-7) The Hearing Officer asks McCarthy, “do you know if there have been any circumstances where the claimant approved a transaction and used an employee’s credentials without speaking to them first?” McCarthy answers, “Prior to this, not to my knowledge. Typically, there’s usually someone here [physically] to approve those transactions.” (ROA page76 lines12-16). McCarthy herself confirms that the Approver Not Present policy is not utilized normally and thus cannot be considered a reasonable, well-known policy. McCarthy as Manager created an extraordinary circumstance by leaving the branch without any employee in a Managerial role in place or present at the Barefoot Branch that week. Appellant corroborates, “Like I said, using this policy is not a regular. We don’t exercise this policy regularly, like on a daily basis.” (ROA page72, lines13-14). The “Approver Not Present” policy is available in Wells Fargo’s computer database only on employees’ computers. It is NOT covered in the Employee Handbook and not covered in any other Wells Fargo material as falsely stated by Tracy McCarthy during trial. The “Approver Not Present”

policy is found in one place, the computer database called Branch Portal. The “Approver Not Present” policy from Branch Portal is provided in evidence. (*ROA, page33*)

3. **Ms. Chabot establishes consistently throughout both her testimony repeatedly and through her appeal letters, that is was her co-worker, Tyler Faizo’s transaction she was terminated for.** The Appellant establishes she was terminated over the transaction completed by Tyler Faizo on February 2, 2023. There are no factual findings or substantial evidence in this trial that prove Ms.Chabot proceeded with the transaction she was terminated for. The Hearing Officer questions Tracy McCarthy on the Thursday, February 2, 2023 transaction; “who was the teller that actually completed the transaction?” Tracy McCarthy answers, “Tyler Faizo.” (*ROA, page53, lines20-22*). The Appellant corroborates “it was Tyler’s customer and Tyler’s transaction. I stepped away from the computer. Tyler printed the cashier’s check to complete his transaction for his customer [on Thursday].” (*ROA page60, lines 17-20*) “Tyler had called [Ariana Nati’s branch] to get somebody on the phone. Also, I didn’t feel it was my responsibility to get in touch with anyone because it was Tyler’s transaction.” (*ROA page61, lines 1-4*). The Appellant was terminated for Tyler Faizo’s transaction February 2, 2023. Since Tyler Faizo and Bridgette Chabot hold the same job title, the disparity between Ms. Chabot’s discipline on the policy against Tyler Faizo’s non-existent discipline on his use of the policy sends up blatant red flags, however, the Hearing Officer questions Ms.Chabot as if she is Tyler Faizo’s authority and not his equivalent, Hearing Officer: “Why, instead of entering her information, didn’t you tell him to contact someone else?” Ms. Chabot: “I don’t know. I’m not the

manager at that branch. Me and Tyler are both tellers.” (ROA, page68 lines9-12)

Although Ms.Chabot does testify she gave Tyler Faizo advice and she did take responsibility for looking in to Mr. Lopez’s account for good measure, that does not mean she has authority over Tyler Faizo. Tyler Faizo should be expected to know the same policies as his peer, Ms.Chabot. Tyler Faizo should also be responsible for his job title and follow his business line of procedures.

4. **Ms. Chabot establishes that both her and her co-worker Tyler Faizo are equals with the same job title, job expectations and compensation. If the Approver Not Present policy was a reasonable and well-known policy, why did Tracy McCarthy coach Tyler Faizo on how to use the Approver Not Present policy after this transaction took place?** The Appellant establishes she was terminated over the transaction completed by Tyler Faizo on February 2, 2023 but testifies that “Tyler was completely compliant in doing the transaction. He even printed the cashier’s check. I had confirmed with him on June 7th via text message that there was no disciplinary action for Tyler whatsoever. He was coached on how they wanted him to use the [Approver Not Present] policy-”
- Interrupted by Hearing Officer: “Ma’am, I’m asking you a very specific question and you are going off in many different directions-” (*Some transcription missing from written transcription, please see EXHIBIT B, Audio of the trial @ 30:25 timestamp.*) If the Approver Not Present policy is a reasonable and well-known policy, why did Ms. Chabot testify that Tracy McCarthy/Wells Fargo clarified the policy for employees AFTER the transaction took place. If this was a well-known company policy, there would have been no reason to clarify how Wells Fargo wanted their employees’ to utilize the policy.

