

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

TRACEY KREFTING, previously )  
known as TRACEY HARDIN, )  
 )  
Petitioner, )  
 )  
vs. ) CASE NO. 94-1135  
 )  
UNIVERSITY OF FLORIDA, )  
 )  
Respondent. )  
\_\_\_\_\_)

RECOMMENDED ORDER

Pursuant to written notice a formal hearing was held in this case before Larry J. Sartin, a duly designated Hearing Officer of the Division of Administrative Hearings, on September 29, 1994, in Gainesville, Florida.

APPEARANCES

For Petitioner: George F. Schaefer, Esquire  
1005 Southwest 2d Avenue  
Gainesville, Florida 32601-6116

For Respondent: Isis Carbajal de Garcia  
Associate General Counsel  
University of Florida  
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STATEMENT OF THE ISSUE

Whether Respondent, the University of Florida, discriminated against Petitioner, Tracey Krefting, previously known as Tracey Hardin, on the basis of a handicap as alleged in the Petition for Relief filed by Petitioner.

PRELIMINARY STATEMENT

On or about August 18, 1993, Petitioner, then known as Tracey Hardin, filed a Charge of Discrimination with the Florida Commission on Human Relations (hereinafter referred to as the "Commission"). Petitioner alleged that Respondent had discriminated against her on the basis of a handicap. On January 21, 1994, the Commission entered a Notice of Determination: No Cause, finding no reasonable cause to believe that an unlawful employment practice had occurred.

On February 17, 1994, Petitioner filed a Petition for Relief contesting the Commission's determination and requesting a formal administrative hearing. The petition was filed with the Division of Administrative Hearings by Transmittal of Petition on February 28, 1994.

The final hearing was scheduled for May 17, 1994, by Notice of Hearing entered April 6, 1994. On May 12, 1994, an Order Granting Unopposed Motion for Continuance was entered. The final hearing was subsequently scheduled for September 29, 1994 by Second Notice of Hearing entered July 18, 1994.

On September 28, 1994, the day before the final hearing, Petitioner filed a Motion for Summary Final Order. The request for summary final order was based upon the Respondent's failure to file an answer to the Petition for Relief as required by Rule 60Y-5.008(5), Florida Administrative Code. A motion hearing was held by telephone on September 28, 1994 to consider the motion. After hearing argument of the parties, the motion was denied.

On September 28, 1994 Respondent filed a Motion for Extension of Time with the Commission requesting additional time to file Respondent's Response to Petition for Relief from Unlawful Employment Practice. Petitioner filed a response in opposition to the Motion for Extension of Time. The response, however, was filed with the Division of Administrative Hearings. On October 10, 1994, the Commission entered an Order Granting Extension of Time. In the Order the Commission, rather than granting the motion, as the title of the Order indicates, ruled that "the Division, rather than the Commission, has jurisdiction to rule on the motion." Based upon argument of the parties during the September 28, 1994 telephone hearing and at the commencement of the final hearing of this case, the Motion for Extension of Time is hereby granted.

At the final hearing Petitioner testified on her own behalf and presented the testimony of Joan Paulsen, Kenneth Vest and Joseph Pisani, Ph D. Petitioner's exhibits 1-13 were accepted into evidence. Petitioner's exhibits 1-2, 4, 6 and 9 were objected to on the basis of relevancy.

Respondent presented the testimony of Ralph Lowenstein, Michael Wingertzahn, David Singer and Robert Clarke. Respondent's exhibits A-I and K were accepted into evidence. Respondent's exhibit J was rejected as hearsay and lack of relevancy.

Official recognition of Rules 15A-5.003 and 15A-005, Florida Administrative Code was taken.

No transcript of the final hearing was filed by the parties. Proposed recommended orders were to be filed on or before October 27, 1994. On October 31, 1994, the parties filed a Joint Motion for Extension of Time requesting a 10 day extension to file their proposed recommended orders. The parties had been informed by telephone prior to October 27, 1994, that the joint request for a ten day extension of time would be granted.

On November 7, 1994, Respondent filed a proposed recommended order. Although Petitioner "served" her proposed recommended order on November 7, 1994, it was not "filed" until November 9, 1994. Although Petitioner's proposed order was filed late, it does not appear that there will be any prejudice to Respondent if Petitioner's proposed recommended order is considered.

