

UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

Civil Action No.: 02-73585

Honorable Lawrence P. Zatkoff

SPEEDWAY SUPERAMERICA, L.L.C.

Defendant.

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**SETTLEMENT AGREEMENT**

On September 9, 2002, this matter was commenced by the United States Equal Employment Opportunity Commission, (the "Commission") against Speedway SuperAmerica, LLC, ("Defendant" or "Speedway") on behalf of Charging Party, Dorothy Y. Helvey, ("Charging Party" or "Helvey") and other similarly situated individuals. The Commission's Complaint alleged that Helvey and other similarly situated individuals were subjected to discriminatory hiring practices because of their race, African-American.

**FINAL DISPOSITION**

1. Through this Settlement Agreement, ("Agreement") Plaintiff, the Commission, on behalf of Charging Party, Dorothy Helvey, the other similarly situated individuals and Defendant Speedway, desire to forever resolve all issues raised, presented, or joined in Civil Action

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U.S. DIST. COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Number 02-73585, without the burden, expense and potential delay of further litigation, and intend to be bound by the promises made herein.

### **STIPULATED FACTS**

2. The Parties stipulate and agree that the EEOC is the agency of the United States government authorized to investigate allegations of unlawful employment discrimination, to bring civil actions to prohibit unlawful employment practices and to seek relief for individuals affected by the practices complained of in this lawsuit.
3. Speedway is an employer engaged in an industry affecting commerce within the meaning of Section 701(g) and (h) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e(g). Speedway had at least fifteen (15) employees for twenty (20) or more calendar weeks during the relevant time period.
4. Pursuant to Title VII, the Parties acknowledge the jurisdiction of the United States District Court for the Eastern District of Michigan (Southern Division) over the subject matter and Parties to this case for the purpose of enforcing the provisions of this Agreement if such enforcement becomes necessary.
5. Venue is appropriate in the Eastern District of Michigan (Southern Division). For purposes of this Agreement and proceedings related to this Agreement only, Speedway agrees that all statutory conditions precedent to the institution of this lawsuit have been fulfilled.

### **MONETARY RELIEF**

6. Speedway agrees to pay monetary relief in the amount of one hundred fifty thousand dollars, \$150,000.00, collectively to Helvey and fifteen (15) other similarly situated individuals. The monetary relief consists of back pay and compensatory damages. Speedway shall issue

checks directly to each individual named below, in the amount hereto specified:

- Dorothy Helvey, 31530 Van Born, Apt #304, Wayne, MI 48184, \$791.25 back pay, \$24,000.00, compensatory;
- Patrick Kemokai, 720 Sulten Dr., Canton, Michigan 48188, \$2,931.25 back pay, \$20,000.00 compensatory;
- Deborah Cochran-Williams, 383 Peach St., Westland, Michigan 48186, \$1,651.25 back pay, \$20,000.00 compensatory;
- Davonna Johnson, 4343 Klink, Inkster, Michigan 48141, \$411.25 back pay, \$5,000.00 compensatory;
- Lisa Comer, 35679 Garner, Romulus, Michigan 48174, back pay \$2,651.25, \$5,000.00 compensatory;
- Janice Cadwell, 3231 Manning, Inkster, Michigan 48141, \$1,631.25 back pay, \$5,000.00 compensatory;
- Tia Nicole Warren, 6330 Columbus, Romulus, Michigan 48174, \$1,531.25 back pay, \$5,000.00 compensatory;
- Christopher Samuel, 27335 New York St., Inkster, Michigan 48141, \$1,171.25 back pay, \$5,000.00 compensatory;
- Te'Cora Clark, 19720 Yonka, Detroit, Michigan 48234, \$651.25 back pay, \$5,000.00 compensatory;
- Denise Cooper, 31520 Van Born, Wayne, Michigan 48174, \$891.25 back pay, \$5,000.00 compensatory;
- Kevin Hudson, 29960 Liberty St., Inkster, Michigan 48141, \$891.25 back pay, \$5,000.00 compensatory;
- La Tease Lykes, 3676 Farnum St., Inkster, Michigan 48141, \$1,171.25 back pay, \$5,000.00 compensatory;
- Tangela Ward, 26837 New York St., Inkster, Michigan 48141, \$651.25 back pay, \$5,000.00 compensatory;

