

1 Cliff Palefsky, Esq. (State Bar No. 077683)  
 Keith Ehrman, Esq. (State Bar No. 106985)  
 2 McGUINN, HILLSMAN & PALEFSKY  
 3 535 Pacific Avenue  
 San Francisco, California 94133  
 4 Telephone: 415-421-9292  
 Facsimile: 415-403-0202

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 RICHARD W. WIEKING  
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5 Attorneys for Plaintiff/Petitioner  
 6 JOSEPH KRUZICH

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10  
 11 SAN FRANCISCO DIVISION

**JSW**

**11 80 216MISC**

12 JOSEPH KRUZICH, )  
 13 ) Case No.  
 14 Plaintiff/Petitioner, )  
 15 v. ) **DECLARATION OF JOSEPH**  
 ) **KRUZICH IN SUPPORT OF**  
 16 ) **PLAINTIFF'S PETITION TO COMPEL**  
 ) **ARBITRATION**  
 17 CHEVRON CORPORATION, )  
 CHEVRON U.S.A., INC., ) Date:  
 ) Time:  
 18 Defendants/Respondents. ) Dept.:  
 19 )  
 20 )

21 I, Joseph Kruzich, declare:

- 22 1. I am the Plaintiff/Petitioner in this action. I have personal knowledge of the facts  
 23 stated herein and, if called upon as a witness, could testify competently as to these facts.
- 24 2. Beginning in December 2008, I was employed by Chevron Corporation and/or  
 25 Chevron U.S.A., Inc. (collectively "Chevron"). I was informed by Chevron that, as part of my  
 26 employment, I was subject to certain Chevron policies and procedures, including Chevron  
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1 Human Resources Policy 344 ("Policy 344"), which contained Chevron's "Steps to Employee  
2 Problem Solution" program ("STEPS"). I received a copy of Policy 344 during my employment,  
3 and I understood that both I and Chevron were subject to the terms of Policy 344 with respect to  
4 employment-related disputes that arose between us. A true and correct copy of Policy 344 is  
5 attached as **Exhibit A**.

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7 3. I worked for Chevron in China, in connection with the development of a large  
8 natural gas field in Sichuan province (the "CDB Project"). The CDB Project would involve the  
9 relocation of approximately 15,000 local residents. Chevron hired me to be the Manager for its  
10 "Policy, Government and Public Affairs" department ("PGPA") on the CDB Project. PGPA  
11 was the department responsible for managing relations between the CDB Project and the local  
12 communities and government officials.

13  
14 4. I worked on the CDB Project in China between December 2008 and June 2009.  
15 Chevron took me off the project in June 2009, and it became apparent that I was going to be  
16 terminated. My last official day of employment with Chevron was August 31, 2009. I believed  
17 that Chevron had removed me from the CDB Project and then terminated me at the demand of  
18 Petro China ("PC"), which was Chevron's Chinese partner on the CDB Project. PC is the largest  
19 oil and gas company in China. I had clashed with PC—and complained to Chevron—about PC's  
20 illegal and improper conduct, including possible violations of the Foreign Corrupt Practices Act,  
21 violations of Chinese law, and its refusal to comply with international resettlement standards.  
22 I believed that my termination was wrongful and that it also violated anti-discrimination laws.  
23 I also believed that Chevron had engaged in fraud and misrepresentations related to its  
24 recruitment of me in 2008.  
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5. In the summer of 2009, in connection with my employment and the termination of my employment, I asserted claims against Chevron for wrongful termination in violation of public policy, discrimination on the basis of my national origin, retaliation for my objecting to discrimination on the basis of gender, fraud and breach of the covenant of good faith and fair dealing. As set forth in Policy 344 and Step 3 of the STEPS program, I went through a mediation with Chevron on September 29, 2009 in an effort to resolve my claims. After the mediation was not successful in resolving my dispute, I attempted in October 2009 to initiate an arbitration with Chevron over my claims, in accordance with Step 4 of the STEPS program, but Chevron refused to arbitrate my claims.

