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CLERK OF DISTRICT COURT	
DISTRICT OF ARIZONA	
BY	DEPUTY

8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 Sam Darmo, Amer Darmo, and Samuel Einhorn,
12 plaintiffs,
13 vs.
14 Pinnacle Nissan, Inc.,
15 defendant.

CIV No. 00-1872 PHX LOA

**COMPLAINT IN
INTERVENTION**

(Jury Trial Demanded)

16 For their complaint against defendant Pinnacle Nissan, Inc., plaintiffs allege the
17 following:

18 **JURISDICTION**

- 19 1. This is an action seeking equitable relief and money damages for racial
20 discrimination, national origin discrimination, religious discrimination, and retaliation
21 in the workplace brought by plaintiffs against defendant Pinnacle Nissan, Inc.,
22 pursuant to the Civil Rights Act of 1866, 42 U.S.C. § 1981, and Title VII of the
23 Civil Rights Act of 1964, 42 U.S.C. § 2000e, as amended by Title I of the Civil
24 Rights Act of 1991, 42 U.S.C. § 1981a.
- 25 2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
26 1343(4).
- 27 3. Venue is proper in the District of Arizona pursuant to 28 U.S.C. § 1391(b) and 42
28 U.S.C. § 2000e-5(f)(3).
4. Pinnacle Nissan caused events to occur in Maricopa County, Arizona which give

18

1 rise to this complaint.

2 **PARTIES**

3 5. Plaintiffs Samuel Darmo and Amer Darmo are of Assyrian ancestry. They reside
4 in Maricopa County, Arizona.

5 6. Plaintiff Samuel Einhorn is of Jewish ancestry and faith. He resides in Maricopa
6 County, Arizona.

7 7. Defendant Pinnacle Nissan, Inc., is a corporation doing business in Maricopa
8 County, Arizona.

9 8. Pinnacle Nissan, Inc., owns and operates an automobile dealership in Scottsdale,
10 Arizona.

11 9. At all times material to this Complaint, Pinnacle Nissan has continuously been an
12 employer engaged in an industry affecting commerce within the meaning of
13 Sections 701(b), (g) and (h) of Title VII of the Civil Rights Act of 1964, 42 U.S.C.
14 § 2000e, and has had at least 15 employees for each working day for at least
15 twenty days during the past calendar year.

16 **MATERIAL FACTS**

17 10. Plaintiff Sam Darmo was employed as a salesperson by Pinnacle Nissan from
18 December 1996 to February 25, 1998.

19 11. Plaintiff Amer ("Gino") Darmo was employed as a salesperson by Pinnacle Nissan
20 from June 1997 to February 15, 1998.

21 12. Plaintiff Samuel Einhorn was employed as a salesperson by Pinnacle Nissan from
22 November 1996 to March 9, 1998.

23 13. Pinnacle Nissan engaged in a pattern and practice of discriminating against its
24 employees (including plaintiffs) on the basis of race, national origin, and religion
25 by subjecting them to pervasive racial and religious epithets (and other similar
26 derogatory, racially charged comments) in the workplace.

27 14. For example, through its managers Mark Wimberly, Mark Doinidis, and Charles
28

Grosso, Pinnacle Nissan degraded its employees (including plaintiffs Sam Darmo and Amer Darmo) by regularly referring to them individually and collectively as "sand-niggers," "terrorists," and "camel-jockeys," and by belittling Assyrian culture in general.

15. Pinnacle Nissan's senior managers also regularly referred to Pinnacle Nissan employees of Jewish ancestry and/or faith (including plaintiff Samuel Einhorn) as "kikes" and "fat Jew bastards."

16. Knowing that plaintiff Samuel Einhorn's parents were survivors of the Holocaust, Pinnacle Nissan's senior managers also told Mr. Einhorn that they "wish[ed] Hitler would have killed all of you Jews" and altered Mr. Einhorn's pay stub to read "Heavy Hitler."

17. Moreover, in the presence of plaintiffs, Pinnacle Nissan's senior managers and salespeople routinely referred to Pinnacle Nissan's customers as "kikes," "dot-heads," "niggers," "spics," "wet-backs," "porch-monkeys," "towel-heads," "sand-niggers," and "camel-jockeys," etc.