Hearing Officer: “Did you ever ask for clarification on the policy?” Ms.Chabot: “They [Wells Fargo/McCarthy] clarified after this transaction took place. They told us that they would like us to call somebody and get them on the phone before using their employee ID, but that was only coached to us after the transaction had taken place.” (*ROA, page67 lines11-15*). If the “Approver Not Present” policy was a reasonable and known company policy as declared by the Hearing Officer’s redundant questioning of the Appellant and in the Hearing Officer’s Findings, cited that the policy was a reasonable and known company policy; then the Hearing Officer displayed a bias on behalf of the Employer by not following up and questioning Tracy McCarthy on why she had to clarify and coach Tyler Faizo specifically on how to use the “Approver Not Present” policy AFTER this transaction took place.

**5. There is no substantial evidence in trial that display that Ms. Chabot had a deliberate intent to break policy or proceed with misconduct.** The Appellant Ms. Chabot did not willfully violate or deliberately violate the company policy as established throughout Ms.Chabot’s consistent testimony and corroborated by the Employer’s witness. There are no factual findings or substantial evidence in this trial that prove Ms.Chabot’s investigative part of the transaction on Thursday February 2, 2023, nor her abstract advice to co-worker Tyler Faizo were of deliberate or malicious intent. Ms. Chabot’s advise to Tyler Faizo to utilize Ariana Nati’s employee number does not determine Chabot had any ill-will toward the company, there is no substantial evidence she took part in what she thought was deliberate misconduct and in fact, throughout the trial establishes the contrary. Ms.Chabot: “I guess we can use her number because she [Nati]

told me two days ago that we could do it. And I actually stated that out loud to Tyler. And then that was it. And he printed the cashier's check and I grabbed it and gave it to Mr.Lopez. Ariana gets that email literally instantly right away, and she could call us but she did not." (*ROA, page69, lines19-24*). Chabot's advice to Tyler Faizo to utilize Nati's employee number was a mere suggestion to provide a solution in an environment of an extraordinary circumstance where no Manager was available.

**6. Ms.Chabot contends that her understanding of the policy was driven by Manager Ariana Nati, who set up a precedent on how to utilize the Approver Not Present Policy.**

Ms.Chabot: "As outlined by the policy, I do not need her verbal consent. It just says that, she'll be notified by email." Hearing Officer: "So your understanding of the policy is that, you can enter someone as an approver for a transaction and complete the transaction without actually having their approval?" Ms.Chabot: "Well, I did receive her approval on January 31st." (*ROA, page63 lines15-20*) The Appellant testifies consistently five times during redundant questioning that Ariana Nati established and set a precedent on how to use the "Approver Not Present" policy by stating, "I trust your judgement, you can use my numbers anytime" establishing no deliberate misconduct. Tracy McCarthy testifies: "What [Bridgette Chabot] had told me was that when she talked to [Nati] on Tuesday and reviewed the transaction from Tuesday, that the Manager [Nati] told her she trusted her judgment and that she could proceed with the transaction, to which Bridgette explained to me that she thought that meant that she trusted her judgment on any transaction." (*ROA, page54, lines18-23*) This testimony by McCarthy also establishes prior to Ms.Chabot's termination, that Ms.Chabot did not believe she took part in deliberate misconduct. The Appellant Chabot only utilized