The proposed recommended orders filed by the parties contain proposed findings of fact. A ruling on each proposed finding of fact has been made either directly or indirectly in this Recommended Order or the proposed finding of fact has been accepted or rejected in the Appendix which is attached hereto.

## FINDINGS OF FACT

### A. The Parties.

1. The Petitioner, Tracey Krefting, formerly known as Tracey Hardin, is a handicapped individual. She suffers from seizure disorder.

2. Ms. Krefting graduated from the University of Florida in May of 1990. She received a bachelor of science degree with a major in advertising. Ms. Krefting had experience as an advertising sales representative prior to her employment by the Respondent.

3. The Respondent, the University of Florida (hereinafter referred to as the "University"), is a State university located in Gainesville, Florida.

4. Within the College of Journalism and Communications of the University is a radio station, WRUF.

5. WRUF was an auxiliary operation of the University responsible for raising revenue to fund all of its expenses, including the salaries for its sales representatives.

6. No state funding was received directly or indirectly from the University by WRUF.

### B. Ms. Krefting's Employment by the University.

7. Ms. Krefting was employed by the University at WRUF on July 28, 1992. Ms. Krefting was employed as "OPS", other personnel services.

8. Ms. Krefting was employed to act as one of six or seven sales representatives of WRUF.

9. As of January 29, 1993, Robert Clark was the General Manager of WRUF. Mr. Clark was Ms. Krefting's supervisor from January 29, 1993 until her termination from employment.

### C. Sales Representative Qualifications.

10. The essential function of sales representatives for WRUF was to sell radio time for advertising. This function was an essential function because the revenue necessary to operate WRUF was generated in this manner.

11. Sales representatives were responsible for servicing existing clients and for finding new clients.

12. An essential requirement of the sales representatives of WRUF, including Ms. Krefting, was the ability to travel to the businesses and offices of WRUF's advertising clients and prospective clients.

13. Sales representatives were generally required to spend 80 percent of their working hours out of the office servicing clients and seeking new clients. Continuous contact and an ongoing relationship with clients was required. Contacts with clients were expected to be face to face and not just over the telephone.

14. In addition to being required to make regular contacts with clients, sales representatives were also required to make themselves available to visit their clients with little notice.

15. Obtaining new clients usually required more than one contact with a prospective client by a sales representative. The sales representative was required to sell himself or herself and the station and must gain the trust of the prospective client.

16. Sales representatives were also responsible for performing public service work. This work entailed the providing of public service announcements. The public service work performed by sales representatives did not directly generate revenue for WRUF.

17. Neither the application for employment completed by Ms. Krefting when she was initially employed at WRUF nor the University's OPS personnel requisition form authorizing her employment included any of the necessary skills or qualifications for the sales representative position she was hired to fill.

18. Ms. Krefting was aware at the time she was hired, however, that she would be required to travel to her clients locations and to the locations of prospective clients.

19. There are other means of transportation available which would have allowed Ms. Krefting to reach clients and prospective clients: vehicle driven by a hired driver, public transportation, taxi, and walking. The evidence failed to prove, however, that there were any reasonable means of transportation available to Ms. Krefting other than driving herself which would have allowed her to meet the requirements of a sales representative for WRUF.

D. Ms. Krefting's Handicap.

20. On April 18, 1993, Ms. Krefting fell while rollerskating. Ms. Krefting hit her head on the ground when she fell. On April 19, 1993, Ms. Krefting was admitted to the emergency room of the North Florida Regional Medical Center. The evidence failed to prove that the injury she suffered on April 18, 1993, caused Ms. Krefting to suffer any seizure.

21. On May 6, 1993, Ms. Krefting suffered a seizure while leaving her home to go to work.

22. Ms. Krefting was ultimately diagnosed as having "seizure disorder."

23. At all times relevant to this proceeding, Ms. Krefting suffered from a "handicap."

E. Ms. Krefting's Inability to Drive.

24. On or about May 18, 1993, Ms. Krefting provided a letter from George G. Feussner, M.D., dated May 18, 1993, to Mr. Clark. In the letter Dr. Feussner indicated that Ms. Krefting was able to return to work but that she could "not operate a motor vehicle . . . ."