18. These comments were sufficiently pervasive and severe to create an unlawful hostile working environment at Pinnacle Nissan and to detrimentally change the terms and conditions of employment of Pinnacle Nissan's employees, including plaintiffs.

19. When Pinnacle Nissan's employees (including plaintiffs) complained of Pinnacle Nissan's discriminatory practices, Pinnacle Nissan retaliated against them by threatening them with termination.

20. Pinnacle Nissan took no effective corrective actions in response to plaintiffs' complaints of a hostile working environment at Pinnacle Nissan.

21. Nor did Pinnacle Nissan take any preventive measures to prevent discriminatory harassment in the workplace by implementing an anti-harassment educational policy.

- 1 22. After plaintiffs' repeated complaints of harassment in the workplace were
2 consistently ignored by Pinnacle Nissan's senior management, plaintiffs were
3 constructively discharged by Pinnacle Nissan in February and March of 1998.
- 4 23. As a result of Pinnacle Nissan's discriminatory conduct as summarized above,
5 plaintiffs have suffered lost wages, intense pain and suffering, humiliation, and
6 other compensable damages.
- 7 24. The discriminatory practices complained of above were perpetrated by Pinnacle
8 Nissan with malice and/or reckless indifference to plaintiffs' federally protected
9 rights.
- 10 25. As of the end of September 2000, an unlawful, discriminatory work environment
11 continued to exist at Pinnacle Nissan, and its senior managers continued to
12 routinely refer to their subordinates and customers as "niggers," "sand-niggers,"
13 "wetbacks," "spics," "kikes," and "Jew bastards."
- 14 26. Plaintiffs filed charges of discrimination with the Equal Employment Opportunity
15 Commission ("EEOC") within 300 days of Pinnacle Nissan's last discriminatory act
16 and have satisfied all conditions precedent to the filing of this action.
- 17 27. On May 5, 2000, upon completion of its investigation of plaintiffs' charges, the
18 EEOC issued a Determination that there was cause to conclude that Pinnacle
19 Nissan had unlawfully discriminated against plaintiffs based on ethnicity, race, and
20 religion, a true and correct copy of which is attached hereto as Exhibit A.
- 21 28. Pursuant to Rule 38 (b) of Federal Rules of Civil Procedure, plaintiffs hereby
22 exercise their right to demand a trial by jury.

23 **PRAYER FOR RELIEF**

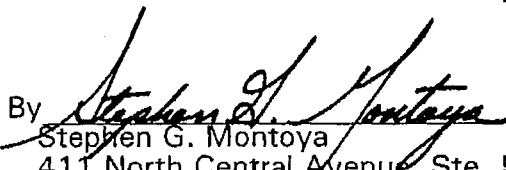
24 Based on the foregoing, plaintiffs respectfully request the Court to award plaintiffs
25 the following relief against Pinnacle Nissan:

- 26 A. Issue a declaratory judgement declaring that Pinnacle Nissan's conduct
27 violated plaintiffs' rights under the Civil Rights Act of 1866, 42 U.S.C. §
28

1 1981, and the Civil Rights Act of 1964, 42 U.S.C. § 2000e, as amended by
2 the Civil Rights Act of 1991, 42 U.S.C. § 1981a;

- 3 B. Issue a permanent injunction enjoining Pinnacle Nissan from engaging in
4 racial discrimination, national origin discrimination, religious discrimination,
5 and retaliation;
- 6 C. Issue a permanent injunction requiring Pinnacle Nissan to implement and
7 enforce policies which provide equal employment opportunities for its
8 employees and which eradicate the effects of its past discriminatory
9 practices;
- 10 D. Issue plaintiffs awards of back pay and front pay against Pinnacle Nissan;
- 11 E. Award plaintiffs nominal damages against Pinnacle Nissan in the amount of
12 one dollar;
- 13 F. Award plaintiffs compensatory damages against Pinnacle Nissan in an
14 amount to be determined at trial;
- 15 G. Award plaintiffs punitive damages against Pinnacle Nissan in an amount to
16 be determined at trial; and
- 17 H. Award plaintiffs all other relief that is just, equitable, and appropriate under
18 the circumstances.