the “Approver Not Present” policy under Manager Ariana Nati’s precedent, Ms.Chabot: “that’s what [Nati] said: “You can use my numbers any time. I trust your judgement” is what she said. Verbatim.” (ROA, page73 lines1-2). Ms.Chabot relays to the Hearing Officer that she thought she could use Nati’s employee number because that’s what Nati told her to do on January 31, 2023. Ariana Nati did not review the transaction she “approved” on January 31 with Ms.Chabot via telephone: “[Nati] did not know the regular customer. She did not ask me to scan in any documents. She didn’t ask me to review the transaction. She didn’t ask me to send the customer to her branch. All she said was, you can use my numbers any time. I said, I just wanted to touch base with you and make sure. She said, I trust your judgement. You can use it [her employee number] any time. So she did not ask to review the transaction, whatsoever. And that transaction was for \$300,000. Two days later, on Thursday, on February 2nd, we had a regular customer. So same situation where we had a regular customer,” (ROA, page59, lines9-20). The Appellant believes she did not violate the policy she was terminated for because Ariana Nati, a manager, set up a precedent on how to utilize the policy and from the verbatim usage of the policy “Approver Not Present” that states to enter an employee number correctly (employee numbers are publicly posted,(ROA page62 lines19-23), review transaction and check off reasons for approval with notes if necessary and the Approver, Ariana Nati in this case, will receive an email as receipt of the transaction being approved. (ROA page33) “So, when I touch base with her, and she didn’t review the transaction, then obviously that set up a precedent for Thursday, where, if she didn’t review the transaction, then obviously, it would be okay to use her number. As outlined by the policy, I don’t really need to talk to her verbally. It just says that she’ll get an email afterwards. So to be honest

with you, prior to this, there's no understanding of what the policy is or what is expected of me, how to execute the policy." (ROA, page72 lines14-23). Ms.Chabot: "So in this instance [Thursday] was the same thing. [He] was also a known customer for half the amount, and she never reviewed the first transaction. So, I'm not sure why [we] would need a verbal consent for her on the second transaction, which was worth half of the amount of the first transaction [Tuesday] she never reviewed." (ROA page64 lines19-24) (The transaction Appellant Bridgette Chabot was terminated for was for a Known/Regular customer, Josh Lopez, for a cashier's check in the amount of \$156,000. This transaction took place February 2, 2023. It was confirmed that there was no loss to the bank as a result of customer Mr.Lopez accessing his own money and requesting a cashier's check in the amount of \$156,000.(ROA page60 lines1-20) Again, seen here, the Hearing Officer questions Chabot as if she is liable for the completion of the transaction, **leading Chabot to offer her perspective which should not be confused with ownership of the completion of the transaction.** Again, Chabot's suggestion to Faizo to utilize Nati's employee number was the only solution Chabot could offer to him at the time, from peer to peer.

Under these circumstances during the time of the transaction, as well as points listed in this brief, Ms. Chabot had no reason to believe that her conduct of helping her co-worker with his transaction- would violate the standards of behavior which an employer had a right to expect or any company policies which an Employer had the right to expect, especially when another employee, Tyler Faizo completed the transaction and was trained on the policy there after with no disciplinary repercussion. Ms. Chabot relies on **Cory Blackwell v. South Carolina Department of Employment and Workforce and Specialty Vermiculite**

Corp., Docket No. 11 - ALJ -22-0226- AP decided by Honorable S.Phillip Lenski on November 6, 2017, where “the court finds that there is not substantial evidence in the record indicating the Appellant's conduct, as it relates to the Employer, was unreasonable under the circumstances.” The Appellant establishes multiple times through testimony that she did not think she violated the company’s “Approver Not Present” policy and therefore displays no deliberate misconduct as established by the Hearing Officer who established what the Appellant’s understanding of the policy was. “Abnormal “circumstance that could not have been anticipated by the Appellant, foreclose any possibility that substantial evidence exists on the record to support a finding that the Appellant conduct constituted misconduct, as defined by S.C. Code Ann. § a 1-35- 120 (2)(a).”