6. I am a citizen of the United States, and am a resident of Sanibel, Florida.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 27, 2011, at Arlington, Virginia.

  
\_\_\_\_\_  
Joseph Kruzich

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## **HR Policy 344 for U.S.-Payroll Employees Steps To Employee Problem Solution Process**

### **1. GENERAL**

It is company policy to encourage employees to bring questions, complaints or problems involving their employment to the attention of their immediate supervisor without fear of censure or retaliation. While the matter may not always be resolved to the employee's complete satisfaction, in many cases misunderstandings may be cleared up and disputes settled.

The **Steps To Employee Problem Solution (STEPS)** Process provides formal procedures which employees can use to present and receive a response to a concern about the way company policies, practices, or rules are applied to them personally. It applies to all U.S. company employees (including Casual, Co-op, Seasonal and Part-time employees) who are not represented by a union. The process contained in this policy also applies to non-represented former employees as long as the matter of dispute occurred while they were employed by the company. Non-U.S. company locations may utilize this policy, subject to the legal requirements of their host country.

The company **cannot and does not guarantee employment or compensation** to any employee for a particular period of time or indefinitely. Supervisors, managers or other employees who represent the company in employment matters, must avoid statements which could be viewed as promise of permanent employment, promotion, or future compensation. Company publications should also be monitored to avoid such statements.

**Each employee has the right to and is free to terminate his or her employment with the company with or without cause or notice at any time. Similarly, the company has the right to terminate an employee's employment and compensation with or without cause or notice at any time. Nothing in this policy alters, modifies, or changes the at-will relationship between**

the company and its employees.

This policy does not apply to complaints involving the administration of company benefit plans for which separate appeal procedures are available as part of the plans, nor may it be used to request changes to policies, rules, staffing, pay structures and systems, operations, severance programs, business decisions or practices (downsizing, reorganization, restructuring), or other similar responsibilities of management. In addition the process is not intended for use concerning unemployment compensation claims, worker's compensation claims, protection of technology and confidential information, and discipline resulting from violations of the company's drug and alcohol policies.

Issues or complaints involving allegations of harassment require an investigation and must be handled according to procedures contained in HR Policy No. 420 rather than through Steps One and Two of this policy. If the harassment complaint is not resolved, an employee may enter the STEPS Process at Step Three.

Employees do not give up any rights to seek other legal remedies if they are unable to resolve disputes using the STEPS Process. The company, however, requires that employees do use STEPS before proceeding to litigation. An employee's continued employment at Chevron will mean they agree to use STEPS.

The process used by the company for handling disputes has four steps with the following key points:

#### Step One

**Open Door** discussion with an employee's supervisor or another member of the employee's management or with Human Resources. Use of this step by employees is voluntary. Employees are encouraged to bring any issue of concern to their supervisors through Step One.

#### Step Two

**Internal Facilitation** of an employee's concern done at the supervisory level with the assistance of unbiased company personnel. The assistance for the employee and his or her supervisor will be either a trained internal facilitator, a Human Resources business partner/counselor or a review panel. This step is also voluntary and applies to eligible issues as defined above.

#### Step Three

**Mediation** is only for legally protected rights involving individual employee claims. Class-wide (i.e. involving a group of employees) legal complaints may not use Step Three. It involves submitting the dispute to an objective, outside mediator selected jointly by the employee and the company. Neither the employee or the company are required to accept the resolution proposed by a mediator. It is mandatory to use Step Three before proceeding to Step Four.

#### Step Four

**Arbitration** is used for a legally protected right that is not resolved in Step Three. As in Step Three, only individual disputes and not class-wide ones may use Step Four. Use of an objective, outside arbitrator, selected jointly by the employee and company, is a more formally defined process than mediation. If the employee accepts the arbitrator's decision, it becomes binding on the company and employee. An employee is free to seek other legal remedies if he or she is not

satisfied with the arbitrator's decision. If Steps Three and Four are not used, the company will request that legal proceedings be suspended until Steps Three and Four are utilized.

Details on all four steps of the process are given under the GUIDELINES section of this policy.