25. Although Dr. Feussner did not indicate how long Ms. Krefting would be unable to drive, Ms. Krefting informed Mr. Clark that Dr. Feussner had informed her that she would not be able to drive until she was seizure free for one year from the date of her last epileptic seizure, May 6, 1993.

26. As a result of the restriction on Ms. Krefting's ability to drive and based upon Florida law, Rules 15A-5.003 and 15A-5.004, Florida Administrative Code, Ms. Krefting was unable to drive herself to see existing or prospective clients until at least May 6, 1994.

27. Ms. Krefting discussed with Mr. Clark the possibility of hiring a "tenant" of hers to drive her around. Ms. Krefting did not identify the "tenant." Nor did Ms. Krefting inform Mr. Clark that she had completed making arrangements with anyone to drive her.

28. Mr. Clark did not preclude Ms. Krefting from making arrangements to have someone provide transportation for her. Mr. Clark did tell Ms. Krefting that it would have to be determined what implications, if any, a driver would have on WRUF's workers compensation coverage. The resolution of this issue was to be delayed, however, until Ms. Krefting made concrete arrangements for a driver and discussed those arrangements with Mr. Clark. Ms. Krefting failed to finalize any arrangement for a driver.

29. Had Ms. Krefting provided her own driver, at her own expense, Ms. Krefting may have been able to meet the requirement of her position that she be able to provide her own transportation. Ms. Krefting, however, did not take the necessary steps to hire a driver prior to her termination from employment.

30. Ms. Krefting talked to her tenant, Kenneth Vest, about acting as her driver. Mr. Vest worked in the same building that Ms. Krefting did. Mr. Vest worked Sunday through Wednesday from 3:30 p.m. to 1:30 a.m. He was, therefore, generally available for part, but not all, of Ms. Krefting's working hours. Mr. Vest was generally willing to drive Ms. Krefting, if he were compensated.

31. Ms. Krefting did not discuss with Mr. Vest the exact hours that he would be expected to drive her or her schedule. Nor did Ms. Krefting discuss compensation with Mr. Vest.

32. Ms. Krefting failed to prove that Mr. Vest or any other individual was available at any time relevant to this proceeding, or at the final hearing, to provide transportation for her in a manner that would fulfill her responsibilities as a sales representative.

33. Because of the restriction on Ms. Krefting's ability to drive and her failure to make alternative arrangements to have someone like Mr. Vest drive her, Ms. Krefting failed to prove that she met all the qualifications of her position with WRUF.

34. Ms. Krefting did not meet all the qualifications of her position. But for her handicap, however, Ms. Krefting would have met all of the qualifications of a sales representative.

F. The University's Decision to Terminate Ms. Krefting's Employment.

35. On or about May 24, 1993, Mr. Clark informed Ms. Krefting that WRUF could not continue to employ her because of her inability to drive. Ms. Krefting suggested alternative means of meeting her responsibilities with Mr. Clark when she was informed that WRUF would not be able to continue her employment. Mr. Clark considered the suggestions, but did not accept any of them.

36. On June 16, 1993 Mr. Clark agreed to extend Ms. Krefting's termination date to accommodate her efforts to find another position within the University.

37. Ms. Krefting was ultimately terminated from employment in early July of 1993.

38. Ms. Krefting was terminated because she was prohibited from driving her vehicle and there was no other reasonable means of meeting her responsibilities to service clients and prospective clients.

G. The University's Inability to Accommodate Ms. Krefting's Inability to Drive.

39. During 1993, the financial condition of WRUF was precarious. WRUF was operating at a loss. Three employees had been terminated and a department had been eliminated. Another vacant position had not been filled. WRUF was forced to borrow funds from the University and a foundation account in order to continue operating.

40. At all times relevant to this proceeding, WRUF was unable to create a newly funded position or to allow a sales representative to fail to generate reasonably expected revenues.

41. Ms. Krefting suggested several possible alternatives to accommodate her inability to meet her requirement that she be able to drive. The suggestions were discussed with, and considered by, Mr. Clark.

42. One suggestion Ms. Krefting made to Mr. Clark was to create a new position. The position would entail performing all of the public service work of the sales representatives. Mr. Clark rejected this proposal because it entailed the creation of a new position.

43. The creation of a new position was not a reasonable accommodation. The creation of a new position, especially one that did not generate revenue, would have created a financial hardship on WRUF. The evidence also failed to prove that the public service work could be performed without the need for travel.

