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JUN 11 2003

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UNITED STATES
DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

**FOODCRAFTERS DISTRIBUTION COMPANY,
TROPICAL PLANT CARRIERS, INC., and
LITTLE BROWNIES PROPERTIES, INC.**

Defendant.

CIVIL ACTION NO.

*03 CV 2794
(RMB)*

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and to provide appropriate relief to Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds, and Paula Bobo (the "Charging Parties") and a class of female employees who were adversely affected by such practices. The Commission alleges that during their employment, the Charging Parties and class members were subjected to sexual harassment in the form of repeated, unwanted sexually offensive remarks and behaviors, sexually derogatory comments, and sexual advances from both managers and co-workers. Reports of the pervasive sexually offensive atmosphere to several levels of management did not result in prompt effective correction of the hostile work

environment. The Commission also alleges that Defendants did not post a sexual harassment policy or provide class members or other employees with instruction or training on the topic. Due to the hostile work environment experienced by the Charging Parties, they were forced to resign from their employment with Defendants. As a result of the harassment and their constructive discharges, the class members suffered emotional distress and wage loss damages.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to 706 (f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of New Jersey.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII, and is expressly authorized to bring action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Foodcrafters Distribution Company, Tropical Plant Carriers, Inc., and Little Brownies Properties, Inc. (Defendant Employers) have continuously been doing business in the State of New Jersey and the City of Pennsauken as an integrated enterprise, and have continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Employers have continuously engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42

U.S.C. §§ 2000e-(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the initiation of the lawsuit, Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds, and Paula Bobo (the "Charging Parties") filed charges with the Commission alleging violations of Title VII by Defendant Employers. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least December 2000, Defendant Employers have engaged in unlawful employment practices at their Pennsauken, New Jersey facility in violation of Sections 703(a)(1) and 704(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and § 2000e-3(a). These unlawful practices include, but are not limited to the following:

(a) From at least December 2000 until the Charging Parties were forced to resign from their employment during the period of March to May 2002, Terminal Manager Al Avila regularly made sexually offensive, degrading and unwelcome remarks to the Charging Parties and failed to take prompt effective action when the offensive remarks and behaviors of Dock Manager Ken Brandt and other employees were reported to him. Examples of the sexually offensive and degrading remarks made by Terminal Manager Al Avila and the remarks and behaviors reported to him which he failed to correct include:

(1) Advising Eileen Horner that women need to be "smacked around" and are good for only one thing - sex;

(2) Regularly commenting on the size of womens' breasts and telling Eileen Horner that he wanted to hire female employees based on their breast sizes;

(3) Laughing after a dispatcher beat his girlfriend in the parking lot, and commenting that the dispatcher's girlfriend probably deserved the beating;

(4) Making sexual comments about Leighanne Reynolds' body in the presence of the other Charging Parties and other employees, and staring at her buttocks, to the point of actually dropping the telephone on one occasion to stare at her buttocks;

(b) From at least November 2001 until the Charging Parties were forced to resign from their employment during the period of March to May 2002, Dock Manager Ken Brandt repeatedly made sexually offensive and unwelcome remarks to all of the Charging Parties and specifically made sexual advances to Eileen Horner and Danelle Horner. Examples of the offensive remarks and advances made by Dock Manager Ken Brandt included the following:

(1) Telling Danelle Horner that he wanted her to pull down her pants and sit on his face;

(2) Asking Leighanne Reynolds to strip for him on the top of the pool table and offering her \$20.00 to dance for him;

(3) Asking Eileen Horner to "hook up" with him and "party on the dock" with him, telling her that he lived for sex and commenting on her body in jeans;

(c) From at least April 2001 until the Charging Parties were forced to resign from their employment during the period of March to May 2002, General Manager Michael Alfano made sexually offensive and unwelcome remarks to Eileen Horner, Danelle Horner and Paula Bobo, and failed to take prompt, effective corrective action when the offensive remarks, behavior, and sexual advances of Terminal Manager Al Avila, Dock Manager Ken Brandt, and other employees were reported to him. Examples of the offensive remarks and advances made by General Manager Michael Alfano and the sexually offensive behaviors and comments reported to him that he failed to correct include:

(1) Advising Eileen Horner and Danelle Horner, when they requested more

working hours, that he would get back to them in 28 days since they are on the "same cycle" as his wife;

(2) Laughing in response to complaints of sexual harassment and failing to take effective action to discipline Ken Brandt and correct his behavior after Charging Parties Eileen and Danelle Horner reported to him that Brandt had asked Ms. Horner to take off her pants and sit on his face;

(3) Failing to take prompt effective steps to resolve the repeated complaints made to him concerning the sexually offensive comments, behaviors and advances of Al Avila, Ken Brandt and Customer Service Representative Steve Scarani.

(d) Defendant Employers did not post a sexual harassment policy during the employment of the Charging Parties and did not provide any training, instruction or handbook section on any sexual harassment policy to Charging Parties.

(e) As a result of the sexually hostile, offensive and degrading work environment at the Pennsauken, New Jersey facility, Charging Parties were forced to resign from their employment during the time period from March - May 2002.

8. The effect of the practices complained of in paragraph 7(a)-(e) above has been to deprive Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees of equal employment opportunities and otherwise adversely effect their status as employees because of their sex, female.

9. The effect of the practices complained of in paragraph 7(a)-(e) has been to deprive Eileen Horner, Danielle Horner, Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees of equal employment opportunities and otherwise adversely effect their status as employees because of their gender.

10. The unlawful employment practices complained of in paragraph 7(a)-(e) were intentional.

11. The unlawful employment practices complained of in paragraph 7(a)-(e) were done with malice or with reckless indifference to the federally protected rights of Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employers, their officers, successors, assigns, and all persons in active participation with them, from engaging in any employment practice which discriminates on the basis of sex.

B. Order Defendant Employers to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employers to make whole Eileen Horner, Danielle Horner, Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees by providing appropriate backpay with prejudgement interest, in amounts to be determined at trial, and other relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employers to make whole Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7(a)-(e) above, in amounts to be determined at trial.

E. Order Defendant Employers to make whole Eileen Horner, Danelle Horner,

Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7(a)-(e) above, including physical and emotional pain and suffering, depression, anxiety, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employers to pay Eileen Horner, Danelle Horner, Dayna Horner, Leighanne Reynolds, Paula Bobo and a class of female employees punitive damages for their malicious and reckless conduct described in paragraph 7(a)-(e) above, in amounts to be determined at trial.

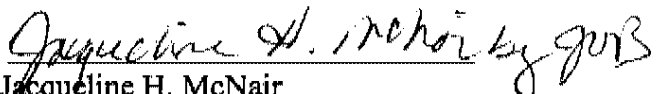
G. Grant such further relief as the Court deems necessary and proper in the public interest.

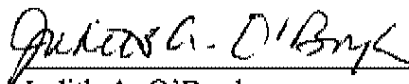
H. Award the Commission its costs of this action.

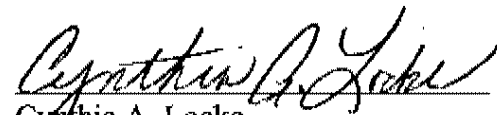
JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

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