**7. Tracy McCarthy confirms there was no loss to the bank associated with the**

**transaction Ms.Chabot was terminated for.** (*ROA page55, lines5-7*) Hearing Officer:

“Why would that transaction need to be approved?” McCarthy: “Well, anytime you’re approving a transaction, you need to make sure that obviously it’s not a fraudulent check or that the accounts are in good standing or something’s not going to be returned. So that’s why we review it.” (*ROA page55, lines13-17*). Ms.Chabot states in her initial appeal letter: “Tracy herself told me on February 6, 2023, that she knew I “had the best interest of the customer at heart,” that there was “nothing to worry about” as far as Mr.Lopez was concerned as he was a regular customer. She reiterated this to me on February 8, 2023 when she informed me “they” ...were filing “falsifying bank records” claim against me. Tracy also reassured me on both those occasions that she told Ariana that I did not use Ariana’s employee ID in any type of malicious way. Monetary loss to

the company is greatly considered during transactions, and there was no monetary loss to the company as Mr.Lopez was a regular customer who accessed his own money for a cashier's check." (*ROA, page30*) This appeal letter was served to the Department of Employment before trial and even so, again, the Hearing Officer erred in thoroughly questioning the Employer's witness Tracy McCarthy on Ms.Chabot's alleged "deliberate intent." McCarthy corroborates that there was no loss to the bank associated with the Thursday February 2, 2023 transaction (*ROA page55 lines5-7*).

Ms.Chabot relies on **Cory Blackwell v. South Carolina Department of Employment and Workforce and Specialty Vermiculite Corp.**, Docket No. 11 - ALJ -22-0226- AP decided by Honorable S.Phillip Lenski on November 6, 2017, "To now permit the Employer and the Department to re-characterize the Appellant's actions regarding" the Appellant's prior actions is exploitative and unfair. This is precisely what happened to Ms.Chabot during trial in which the Employer and the Department re-characterized her actions regarding the January 31, 2023 phone call to Ariana Nati to show as an example of misconduct on February 2, 2023 is both exploitative and unfair. Much like in **Cory Blackwell v. SC DEW & Workforce and Specialty Vermiculite Corp.**, during trial, it was established Chabot had no prior warnings for this sort of circumstance (*ROA page76 lines12-16*). Also in that trial, the Department bolstered their findings, as in this case, the redundant questioning made by the Hearing Officer was also to bolster findings and re-characterize Ms.Chabot's actions. The Hearing Officer was clearly driving her own narrative and agenda.

**D) Did The Hearings Officer And Appeals Panel Error Or Abuse Its Discretion In Finding In Favor of The Employer Even Though There Was No Authority To Fire The Appellant?**

**Did the Hearing Officer Establish Without a Doubt With Substantial Evidence, it was in fact the Appellant who Completed the Transaction she was Terminated for?**

**1. Both Chabot and McCarthy establish it was another teller, Tyler Faizo who completed the transaction on Thursday, February 2, 2023, which Chabot was terminated for.** The Hearing Officer questions Tracy McCarthy on the Thursday, February 2, 2023 transaction; “who was the teller that actually completed the transaction?” Tracy McCarthy answers, “Tyler Faizo.” (*ROA, page53, lines20-22*). The Appellant corroborates “it was Tyler’s customer and Tyler’s transaction. I stepped away from the computer. Tyler printed the cashier’s check to complete his transaction for his customer [on Thursday].” (*ROA page60, lines 17-20*) “Tyler had called [Ariana Nati’s branch] to get somebody on the phone. Also, I didn’t feel it was my responsibility to get in touch with anyone because it was Tyler’s transaction.” (*ROA page61, lines 1-4*). The Hearing Officer asks, “Why instead of entering her information, didn’t you tell him to contact someone else?” Appellant answers, “I don’t know. I’m not the manager at that branch. Me and Tyler are both tellers.” (*ROA page 68, line9-12*). McCarthy testifies, “The email that Ariana received [on February 2, 2023] stated that stated, initiator Tyler.” (*ROA page76, line2-3*) The Appellant was terminated for Tyler Faizo’s transaction February 2, 2023.