44. A second suggestion Ms. Krefting made to Mr. Clark was to restructure her position so that she would be responsible for the preparing of proposals, filing, handling incoming sales calls and telemarketing. In effect, this suggestion also entailed the creation of a new position. This suggestion was rejected by Mr. Clark.

45. Ms. Krefting's second suggestion was not a reasonable accommodation. It would have created an undue financial hardship on WRUF because there was not sufficient work to justify such a position.

46. A third suggestion made by Ms. Krefting to Mr. Clark was that she be teamed with another sales representative who would do all the driving. Mr. Clark rejected this suggestion.

47. Ms. Krefting's third suggestion was not a reasonable accommodation. Teaming two sales representatives would have reduced the effectiveness of two sales representatives who would be available to visit different clients and

prospective clients at the same time if they were not teamed. This would have created an undue financial hardship on WRUF.

48. A fourth suggestion made by Ms. Krefting to Mr. Clark was that she use public transportation and taxis. Mr. Clark rejected this suggestion.

49. Although it is questionably whether Ms. Krefting's fourth suggestion constitutes an accommodation, to the extent that it does, it was not a reasonable accommodation. Public transportation does not provide the flexibility required of sales representatives because of the inadequacy of routes and schedules of available transportation.

50. A fifth suggestion made by Ms. Krefting to Mr. Clark was that she provide her own driver. It is questionable whether the use of a driver, as suggested by Ms. Krefting, constitutes an accommodation.

51. To the extent that Ms. Krefting was suggesting that WRUF provide her a driver, her suggestion was not a reasonable accommodation. If WRUF had been required to provide the driver, it would have caused an undue hardship on WRUF.

52. Finally, Ms. Krefting suggested that a student intern from the University's College of Journalism be assigned to work with her and that the intern provide the driving required by her position. Mr. Clark rejected this suggestion.

53. Ms. Krefting had discussed the idea of using an intern with Dr. Joseph Pisani, the Chair of the Advertising Department of the College of Journalism. Although Dr. Pisani was not opposed to the use of an intern-if the intern was properly used-he was opposed to the use of an intern primarily or exclusively as a driver.

54. The suggestion that interns be used was not a reasonable accommodation. Student interns usually are only available to work as an intern for a maximum of 12 hours a week. Additionally, the 12 hours a week that an intern would be available depends upon their class schedule. Therefore, student interns would not be available for a sufficient period of time for Ms. Krefting to fulfill the responsibilities of her position.

55. Although it is not impossible to find a student that would be willing to act as an intern full-time, the evidence failed to prove that it was likely that a student could be found that would be willing to take no classes for up a year or that it would be financially feasible for a student to do so.

56. Mr. Clark did not actually attempt to implement any of Ms. Krefting's proposals. Mr. Clark also did not "consult with any experts" about the proposed accommodations. Mr. Clark's failure to attempt to implement any of the proposals or to consult with experts was not, however, necessary. The issue confronting Mr. Clark was not one involving a decision which required special knowledge or understanding of Ms. Krefting's handicap, or the needs of persons who suffer from seizure disorder.

57. The only issue confronting Mr. Clark was how to accommodate the inability of a sales representative to transport herself to meet the needs of clients and prospective clients. Mr. Clark had all the necessary information to decide how to deal with this issue: Ms. Krefting, regardless of her condition or needs, was prohibited from driving an automobile for at least a year. Mr. Clark was fully aware of the impact of this restriction on WRUF and the

resulting inability of a sales representative to carry out their responsibilities. The suggested accommodations made by Ms. Krefting also required no special knowledge or understanding. The suggestions only required an understanding of the needs of WRUF and what was expected of sales representatives.

H. Ms. Krefting's Loss of Income.

58. Subsequent to her termination by WRUF Ms. Krefting remained unemployed until February of 1994.

59. After her termination by WRUF Ms. Krefting received unemployment benefits of approximately \$3,500.00

60. Ms. Krefting earned \$800.00 for part-time employment in March of 1994.

61. Ms. Krefting was unable to work from April of 1994 until June of 1994.

62. Ms. Krefting is currently employed.

I. Ms. Krefting's Complaint.

63. Ms. Krefting filed a Charge of Discrimination with the Commission on or about August 18, 1993 alleging that the University had discriminated against her on the basis of her handicap.