- Lisa Scott, 15050 Pond Way, Building 40, Romulus, Michigan 48174, \$411.25 back pay, \$5,000.00 compensatory;
- Mary Williams, 6722 Floyd, Detroit, Michigan 48210, \$1,291.25 back pay, \$5,000.00 compensatory; and
- Shirley Dukes, 29460 Hiveley, Inkster, Michigan 48141, \$1,171.25 back pay, \$5,000.00 compensatory.

All funds shall be sent directly to each aforementioned individual via certified mail within ten (10) days of the complete execution of this Agreement by both Parties and the signing of the Individual Releases by the class members, whichever date is later.

Speedway shall withhold all statutory deductions from the amounts deemed to be back pay. In addition, \$68.75 has been withheld from each claimant's total back pay award to pay for the services of the outside lawyer retained to review the Individual Releases. Taxes on the amounts deemed to be compensatory damages shall be the sole responsibility of the individual claimant. The payment of damages shall be contingent upon each of the named individuals signing and executing an Individual Release Form. (Attachment A). Speedway will issue each claimant an Internal Revenue Service ("IRS") form W-2, with respect to the back pay damages and an IRS form 1099 with respect to compensatory damages, as required by applicable law. The Commission will furnish Speedway with each individual's social security number prior to issuance of the settlement checks (Attachment B). A copy of each check shall be sent to Adele Rapport, Regional Attorney, Equal Employment Opportunity

Commission, 477 Michigan Avenue, Room 865, Detroit, Michigan 48226, within thirty (30) days of the issuance of each check.

**NON-MONETARY RELIEF**

7. Speedway agrees to offer the next fourteen (14) Customer Service Representative positions that become available at the following three (3) Speedway stores: #5558, 5795 S. Merriman, Westland, Michigan 48186; #8836, 7084 S. Wayne, Romulus, Michigan 48174; and #8834, 8450 Merriman, Romulus, Michigan 48174, to the following individuals, in listed order: Dorothy Helvey, Janice Cadwell, Te'Cora Clark, Denise Cooper, Shirley Dukes, Kevin Hudson, Davonna Johnson, Patrick Kemokai, La Tease Lykes, Christopher Samuel, Lisa Scott, Tangela Ward, Tia Nicole Warren and Mary Williams. Each individual listed is to be contacted by telephone, pursuant to the address and telephone number chart attached as Attachment B, and offered the position verbally. The offer may be left on an answering machine/voice mail or with the individual's mother, father or spouse. The Speedway Representative who contacts the individuals to make the job offers must send a certification to Adele Rapport, Regional Attorney, Equal Employment Opportunity Commission, 477 Michigan Avenue, Room 865, Detroit, Michigan 48226, the next business day after the verbal offer is made. Each certification shall state the name of the individual the Speedway Representative spoke with, the time the call was made and whether a message was left on an answering machine. Each verbal offer is to be confirmed in writing via certified mail with a copy of the offer sent to

Adele Rapport, Regional Attorney, at the above-stated address, upon mailing. The written offers should be mailed the next business day after the verbal offer is made. The Parties agree that the certified mail copy of the offer (which is copied to the Commission) shall suffice as the certification to the Commission required herein, so long as it contains the information detailed above. Each individual shall be given one (1) week to respond to the offer of employment. If the offer is not responded to within the one (1) week time period, the offer will be deemed to have been rejected. The one (1) week time period shall begin to run when the written offer is sent via certified mail. If the offer is accepted, the individual employee shall be available to begin work two (2) weeks from the date the written offer is mailed.