**2. The Hearing Officer abused her discretion in favor of the Employer by not questioning which teller was ultimately responsible for the transaction.**

Although Ms.Chabot writes this as main point of contention with her termination in her initial appeal letter (*ROA page25-31*) and in her appeal to the Panel (*ROA page115-117*) and asserts consistently during her testimony that it was in fact, Tyler Faizo’s transaction she was terminated for, the Appeals Panel determines in their FINDINGS in the Appellate

Panel Decision mailed August 15, 2023: that “Upon the review of the record, we find the actions of other employees are not relevant to the Claimant’s actions resulting in her separation from employment.” (*ROA, page123*). **The Hearing Officer executed an injustice by not questioning the Employer’s witness further on who was responsible for the February 2, 2023 transaction, even after McCarthy herself testifies multiple times that it was Tyler Faizo’s transaction and contradicts her own testimony.**

Furthermore, an injustice was made by not questioning why Ms.Chabot was held accountable for Tyler Faizo’s transaction. The foundation of Ms.Chabot’s termination is entrenched on this argument and it was not explored by the Hearing Officer during trial whatsoever. Ms. Chabot writes in her initial appeal letter: “This was Tyler Faizo’s customer and his transaction. However, there was no charges brought against Tyler for the transaction. Tyler and I both share the same job title, job description and compensation. Tyler printed the Cashier’s Check.” (*ROA, page29*) however, the Hearing Officer does not question either party on who is responsible for the transaction in accordance with Wells Fargo’s own policy: Ms.Chabot’s initial appeal letter: “I was told specifically by HR Wells Fargo employee, Phillip Mayo, in a telephone conversation on October 14, 2022, that each teller is responsible for their own cashbox and even if some other employee tells them to do a transaction, it is their sole responsibility for whatever transactions occur and are completed in their cashbox. In a Teller’s job description, according to Wells Fargo, they’re responsible for “maintaining their cash drawer.”” (*ROA, page29*). Ms.Chabot also brings up Wells Fargo’s own disciplinary policy recited to her by a Wells Fargo HR Representative in her closing statement: “you

are solely responsible for what happens in your cashbox. So someone can't tell you what to do, like complete a transaction, which I think is relevant here, just because I had confirmed with Tyler on June 7th that there was no disciplinary action for him, whatsoever. And I think they coached him on how they want him to use the policy." (*ROA, page75, lines13-20*). The Appellant establishes in her testimony that she is not a manager and in fact both her and Tyler Faizo have the same job title which is imperative to establishing fault for the transaction in question. (*ROA page68 lines11-12*). The Hearing Officer assumed that Ms.Chabot was responsible for another co-worker, Tyler Faizo's transaction. Again, the Hearing Officer does not evoke any questions toward either party on whether the responsibility of the transaction was Tyler's and therefore disciplinary action was misdirected toward Ms.Chabot. Ms.Chabot establishes in trial she was terminated over the transaction completed by Tyler Faizo on February 2, 2023 but testifies that "[Tyler] even printed the cashier's check. I had confirmed with him on June 7th via text message that there was no disciplinary action for Tyler whatsoever. He was coached on how they wanted him to use the [Approver Not Present] policy-" Interrupted by Hearing Officer: "Ma'am, I'm asking you a very specific question and you are going off in many different directions-" (*Some transcription missing from written transcription, please see EXHIBIT B, Audio of the trial @ 30:25 timestamp.*) **The Hearing Officer refuses to acknowledge that Ms. Chabot keeps asserting that it was Faizo's transaction**, not her's and in continuously interrupting Ms.Chabot's testimony, the Hearing Officer manipulates the narrative of the trial. Although there is blatant testimony from both parties on Tyler Faizo completing the February 2, 2023 transaction.

