

8-9-04

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

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FILED  
DIVISION  
ADMINISTRATIVE  
HEARINGS

TIMOTHY L. CAHILL,

EEOC Case No. 15D970298

Petitioner,

AP

FCHR Case No. 96-2006

v.

DOAH Case No. 01-1689

SFD  
CLOS

K.S.L. FAIRWAYS GROUP, L.P.,

FCHR Order No. 04-110

Respondent.

**AMENDED FINAL ORDER AWARDING AFFIRMATIVE  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

On April 30, 2002, Administrative Law Judge Stephen F. Dean issued a Recommended Order in the above-styled matter, recommending that the Commission issue a final order finding that unlawful discrimination occurred and recommending affirmative relief. In an order filed February 20, 2003, the Commission adopted Judge Dean's recommended order with some modifications, and indicated that, if within 30 days of the filing of the Commission's order (FCHR # 03-015) the parties were unable to reach agreement on the remedy amounts, "*the Petitioner is directed to file with the Commission a Notice of Failure of Settlement, and the case will be remanded to the Administrative Law Judge for determination of appropriate remedy amounts in this matter, in addition to those already determined by the Administrative Law Judge, as ordered above.*" The Commission's Order was appealed to the First District Court of Appeal who determined that the order on appeal was not final and, accordingly, the appeal was dismissed for lack of jurisdiction.

Petitioner filed, on May 28, 2004, a Motion for Entry of Final Order which the Commission has determined is more properly titled, "Notice of Failure of Settlement." Consequently, through the operation of the above-indicated order, the Commission returned the matter to the Administrative Law Judge for determination of the appropriate remedy amounts in accordance with the above-indicated order (FCHR # 03-015).

Judge Dean issued a Recommended Order dated August 9, 2004, which found that the parties had stipulated to the remedy amounts.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

**Findings of Fact and Conclusions of Law**

The ALJ found that, solely for the purpose of determining the precise remedy amounts in this case, the parties agreed to the following amounts:

1. Back pay, benefits, and interest at the statutory rate awardable in behalf of Petitioner pursuant to the Findings of Fact and Recommendations of the Hearing Officer and the February 20, 2003, "Final Order Awarding Affirmative Relief," total \$ 77, 118.47 from April 1996 through July 31, 2004.
2. Attorney's fees and out of pocket costs reasonably incurred by Petitioner total \$38,000.00 through July 31, 2004.

We adopt the Administrative Law Judge's findings of fact and conclusions of law.

#### Exceptions

Neither party filed any exceptions to the Recommended Order.

#### Affirmative Relief

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that an unlawful employment practice has occurred in this matter and have adopted the Administrative Law Judge's recommendations for the remedy of that unlawful employment practice, with the indicated modification regarding offset for unemployment received, and an award of costs.

Respondent is hereby ORDERED:

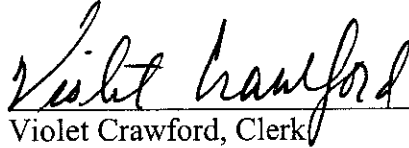
1. to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against the Petitioner;
2. to pay \$ 77, 118.47 in back pay, benefits, and interest at the statutory rate for the period from April 1996 through July 31, 2004.
3. to pay \$38,000.00 in attorney's fees and out of pocket costs reasonably incurred by Petitioner and his attorney for the period through July 31, 2004.
4. to pay Petitioner and his attorney statutorily established interest rates on the amount awarded under (2) and (3) above for the period after July 31, 2004, until said amount, with interest, is paid to Petitioner and his attorney.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 22nd day of September, 2004.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Rita Craig, Panel Chairperson  
Commissioner John Corbett  
Commissioner Dominique B. Saliba, M.D.

Filed this 22nd day of September, 2004  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, Florida 32301  
(850) 488-7082

NOTICE TO COMPLAINANT / PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131

Copies furnished to:

John C. Barrett, Esquire  
Five Calle Traviesa  
Pensacola Beach, Florida 32561

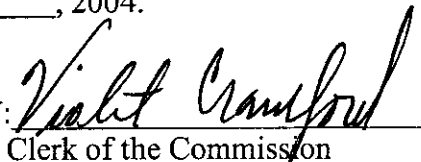
David S. Shankman, Esquire  
215 W. Verne Street, Suite A  
Tampa, Florida 33606-2320

Honorable Stephen F. Dean, Administrative Law Judge (DOAH)

Jim Tait, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 22nd day of September, 2004.

BY:

  
Clerk of the Commission