64. On or about January 21, 1994, the Commission entered a Notice of Determination: No Cause, finding no reasonable cause to believe that an unlawful employment practice had occurred.

65. On or about February 17, 1994, Ms. Krefting filed a Petition for Relief contesting the Commission's determination. The Petition was filed with the Division of Administrative Hearings.

J. Conclusion.

66. The evidence in this case failed to prove that the University terminated Ms. Krefting's employment because of her disability. Ms. Krefting was terminated by the University because she could not meet all of the requirements of her position.

67. The evidence failed to prove that the University could reasonably accommodate Ms. Krefting's inability to drive without undue hardship to WRUF's activities.

68. Ms. Krefting failed to prove that the University discriminated against her on the basis of her handicap.

CONCLUSIONS OF LAW

A. Jurisdiction.

69. The Division of Administrative Hearings has jurisdiction of the parties to and the subject matter of this proceeding. Sections 120.57(1), Florida Statutes.



B. The Elements of Discriminatory Conduct; The Burden of Proof.

70. The Florida Human Rights Act provides that it is an unlawful employment practice for an employer to fail or refuse to hire any individual because of the individual's handicap. Section 760.10(1)(a), Florida Statutes.

71. Section 760.10(8), Florida Statutes, also provides:

(8) Notwithstanding any other provision of this section, it is not an unlawful employment practice under ss. 760.01-760.10 for an employer, employment agency, labor organization, or joint labor-management committee to:

(a) Take or fail to take any action on the basis of . . . handicap . . . in those certain instances in which . . . absence of a particular handicap . . . is a bona fide occupational qualification reasonably necessary for the performance of the particular employment to which such action or inaction is related.

72. Ms. Krefting had the ultimate burden of proving by a preponderance of the evidence that the University intentionally discriminated against her because of her handicap. *Brand v. Florida Power Corporation*, 633 So.2d 504 (Fla. 1st DCA 1994). See also, *McDonnell Douglas v. Green*, 411 U.S. 792, 804 (1973); *Irby v. Allstate Insurance Co.*, 12 F.A.L.R. 2034, 2037 (Florida Commission on Human Relations 1989); and *Martin v. Monsanto Co.*, 10 F.A.L.R. 3886, 3896 (Florida Commission on Human Relations 1988).

73. In order to establish a case of discrimination based upon handicap, Mr. Krefting was required to establish a prima facie case of employment discrimination by proving:

- a. That she is handicapped;
- b. That she is qualified for the position she was employed in but for her handicap; and
- c. That she was excluded from the position solely by reason of her handicap. *Brand*, 633 So.2d at 510. See also *Pushkin v. Regents of University of Colorado*, 658 F.2d 1372 (10th Cir. 1981); and *Hunter v. Winn-Dixie Stores, Inc.*, FCHR Case No. 82-0799 (Feb. 23, 1983).

C. Ms. Krefting Presented a Prima Facie Case.

74. Ms. Krefting proved that she suffers from a handicap. See *Kelly v. Bechtel Power Corp.*, 633 F. Supp. 927 (S.D. Fla. 1986).

75. Based upon the court's rationale in *Brand* it appears that Ms. Krefting has made a facial showing that she is qualified for the sales representative position but for her handicap. Ms. Krefting proved that her handicap caused the resulting restriction on her driving.

76. Finally, Ms. Krefting proved that she was terminated from her position because she was unable drive, which was caused by her handicap.

D. Ms. Krefting Failed to Meet Her Ultimate Burden of Proof.

77. Having met her initial burden of proof, the University was required to prove that:

- a. Ms. Krefting's handicap could not possibly be accommodated; or
- b. If her handicap could be accommodated, the proposed accommodation was unreasonable because it would result in an undue hardship on the University's activities. Brand, 633 So. 2d at 511-512.

78. The evidence presented by the University in this case proved that Ms. Krefting's inability to drive could not possibly be accommodated without undue hardship to WRUF. See *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987); and *Freeman v. Cavazos*, 939 F.2d 1527 (11th Cir. 1991). Ms. Krefting failed to rebut the evidence presented by the University to prove that an undue hardship would result from her suggested accommodations and she failed to prove that there were any other reasonable accommodations that the University did not consider.