**E)Did The Hearing Officer or Appeal Panel Error Or Abuse Its Discretion To Introduce New Evidence Documentation?**

**1. The Hearing Officer encourages Attorney Jesse Goode in to entering the full**

**Approval policy. The Hearing Officer** encourages and **leads** the Employer’s attorney by asking him to enter the full Approval policy in to evidence as Exhibit 1, (*ROA page78 lines7-9*) instead of waiting for Attorney Goode to request it be entered in to evidence. The fact that entering this new evidence was the Hearing Officer’s idea demonstrated a narrative to Ms. Chabot that she should not question the Hearing Officer’s suggestion, especially after the way the Hearing Officer treated the Appellant during trial. Ms. Chabot was more likely to object to the entering of new evidence if the request was made by the attorney himself. The Appellant obliges the request for new evidence for the Employer because the Hearing Officer suggested it. Ms. Chabot had already entered the “Approver Not Present” policy on to the record (*ROA, page33*). The entirety of the Approver Not Present portion was entered in to evidence by Ms. Chabot. The rest of the Approval policy which entails when an Approver is physically present, was entered by Attorney Goode as Exhibit 1 but not relevant as the only portion of the policy that pertained to Faizo and Chabot the day of February 2, 2023, was the “Approver Not Present” portion.

**2. Although the Hearing Officer makes this offer to the Employer, she does not ask or**

**offer Appellant Chabot to enter in new evidence in to trial.** The Hearing Officer displays a bias by encouraging the Employer’s attorney to enter new evidence, however, does not ask or offer Ms.Chabot to enter new evidence although Ms.Chabot brought up earlier in the trial a subpoena for the footage of the transaction in which

Ms.Chabot cited contention over most of McCarthy’s testimony on what was captured via footage on February 2, 2023. “I would be happy for somebody to subpoena that video and watch it,” states Ms.Chabot, Hearing Officer replies: “Well, ma’am, that would have had to have been done prior to the hearing today by you.” (*ROA, page61 lines8-11*). **Only Ms.Chabot was required to submit evidence prior to the trial whereas in contrast, the Hearing Officer encourages the Employer to enter new evidence.** The footage/surveillance video of the transaction on February 2, 2023, is imperative since Ms.Chabot contends it captures Tyler Faizo completing the transaction. Although the footage is not entered in to evidence or on record and Ms.Chabot establishes contention over what the footage captured and the hearsay testimony of the footage by McCarthy, the Hearing Officer pursues questioning McCarthy over the surveillance footage not entered in to evidence, “So when the claimant couldn’t reach Ms. Nati on that Thursday, what should she have done?” (*ROA, page54 lines3-4*)

Ms. Chabot relies on *Tyrell Davis v.South Carolina Department of ) Employment and Workforce and Wal-Mart Associates*, Docket No. 12-ALJ-22-0046-AP decided by Honorable S. Phillip Lenski on October 11, 2013, in which “there is no evidence that the Appellant was involved in the actual transaction that entered the information into the register and gave the Appellant’s brother the discount.” In this case, the Appellant asserts he was not responsible for completing the transaction he was terminated for: “he was not the responsible tire technician for the order at issue and merely assisted that technician, did not perform the transaction.... Thus, the Appellant could not have been properly

“discharged,”” Like this case, Ms.Chabot asserts she was not involved in completing this transaction. The transaction was on Tyler Faizo’s computer for Tyler Faizo’s customer. Appellant’s testimony admits to her portion of participation of the transaction, however, there is no substantial evidence that was entered on to the Record of Appeal certifying that it was Ms.Chabot that completed the transaction. There is no substantial evidence of the Appellant’s involvement besides her testimony where she testifies she merely assisted another Teller, Tyler Faizo, in suggesting a solution. That testimony is affirmed by Tracy McCarthy, the Employer’s witness who testifies it was in fact Tyler who completed the transaction. **Therefore, Ms.Chabot was not properly discharged because it was not her transaction to complete.**

Ms. Chabot relies on *Tyrell Davis v.South Carolina Department of ) Employment and Workforce and ) Wal-Mart Associates*, Docket No. 12-ALJ-22-0046-AP decided by Honorable S. Phillip Lenski on October 11, 2013, in which both cases reflect each other because the Employer in both cases “**substantial evidence does not exist to support the Appellate Panel’s finding of gross misconduct by Appellant.**”

**F) Did The Hearing Officer And Appeals Panel Error And Abuse Its Discretion In Not Finding For The Appellant When The Employer Failed To Comply?**