#### **REPORTING**

8. Speedway agrees to provide the Equal Employment Opportunity Commission with a quarterly report of its hiring practices in Speedway's Michigan District number ten (10) for three (3) years from the date of execution of this Agreement. The report shall include the name, race, position and store location for each individual hired during the previous quarter. The report shall be sent to Adele Rapport, Regional Attorney, Equal Employment Opportunity Commission, 477 Michigan Avenue, Room 865, Detroit, Michigan 48226, within fifteen (15) days of the end of the quarter. In addition to the quarterly reporting described above, Speedway will provide the Commission with a one-time only Report which should contain a state-wide breakdown of race, title, store location and length of time employed. This Report shall be provided to Adele Rapport, Regional Attorney, at the

previously mentioned address within thirty (30) days of the complete execution of this Agreement and shall consist of all individuals working for Speedway in the state of Michigan at the time of the complete execution of this Agreement.

#### **NON-DISCRIMINATION**

9. Speedway, its officers, agents, employees, successors, assigns and individuals in active concert or participation with it, shall comply with Title VII's requirements. Such compliance shall include a non-discriminatory hiring policy.

#### **NON-RETALIATION**

10. Speedway, through its directors, officers, agents, successors, assigns and employees, will not retaliate against any person who participated or cooperated in the investigation and prosecution by the EEOC of Charge Number 230-A0-00143, filed under Title VII of the Civil Rights Act of 1964, as amended.

#### **DISPUTE RESOLUTION AND COMPLIANCE**

11. The Parties agree that the United States District Court for the Eastern District of Michigan, Southern Division, shall retain jurisdiction and will have all available equitable powers, including injunctive relief, to enforce the provisions of this Agreement. Upon motion of either Party, the Court may schedule a hearing for the purpose of reviewing compliance with this Agreement. The Parties shall engage in a good faith effort to resolve any dispute as to compliance prior to seeking review by the Court and shall be required to give notice to each other ten (10) days before moving for such review. In addition, discovery for any such hearing shall be performed in an expedited manner to permit any compliance issue to be resolved in a timely fashion.

**POSTING OF NOTICE**

12. Speedway agrees to post a mutually agreeable Notification, attached as Attachment C, in at least one (1) conspicuous place at store #5558, located in Westland, Michigan, which sets forth an employee's rights regarding the federal anti-discrimination laws. This Notice shall be posted for three (3) years from the entry of this Agreement. Should any posted copies of the Notice become defaced, marred or otherwise made unreadable, Speedway agrees to post a readable copy of this Notice in the same manner heretofore specified as soon as practical thereafter.

**NON-ADMISSION OF LIABILITY**

13. Speedway has denied all allegations set forth in Civil Action No. 02-73585, along with any and all inferences of wrongdoing, and neither its consent to the signing of this Agreement, nor any of the terms or conditions set forth herein shall constitute an adjudication or finding on the merits of the case or be construed as an admission of liability, wrongdoing, guilt, and/or violation of federal law, which Speedway expressly denies.

**ALLOCATION OF COST**

14. The Parties agree to pay their respective costs and attorneys fees associated with the investigation, institution and pursuit of this matter including the drafting and enforcement of this Agreement. Speedway agrees to provide a total of \$500.00 to the Commission in order for it to obtain an attorney to review the Individual Release which each class member is being asked to sign. The \$500.00 along with the \$68.75 withheld from each Claimant's back pay award, (as described in the section of this document entitled "Monetary Relief") a total



sum of \$1600.00, shall be sent directly to Sam Morgan, Sommer, Schwartz, Silver & Schwartz, P.C., (Tax ID No. 38-2004268) 2000 Town Center, Suite 900, Southfield, Michigan 48075, via certified mail within thirty (30) days of the receipt of the signing of this Agreement or the receipt of all of the individual Release forms, whichever is later. A copy of the check shall be sent Adele Rapport, Regional Attorney, at the address previously provided within fifteen (15) days of the issuance of the aforementioned payment.

#### **SEVERABILITY CLAUSE**

15. If any provision of this Agreement is found to be unenforceable by a Court, only the specific provision in question shall be affected and the other enforceable provisions shall remain in full force.

