

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
04 FEB 27 AM 9:18
ADMINISTRATIVE
HEARINGS

Jude Alcegueire,

Petitioner,

v.

EMC Mortgage Corporation,

Respondent.

AT

HUD Case No. 04-02-0918-8
FCHR Case No. 22-91403H
DOAH Case No. 03-2153
FCHR Order No. 04-001

REM-CLUS

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

Petitioner, JUDE ALCEGUEIRE, filed a complaint of discrimination pursuant to Florida Fair Housing Act, Sections 760.20-760.37, Florida Statutes, alleging that Respondent, EMC MORTGAGE CORPORATION, committed an unlawful act of housing discrimination based on his race. The allegations set forth in the complaint were investigated and on May 7, 2003, the Executive Director issued his determination that there was no reasonable cause to believe that a discriminatory act occurred. The Petitioner filed a Petition for Relief and was granted a formal evidentiary hearing that was held in Miami, Florida, on November 6, 2003, before Administrative Law Judge Robert E. Meale. A two volume transcript of the proceeding was filed November 25, 2003.

Judge Meale issued a Recommended Order of Dismissal dated December 17, 2003, and retained jurisdiction to require the Petitioner to pay attorney fees and costs to the Respondent.

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 Petitioner alleged that he was discriminated by the respondent due to his race. He further alleged that one of the respondent's employees referred to him by a racially derogatory name. The allegations were denied by respondent and its witness who was alleged to have used the epithet. The Administrative Law Judge specifically found the Petitioner's testimony on this allegation as not credible.

We adopt the Administrative Law Judge's findings of fact and his conclusion that the Petitioner failed to carry his burden of proof and that the Respondent provided legitimate, non-discriminatory business reasons for its actions.

We further note that the Administrative Law Judge retained jurisdiction under Section 57.105 (5), Florida Statutes, over the portion of the case relating to awarding attorney's fees and

costs and ordered Petitioner to pay the Respondent its reasonable attorney's fees and damages in the form of recoverable costs in connection with the defense of this case.

Exceptions

Neither party filed any exceptions to the Recommended Order.

Dismissal

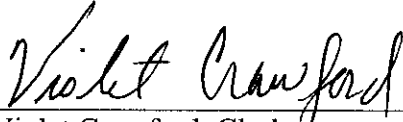
The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 26th day of February, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Billy Whitefox Stall, chairperson
Commissioner Gilbert M. Singer
Commissioner P.C. Wu

Filed this 26th day of February, 2004
in Tallahassee, Florida.



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Honorable Robert E. Meale, 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 26th day of February, 2004.

BY: Violet Crawford
Clerk of the Commission
Florida Commission on Human Relations