

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

HISHAM ABOUDAYA,

EEOC Case No. 15D201000599

Petitioner,

FCHR Case No. 2010-02539

v.

DOAH Case No. 11-1496

EVEREST UNIVERSITY,

FCHR Order No. 12-003

Respondent.

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**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Hisham Aboudaya filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2009), alleging that Respondent Everest University committed unlawful employment practices on the bases of Petitioner's race, National Origin (Middle Eastern), and religion (Muslim), by failing to promote Petitioner to any of three positions for which Petitioner had applied, and on the basis of retaliation for having filed an earlier discrimination complaint by denying Petitioner tuition reimbursement for a doctoral program Petitioner was pursuing.

The allegations set forth in the complaint were investigated, and, on February 16, 2011, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Viera, Florida, on August 26, 2011, before Administrative Law Judge R. Bruce McKibben.

Judge McKibben issued a Recommended Order of dismissal, dated November 21, 2011.

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

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

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

Exceptions

Neither of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

The Petition 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 25<sup>th</sup> day of January, 2012.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Lizzette Romano; and  
Commissioner Billy Whitefox Stall

Filed this 25<sup>th</sup> day of January, 2012,  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 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:

Hisham Aboudaya  
2340 Early Dawn Circle  
Melbourne, FL 32935-3485

Everest University  
c/o Elaine W. Keyser, Esq.  
Littler Mendelson, P.C.  
One Biscayne Tower, Suite 1500  
2 South Biscayne Boulevard  
Miami, FL 33131-1806

R. Bruce McKibben, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 25<sup>th</sup> day of January, 2012.

By:   
Clerk of the Commission  
Florida Commission on Human Relations