#### **TRAINING**

16. Speedway shall provide training, as outlined in the training materials provided to the Commission, to its officers, directors, supervisors, managers, and assistant managers, on the federal anti-discrimination laws, with an emphasis on Title VII of the Civil Rights Act of 1964, as amended, and its prohibitions against discriminatory hiring practices. In addition, the Assistant Managers, who are not currently included in the special training in Michigan District 10, shall be included in such training. The training, as described in the materials provided to the Commission by Speedway, shall take place within one (1) year of the signing of this Agreement. A list of all attendees shall be sent to Adele Rapport, Regional Attorney, at the above-referenced address within fifteen (15) days of each training session. Speedway is committed to providing new and innovative training programs and anticipates spending approximately \$200,000.00 in training on equal employment opportunity in 2003.

**DISMISSAL OF LAWSUIT**

17. The Commission agrees to dismiss with prejudice the pending Lawsuit (Civil Action No. 02-73585) without prejudice as to enforcement of this Agreement.

**ENTIRE AGREEMENT**

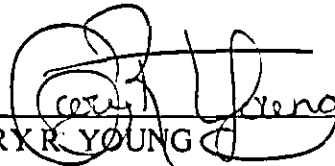
18. This Agreement constitutes the entire agreement and commitments of the Parties. Any modifications to this Agreement must be mutually agreed upon in writing and signed by the Parties hereto.

**DURATION**

19. This Agreement shall remain in effect for three (3) years from its execution.



\_\_\_\_\_  
ADELE RAPPORT (P44833)  
ROBERT DAWKINS (P38289)  
TAMMY KLEIN (P60256)  
Equal Employment Opportunity  
Commission  
477 Michigan Ave., Room 865  
Detroit, Michigan  
(313) 226-5673



\_\_\_\_\_  
GARY R. YOUNG  
Human Resources Manager  
Speedway SuperAmerica LLC  
500 Speedway Drive  
Enon, Ohio 45323  
(937) 863-6228

Of Counsel:  
KIMBERLY B. SCHROEDER  
Ohio Attorney No. 0059240  
539 S. Main St.  
Findlay, OH 45840  
(419) 421-2598

Date signed by last party representative: 8/5/03

ATTACHMENT A

FULL RELEASE OF ALL CLAIMS

I. PARTIES & RECITALS

A dispute arose between Dorothy Helvey (hereinafter referred to as "HELVEY") and SPEEDWAY SUPERAMERICA LLC (hereinafter referred to as "SSA") arising out of Claimant's application for employment with SSA; and

The Equal Employment Opportunity Commission commenced suit against SSA, in which it claimed that HELVEY, along with other similarly situated individuals, was an aggrieved victim, that case being Case No. 02-73585, filed in the United States District Court for the East District of Michigan, Southern Division;

The EEOC and the parties have now reached an agreement and settlement of all claims and causes of action that HELVEY has or may have as of the date of this Full Release of All Claims ("Release") against SSA and all of its affiliates, subsidiaries or parent companies, either individually, jointly or severally.

II. COVENANTS

In consideration of the total amount of Twenty-four Thousand Seven Hundred Ninety-one and 25/100 Dollars (\$24,791.25), which shall be payable as follows: (1) the payment by SSA of the sum of Seven Hundred Ninety-one and 25/100 Dollars (\$791.25) to HELVEY, less standard payroll deductions, which HELVEY and SSA agree constitutes payment for lost wages, (2) the separate payment to HELVEY of the sum of Twenty-four Thousand and 00/100 Dollars (\$24,000.00), which HELVEY and SSA agree constitutes payment for HELVEY's pain and suffering, emotional distress, and litigation costs but not lost wages (such payments are collectively hereinafter referred to as the "Settlement Amount") the sufficiency of which is hereby acknowledged, HELVEY for herself, her heirs, executors, administrators, agents,