**1. The Hearing Officer interrupts the Appellant and does not let her testify on McCarthy’s actions to break Employer’s policy of having only one person out on vacation at a time.**

This information was relevant to the Appellant as it displayed why the two bank tellers were in an unfamiliar situation on February 2, 2023, where no Manager was present. The “One employee on Vacation at a time” policy is a long standing and well-known policy at Wells Fargo. The lack of Manager and lack of an Approver present at the branch that day, February

2, 2023, was a direct result of Tracy McCarthy, Branch Manager, breaking the company policy. The lack of Manager in the branch set the stage for Faizo and Chabot to struggle in this particular scenario. “Tracy McCarthy violated the district manager’s own policy to have only one person on vacation at a time. If we had the delegate that Tracy appointed, Richard Park, present during Tracy’s vacation, the circumstances surrounding the transaction in question, would of never happened,” writes Ms. Chabot in initial appeal letter. (*ROA, page 28*) Tracy McCarthy was on vacation January 30-February 3, 2023, “Branch Manager [Tracy McCarthy] broke policy because only one person is allowed to go on vacation at a time and she she made a special exception for her and her appointed delegate (who serves as a “stand-in manager” while she is gone) to go on vacation both at the same time.” (*ROA, page28*)

**2. Ariana Nati also denied her job duties as a Manager by which the way she treated the transactions in question.** Ariana Nati, Branch Manager set up a precedent on how to use the “Approver Not Present” policy on January 31, 2023 as she was not physically present at the Appellant’s branch. Manager Ariana Nati broke a reasonable and well known policy on February 2, 2023 when she failed to answer Tyler Faizo’s phone calls on February 2nd. Ariana Nati also demonstrated a short-sightedness for a manager, who instead of calling Faizo to investigate the transaction he approved, did not contact the Barefoot Branch to investigate the transaction he completed on February 2, whatsoever.

The Appellant Chabot relies greatly on **Cory Blackwell v. South Carolina Department of Employment and Workforce and Specialty Vermiculite Corp.** Docket No. 11 - ALJ -22-0226-AP decided by Honorable S.Phillip Lenski on November 6, 2017, “as presented by the facts in this case, is an extraordinary circumstance that cannot be anticipated. The unrefuted facts

established in this matter demonstrate that the Appellant struggled to cope with this unique and complex situation and made some effort to contact his employer. Moreover, the Employer and the Department had an obligation to further explore these claims in the hearing to determine the reasonableness of the Appellant's conduct but largely chose not to. Therefore, the court finds that there is not substantial evidence in the record indicating the Appellant's conduct, as it relates to the Employer, was unreasonable under the circumstances.”

### **CONCLUSION**

Wherefore the Appellant Bridgette Chabot asks the South Carolina Court of Appeals to reverse the decision of the Administrative Law Court and the Employment Tribunal Panel and order benefits to be paid to the Appellant Bridgette Chabot based on the for mention arguments and exhibits; OR to order a Trial De Novo under SC Section 18-7-160: “Either party may move for a new trial in the appellate court” so the Appellant may receive a fair trial.

Respectfully Submitted

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**RECEIVED**

**Apr 03 2024**

**SC Court of Appeals**

**FORM 7**  
**PROOF OF SERVICE FOR: PRESERVATION OF**  
**EVIDENCE MOTION**  
THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

Docket #/ Case No. 23-ALJ-22-0342-AP

Appellate Case No. 2024-000251

South Carolina Department of Employment and Workforce and Wells Fargo &  
Company, Inc. Respondents,

v.

Bridgette Chabot, Appellant.

**PROOF OF SERVICE**

I certify that I have served the Brief of Appellant on SC Dept. of Employment & Workforce and on Wells Fargo & Co., by depositing a copy of it in the United States Mail, postage prepaid, on April 3, 2024, addressed to their attorneys on record: Ben Cook ESQ, SC Dept. of Employment & Workforce, P.O. Box 8597 Columbia, SC 29202 and Wells Fargo's counsel Jesse Goode, ESQ. P.O. Box 120, Winnsboro, SC 29180.

April 3, 2024

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