19 RESPECTFULLY SUBMITTED this 11th day of October 2000.

20
21 By 
22 Stephen G. Montoya
23 411 North Central Avenue, Ste. 520
24 Phoenix, Arizona 85004

25
26
27 Attorney for Intervening Plaintiffs
28

1 Original and one copy filed this 11th day of October 2000, with the
2 Clerk of the United States District Court
3 for the District of Arizona
4 UNITED STATES COURTHOUSE
5 230 North First Avenue
6 Phoenix, Arizona 85025

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By 

EXHIBIT A



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Phoenix District Office

3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012-2504
(602) 640-5000
TTY (602) 640-5072
FAX (602) 640-5071

Charge No. 350-99-0039

Sam Einhorn
9537 E. Rockwood
Scottsdale, Arizona 85255

Charging Party

Pinnacle Nissan
7601 E. Frank Lloyd Wright
Scottsdale, Arizona 85260

Respondent

Automotive Investment Group
1550 E. Missouri, Suite 300
Phoenix, Arizona 85014

Respondent

AMENDED DETERMINATION

I issue the following amended determination on the merits of this charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq. and timeliness, and all other requirements for coverage have been met.

Charging Party claims he was subjected to continuous racial and ethnic slurs directed at him by management employees, and a hostile work environment in which racial and ethnic comments, jokes and insults were directed against all ethnic, and racial minority employees and customers. As a result of the intolerable conditions to which he was subjected, he quit his job on March 9, 1998.

Examination of the evidence reveals that Respondent subjected Charging Party to unlawful harassment based on race, national origin and religion. This conduct includes, but is not limited to, derogatory comments made by Respondents' management officials about Charging Party's Jewish religion and heritage and Respondent's failure to take appropriate remedial action.

In addition, the Commission finds that Respondent discriminated against a class of individuals by subjecting them to harassment based on national origin or religion and failing to take appropriate remedial action.

The Commission has held and continues to hold that an employer has a duty to maintain a working environment free of harassment based on race, color, religion sex, national origin age or disability and that the duty requires positive action where necessary to eliminate such practices or remedy their effects.

The Commission has determined Respondent retaliated against a class of employees who engaged in a protected activity under Section 704(a) of Title VII.

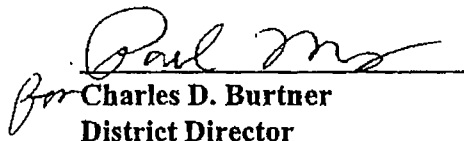
Accordingly, I find reasonable cause to believe Respondent violated Title VII.

No finding is made regarding any other issues which may have been raised by the charge.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentially provisions of Title VII and the Commission Regulations apply to information obtained during conciliation.

If Respondent declines settlement or when, for any other reason, a settlement acceptable to the office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

5-5-00
Date


for Charles D. Burtner
District Director



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Phoenix District Office

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Phoenix, AZ 85012-2504
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Charge No. 350-99-0037

Amer Darmo
13394 N. 74th Lane
Peoria, Arizona 85381

Charging Party

Pinnacle Nissan
7601 E. Frank Lloyd Wright
Scottsdale, Arizona 85260

Respondent

Automotive Investment Group, Inc.
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Examination of the evidence reveals that Respondent subjected Charging Party to unlawful harassment based on race and national origin. This conduct includes, but is not limited to, derogatory comments made by Respondents' management officials about Charging Party's national origin and Respondent's failure to take appropriate remedial action. Further the Commission finds as a result of this treatment, Charging Party was constructively discharged.

In addition, the Commission finds that Respondent discriminated against a class of individuals by subjecting them to harassment based on national origin or religion and failing to take appropriate remedial action.

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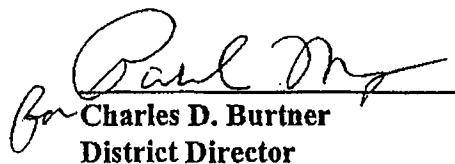
The Commission has determined Respondent retaliated against Charging Party and a class of employees who engaged in a protected activity under Section 704(a) of Title VII.

Accordingly, I find reasonable cause to believe Respondent violated Title VII.

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Charge No. 350-99-0038

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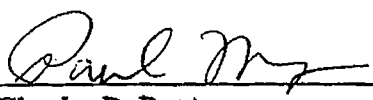
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