successors and assigns does hereby release, waive and forever discharge SSA, its affiliates, subsidiaries, and parent companies, and any of its, or their, agents, officers, employees, directors, predecessors and successors from any and all claims, demands, rights, debts, agreements and contracts, sums of money and actions or causes of actions, of whatever nature or type, whether legal or equitable, which she has or may have as of the date of this Release, including, but not limited to, actions or causes of actions asserted or which could have been asserted by HELVEY in the previously referenced Lawsuit, or in any other actions including, but not limited to, allegations of harassment, discrimination, retaliation, wrongful termination or discipline, failure to hire or promote, violations of the Family and Medical Leave Act, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act, Title VII of the Civil Rights Acts of 1964 and 1991, the Elliott-Larsen Civil Rights Act, the Equal Pay Act, the Fair Labor Standards Act, the Employee Retirement and Income Security Act of 1974 (hereinafter referred to as "ERISA"), violations of any municipal, state and other federal statutory or common laws, violation of public policy, breach of contract, loss of wages, loss of fringe benefits, pain and suffering, intentional infliction of emotional distress, mental distress, mental anguish, humiliation, embarrassment, defamation, invasion of privacy, exemplary and punitive damages, interest, court costs, and attorneys' fees.

HELVEY specifically agrees to dismiss with prejudice any pending actions against SSA and further agrees that she will not commence any action, lawsuit, claim, charge, grievance or other legal proceeding against SSA, its affiliates, subsidiaries, parent companies, agents, officers, employees, directors, predecessors and successors on account of any act, fact or circumstance existing as of the date of this Release.

It is understood and agreed that this settlement is made without any admission of or adjudication of liability, fault or truth of the allegations made by HELVEY against SSA and that HELVEY is not the prevailing party in any civil action against SSA.

HELVEY warrants, represents and agrees that she is not relying upon the advice of SSA or its counsel as to the legal or income tax consequences of this settlement. Further, HELVEY hereby releases and discharges SSA and its agents, employees and attorneys from any and all claims, rights, damages, costs or expenses of whatever nature that may accrue to or be incurred by HELVEY by reason of the legal or income tax consequences of this settlement.

HELVEY understands and states that she has been given at least twenty-one (21) days to consider this Release. HELVEY further understands that she is advised to consult with an attorney (at her own expense) before signing this Release.

HELVEY understands that she has the right to revoke this Release within seven (7) days after its execution and that it shall not become effective or enforceable until expiration of the seven (7) day revocation period and then only if HELVEY has not revoked her acceptance. HELVEY further understands that she may revoke this Release after she signs it by submitting a written notice of revocation to Gary Young, HR Manager, 500 Speedway Drive, Enon, OH, 45323-1056, on or before the end of the eighth day following the date that she signed this Release. HELVEY also understands that if she submits a written notice of revocation by mail, it must be received no later than the eighth day following the date on which she signed this Release. HELVEY also agrees that the consideration will not be provided until this Release becomes irrevocable.

HELVEY states that in entering into this Release, she has relied wholly upon her judgment, belief and knowledge and signs her name as her own free act and further declares:

1. I KNOW THAT THIS PAPER IS MUCH MORE THAN A RECEIPT. IT IS A RELEASE. I AM GIVING UP EVERY RIGHT I HAVE AGAINST SSA.
2. I REALIZE THAT THE PAYMENT OF THE MONEY MENTIONED ABOVE IS NOT AN ADMISSION THAT ANYONE IS LIABLE TO ME FOR ANYTHING.
3. I AM SIGNING THIS FULL RELEASE OF ALL CLAIMS BECAUSE I AM GETTING THE MONEY.
4. I UNDERSTAND THAT I AM ADVISED TO CONSULT WITH AN ATTORNEY (AT MY OWN EXPENSE) BEFORE SIGNING THIS RELEASE AND TO THE EXTENT THAT I DEEMED IT APPROPRIATE, I DID SO.
5. I HAVE BEEN GIVEN AT LEAST 21 DAYS TO CONSIDER THIS FULL RELEASE OF ALL CLAIMS, HAVE TAKEN ALL THE TIME I WANT OR NEED IN WHICH TO DECIDE TO ACCEPT IT.
6. I AM SATISFIED.