79. Citing *Reynolds v. Brock*, 815 F.2d 571 (9th Cir. 1987), Ms. Krefting has argued that the University was required to try the accommodations suggested by Ms. Krefting. The rationale of the Reynolds decision has no applicability to this case. The facts in this case are distinguishable from those in Reynolds. The evidence in this case supported a finding that the accommodations considered by the University would not accommodate Ms. Krefting's handicap without undue hardship to WRUF.

80. Citing *Davidson v. Shoney's Big Boy Restaurant*, 380 S.E.2d (W. Va. 1989), Ms. Krefting has also argued that the University was required, in order to justify her termination from employment, to show that it had "relied on competent medical testimony. The employer may not base such a determination merely on an employer's subjective evaluation or merely on medical reports." Again, this case is distinguishable from Davidson and other cases cited by Ms. Krefting in that the issue in this case did not involve what Ms. Krefting's capabilities were to perform her duties with seizure disorder. Under Florida law, the limitation on Ms. Krefting's ability to drive were well established. Additionally, at the time of the decision to terminate Ms. Krefting, Ms. Krefting's own physician had informed the University that Ms. Krefting could not operate a vehicle for at least a year.

81. There was also no reason to seek expert advice concerning the accommodations considered for Ms. Krefting. Mr. Clark was not required to decide what a person with seizure disorder was capable of doing. He was only required to determine whether a sales person who could not drive would be able to perform their duties. Mr. Clark possessed sufficient knowledge to determine this issue without assistance or advice.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that Florida Commission on Human Relations enter a Final Order dismissing the Petition for Relief filed by Tracey Krefting, previously known as Tracey Hardin.

DONE and ORDERED this 2nd day of December, 1994, in Tallahassee, Florida.

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LARRY J. SARTIN  
Hearing Officer  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
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(904) 488-9675

Filed with the Clerk of the  
Division of Administrative Hearings  
this 2nd day of December, 1994.

#### APPENDIX

The parties have submitted proposed findings of fact. It has been noted below which proposed findings of fact have been generally accepted and the paragraph number(s) in the Recommended Order where they have been accepted, if any. Those proposed findings of fact which have been rejected and the reason for their rejection have also been noted.

#### Ms. Krefting's Proposed Findings of Fact

- 1 Accepted in 2.
- 2 The University and not WRUF is the Respondent in this case. See 3-5. The "departments" of WRUF are hereby case. accepted.
- 3 Accepted in 7-8.
- 4 Not supported by the weight of the evidence. See 7.
- 5 Accepted in 7.
- 6 Accepted in 17. But see 18.
- 7 Not relevant. See 20.
- 8 Accepted in 21 and hereby accepted.
- 9 Accepted in 22.
- 10 Accepted in 25-26.
- 11 Accepted in 26.
- 12 Accepted in 41.
- 13 Accepted in 42. But see 43.
- 14 Accepted in 46. But see 47.
- 15 Accepted in 44. But see 45. The last sentence is not supported by the weight of the evidence.
- 16 Accepted in 27, 30, 48 and 50. But see 29, 31-32, 49 and 51.
- 17 Accepted in 52-53. But see 54-55.
- 18 Accepted in 56. But see 57. See 35 with regard to the last sentence.
- 19 Not relevant and not supported by the weight of the evidence.
- 20-21 Not relevant.
- 22 See 37-38. With regard to the last two sentences, see 56-57.
- 23 See 58-62.

24-25 Not relevant.

The University's Proposed Findings of Fact

1 Accepted in 1.  
2 Accepted in 3.  
3 Accepted in 4 and 7.  
4 Accepted in 8.  
5 Accepted in 9.  
6 Accepted in 20.  
7 Not relevant.  
8 Accepted in 24.  
9 Accepted in 25.  
10 See 37.  
11 Accepted in 65.  
12 Accepted in 64.  
13 Accepted in 65.  
14 Hereby accepted.  
14 Accepted in 10.  
16 Accepted 5-6.  
17 Accepted in 26.  
18 Accepted in 19.  
19 Accepted in 13.  
20 Not relevant.  
21 Accepted in 46-37.  
22 Accepted in 44-45.  
23 Accepted in 27-32 and 50-51.  
24 Accepted in 42-43.  
25 Accepted in 39-40  
26 Accepted in 36.  
27 Accepted in 38, 66 and 68.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to this Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should contact the agency that will issue the final order in this case concerning agency rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.