### **Ombuds Program**

Every employee will have access to an ombuds and may utilize this service at any time before or during the four-step process. An ombuds is a designated high-level neutral who provides confidential and informal resolution assistance to employees. An employee may contact the ombuds for assistance and, if requested, the employee's identity will not be disclosed. Thus, employees are able to have a confidential internal source to assist them with their concerns. All ombuds will follow the "Standards of Practice and Code of Conduct" with the Ombuds Association.

### **Covered Disputes**

Step One may be applied to any employee concern. Step Two may be used for any employee concern subject to the limitations listed above. Steps Three and Four cover issues involving legally protected rights only - those that can be asserted in a court of law. For example, a complaint about an evaluation under the Performance Management Process (PMP) or other records documenting employee performance or a work assignment based on something other than discrimination could be resolved in Steps One and Two but could not proceed to Steps Three and Four. Those complaints eligible for Steps Three and Four include claims for discrimination, retaliation or harassment on the basis of age, gender, race, color, national origin, religion, disability, pregnancy, marital status, sexual orientation, veteran's status or any other protected status.

Legally protected rights also include causes of action relating to employment or termination of employment based on claims of wrongful discharge, breach of employment contract, breach of covenant of good faith and fair dealing, fraud, defamation and violation of public policy. The Corporate or appropriate Operating Company Law Department will make the determination if an issue involves a legally protected right.

Applicable collective bargaining agreement provisions will apply to employees represented by unions.

## **II. GUIDELINES**

### **1. Responsibility**

Managers and supervisors are responsible for assuring employees that they will not be retaliated against for utilization of this policy for resolving their concerns. This is consistent with the principles contained in Corporate Policy 1 - The Chevron Way.

### **2. Step One - Open Door**

Discussion with an employee's supervisor offers the quickest and most efficient way to resolve a concern. Working to resolve issues through your immediate supervisor has always been an integral part of company policy. To improve effectiveness of "open door" discussions, the company will regularly provide supervisors with conflict resolution skills training.

Step One applies to all employee concerns and is voluntary. It allows employees to talk to their immediate supervisor or to a higher level of management without fear of retaliation. Under Step One, management is responsible for helping employees resolve their workplace concern, and it provides employees with several options.

**Immediate Supervisor** - Whenever possible, employees should try to resolve any workplace concern with their immediate supervisor. Because supervisors are closer to the situation, they may be in the best position to offer employees a new perspective or some new facts.

**Higher Level Supervisor** - If employees are unsatisfied with their immediate supervisor's response or need to talk to someone other than their supervisor, employees may take their problem to the next higher level of supervision. Employees are encouraged to follow the specific supervisory chain in their department or work group, since that is the best way to resolve concerns.

**Human Resource Business Partner/Counselor** - At any time, employees may also choose to contact their HR counselor for advice and assistance. In most instances, this person has many years of experience helping employees deal with a variety of workplace issues.

**Chevron Hotline** - Employees may also call the Chevron Hotline at 800 284-3015 to file a confidential, anonymous complaint.

### 3. **Step Two - Internal Facilitation**

Step Two attempts to resolve employee concerns internally at the supervisory level with the assistance of internal facilitation. At this stage, employees will be assisted by a trained internal facilitator, or perhaps a IIR counselor or business partner. In some Operating Companies, review panels may also be used. Business units and corporate departments will more fully develop this step on a local basis and communicate it to employees.

This step is also voluntary and applies to issues covered by this policy. It begins by an employee filing a "Record of Internal Facilitation" which describes the complaint and the employee's desired resolution, with the employee's supervisor. The request is given to Human Resources where it is determined if the issue is eligible for Step Two. If the request is eligible, Human Resources arranges the internal facilitation method of choice for the particular facility or location. Depending upon the local option selected, this may involve a meeting among the employee, the employee's supervisor and a trained facilitator or the matter may be referred to a review panel for consideration.

Whatever form Step Two takes, it will end with a written response to an employee's complaint and, hopefully, full resolution of the matter. The goal of this step is to solve the problem, rather than determine who is right or wrong. The written response from the company will be provided within four weeks of initiation of Step Two.