This Release, together with the Consent Decree entered into between the EEOC and SSA in Case No. 02-73585 represent, constitute and incorporate the entire, exclusive and complete understanding of the parties mentioned herein and reduces to writing all oral negotiations and agreements. In executing this Release, HELVEY has not relied upon verbal or written statements by SSA or its counsel. The terms, provisions and conditions of this Release may not be altered, modified or changed or otherwise admitted unless made in writing and signed by HELVEY and an authorized representative of SSA. All parts of this Release are separate and severable from each other. Should any part of this Release be deemed or declared to be invalid or illegal, the validity of other parts or the remainder of this Release shall not be affected thereby.

HELVEY agrees that she has read and understands this Release; that she has had the opportunity of prior review and consultation with her legal counsel prior to executing this Release; and, that she executes it voluntarily and of her own free will.

IN WITNESS WHEREOF, I voluntarily execute this Full Release of All Claims on this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Dorothy Helvey

\_\_\_\_\_  
Date

On the \_\_\_\_\_ day of \_\_\_\_\_, 2003, before me personally came Dorothy Helvey known to me to be the individual described in and who executed the foregoing Full Release of All Claims, and acknowledged that she fully understood its contents and that it was a Full Release of All Claims and that she signed it as her own free act and deed for the sole consideration therein expressed.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

RECEIVED  
JUL 30 2003  
Kimberly B. Schroeder

Attachment B

Helvey (CP)	Dorothy	\$791.25		
Madwell	Janice	\$1,631.25		
Clark	Te'Cora	\$651.25		
Comer	Lisa	\$2,651.25		
Cooper	Denise	\$892.25		
Dukes	Shirley	\$1,171.25		
Hudson	Kevin	\$891.25		
Johnson	Davonna	\$411.25		
Kemokai	Patrick	\$2,931.25		
Lykes	La Tease	\$1,171.25		
Samuel	Christopher	\$1,172.25		
Scott	Lisa	\$411.25		
Ward	Tangela	\$651.25		
Warren	Tia Nicole	\$1,531.25		
Williams	Mary	\$1,291.25		
Williams-Cochran	Deborah	\$1,651.25		



RECEIVED

JUL 30 2003

Kimberly B. Schroeder

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T-311

313 226 6584

From=EEOC DETROIT DISTRICT OFC

02:07pm

Jul-30-2003

Helvey (CP)	Dorothy			
Cadwell	Janice			
Clark	Te'Cora			
Comer	Lisa			
Cooper	Denise			
Dukes	Shirley			
Hudson	Kevin			
Johnson	Davonna			
Kemokai	Patrick			
Lykes	La Tease			
Samuel	Christopher			
Scott	Lisa			
Ward	Tangela			
Warren	Tia Nicole			
Williams	Mary			
Williams-Cochran	Deborah			

## ATTACHMENT C

### NOTICE

This notice is being posted to inform you of your rights guaranteed by federal law under Title VII of the Civil Rights Act of 1964, as amended, ("Title VII") pursuant to United States Equal Employment Opportunity Commission v. Speedway SuperAmerica, Civil Action No. 02-73585. Title VII prohibits discrimination against any employee on the basis of race, sex, age, national origin and religion with regard to any term or condition of employment, including hiring. Title VII also prohibits retaliation against employees who engage in protected activity, which includes filing charges of discrimination with the United States Equal Employment Opportunity Commission ("EEOC") or state administrative agencies, participating in the Commission's investigation process, or otherwise opposing unlawful discrimination.

The United States Equal Employment Opportunity Commission is the federal agency which investigates charges of unlawful employment discrimination and, if necessary, brings lawsuits in federal court to enforce the provisions of Title VII. Any employee who believes that he or she is the victim of discrimination or retaliation has the legal right to file a charge of discrimination with the U.S. Equal Employment Opportunity Commission.

SPEEDWAY SUPERAMERICA LLC supports and will comply with this federal law in all respects, and will not take any action against any employee because of the exercise of rights under these laws.