

The U.S. Equal Employment Opportunity Commission

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GEORGETOWNE PLACE TO PAY \$650,000 TO SETTLE EEOC RACE DISCRIMINATION LAWSUIT

Company Marked African Americans' and Other Minorities' Applications for Rejection, Suit Says

INDIANAPOLIS – The owner of senior communities in 14 states will pay \$650,000 to settle a race discrimination suit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today. The EEOC charged that a Fort Wayne senior community refused to hire African Americans and members of other racial groups for many years. The agency also said the facility failed to keep employment records, specifically application papers, as required by law.

According to the EEOC's lawsuit, Civil Action No. 1:05-CV-004, filed in the U.S. District Court for the Northern District of Indiana, Fort Wayne Division, Georgetowne Place, owned and operated by Seattle-based Merrill Gardens LLC, perpetrated a pattern and practice of shunning minorities because of their race and/or color. During the EEOC's investigation, Carol Felger, the former general manager for Georgetowne Place, stated that residents at the facility preferred white employees, and did not want minorities to come into their rooms.

The EEOC said that Felger, who made hiring decisions at Georgetowne Place, instructed her subordinates to mark job applications with post-it notes to inform her that a particular applicant was a minority. Felger herself reportedly placed a mark, which looked like a "Z," in the bottom left-hand corner on one page of applications she received from minorities so as to mark them for rejection. These hiring practices continued for at least nine years at Georgetowne Place, the EEOC charged.

The EEOC filed suit under Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex (including sexual harassment or pregnancy), or national origin and protects employees who complain about such offenses from retaliation.

"Employers should know," said Danny Harter, Director of the EEOC's Indianapolis District Office, "that supposed customer preference is no excuse to violate federal anti-discrimination statutes. Even if customers might prefer to be served by individuals who are a particular race or color or sex-or someone who is younger or does not have a disability-the employer is not entitled to commit discrimination."

Laurie A. Young, Regional Attorney of the EEOC's Indianapolis District Office, commented, "This is an egregious case of discrimination made even worse by the failure to keep records as required by law. We are pleased that our lawsuit put a stop to the defendant's practice of race coding its applications."

In addition to the payments to minority applicants, Merrill Gardens will pay for the costs of advertising in newspapers and on radio, up to \$70,000, to locate and identify African Americans and other nonwhites who applied at Georgetowne Place between February 17, 1998, and April 18, 2005. Applicants are encouraged to contact the EEOC at (317) 226-7226. The court will conduct a fairness hearing on September 9, 2005, in Fort Wayne to make final decisions regarding the settlement.

The company will also pay \$10,000 to the U.S. Treasury for failure to retain employment records and \$100,000 to private counsel who filed a separate suit. Merrill Gardens will train all employees at Georgetowne Place on the requirements of Title VII, and, specifically, on non-discrimination in hiring, procedures to report known or observed discrimination in the workplace, and non-retaliation. The company will provide additional training to managers and supervisors. The agreement also requires that Merrill Gardens notify employees, applicants, and recruiting sources that the company will make all hiring decisions without regard to race and/or color. Additionally, the company will maintain employment records and make

reports to the EEOC.

According to the company's web site (www.merrillgardens.com), Merrill Gardens owns and operates senior, assisted-living, and Alzheimer's communities in 14 states, including Georgetowne Place in Fort Wayne. Carol Felger and her husband built the facility in Fort Wayne. Felger became the general manager in 1993, a position she retained after Merrill Gardens acquired the property in 1998. As general manager, she was in charge of the Georgetowne Place facility.

In addition to enforcing Title VII, the EEOC enforces the Age Discrimination in Employment Act of 1967 (ADEA), which protects workers age 40 and older from discrimination based on age; Title I of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination against people with disabilities in the private sector and state and local governments; and other anti-discrimination statutes. The EEOC's Indianapolis Office is located at 101 W. Ohio Street, Suite 1900. The EEOC's toll free telephone number is (800) 669-4000. More information about the Commission is available at its web site www.eeoc.gov

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