If an employee is unable to resolve an issue in Step Two, and the issue involves a legally protected right, the employee may proceed to:

### 4. **Step Three – Mediation**

Only individual complaints, not class-wide complaints, may use Step Three. An employee initiates this step by completing a **Mediation Request Form** (GO – 1606) and forwarding it to Human Resources. Human Resources then forwards the request to the appropriate Operating Company or Corporate Law Department for determining if the complaint is eligible for Step Three. If the



complaint is eligible, the appropriate law department provides a locally developed list of outside mediators. The employee and his or her management jointly select a mediator from this list. During the mediation, both parties informally explain their respective positions and try to resolve the problem. The mediator's role is to listen, offer suggestions, and try to help those involved agree to a resolution. The meeting is informal, and there are no witnesses, testimony, deposition, or subpoenas. An employee may choose to be represented by an attorney during the Mediation Step. The process is designed to be cooperative and problem-solving.

Neither an employee nor the company are required to accept a resolution proposed by the mediator. However, if a proposed resolution is acceptable to both the employee and the company, that resolution will be final and binding. An employee must submit the issue to mediation before proceeding to Step Four.

The company will pay the cost of the mediation. If the complaint is resolved, the company will pay the employee for reasonable attorneys' fees, up to \$1,500, assuming the employee chooses to be represented by counsel. If the matter is not resolved at Step Three-Mediation, employees will pay their own attorney fees.

If the issue is not resolved in Step Three and involves a legally protected right, the employee may proceed to:

#### 5. **Step Four – Arbitration**

Only individual complaints, not class-wide complaints, may use Step Four. An employee initiates this step by completing a **Arbitration Request Form (GO – 1607)** and forwarding it to Human Resources. Human Resources then forwards the request to the appropriate Operating Company or Corporate Law Department where contact is made with the American Arbitration Association (AAA) or similar independent organization and a list of arbitrators is obtained. The employee and his or her management then jointly select an arbitrator from this list. Arbitration is a more formal process than mediation, but not as formal as a court proceeding.

At the arbitration hearing, both the employee and the company have the right to consult with or be represented by an attorney. Each party has the right to subpoena witnesses and documents, present evidence and arguments, and hear and challenge the other party's evidence and witnesses. The arbitrator will render a decision and is authorized to award whatever remedies would be available to the employee under law, including damages and back pay.

If the employee is satisfied with and accepts the arbitrator's decision, that decision will be binding on the company and the employee as a final resolution of the matter. The company does reserve the right to appeal an arbitrator's decision to a court or under the rules of the arbitration/mediation service if the decision was based on gross error, bias, prejudicial exclusion of evidence or the award sustains or orders conduct that is illegal or contrary to public policy. If not satisfied with the arbitrator's decision, the employee is free at that time to pursue the matter through other legal options, including litigation.

If the employee accepts the arbitration decision, the company will pay all direct expenses of the arbitration and up to \$5,000 of the employee's attorney's fees, unless provided otherwise by the arbitrator. If the decision is not accepted, the company will pay the direct expenses of the arbitration and the employee will be responsible for his or her expenses and attorney's fees. Arbitration costs will be controlled through use of an Arbitration Agreement that will procedurally limit such items as discovery, use of expert witnesses and depositions.

## 6. Counsel

Counsel on this policy may be obtained from the Employee Relations unit of Human Resources/North America Shared Services and the Corporation Law Department or appropriate Operating Company Law Department.

### III. FURTHER GUIDANCE AND REFERENCES

Corporate Policy 1 - The Chevron Way  
Corporate Policy 226 - Discipline

HR Policy 400 - Equal Employment Opportunity  
HR Policy 420 - Harassment in the Workplace  
HR Policy 900 - Labor Relations  
HR Policy 1020 - Performance Management Process

STEPS Program Web site <http://hr.chevron.com/northamerica/us/programs-policies/steps/>

Effective April 2005  
Replaces October 2001