

Moreover, as alleged with greater particularity below, the Defendant failed to post and keep posted the notices required by Section 711(a) of Title VII, 42 U.S.C. § 2000e-10(a).

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 Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-5(f)(1) (“Title VII”), 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 Southern District of Mississippi.

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 this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. Section 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Employer has continuously been a Mississippi corporation doing business in the State of Mississippi and in the cities of Jackson, Yazoo City, Ridgeland, and Brookhaven, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 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 institution of this lawsuit, Hodge filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since approximately 2005, Defendant Employer has engaged in unlawful employment practices at its Mississippi stores in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and 2000e-2(a). Specifically, Defendant subjected Hodge and other female employees who worked at Defendant's Mississippi stores to unwelcome, degrading and offensive sexual conduct, often culminating in adverse employment actions, based on their sex (female)

8. Examples of this conduct include:

a. Jeff Stewart ("Stewart"), Defendant's Operations Manager, propositioned Hodge and other female employees for sex, including offering them money, higher salaries, and other benefits in exchange for sex;

b. Stewart graphically described lewd sexual acts to Hodge and other female employees and suggested that they engage in them;

c. Stewart made graphic and lewd sexual comments to Hodge and the other female employees such as "his penis belongs in an employee's vagina; "he wanted to f—k" a female employee "real bad"; and he wanted to see an employee naked;

d. Stewart commented about female employees' "butts" and breasts, invited a female employee to hold his penis while he urinated, told a female employee that his penis was bigger than her boyfriend's, invited a female employee into the bathroom for a sexual encounter, cornered a female employee in an office for a sexual encounter, and asked another female employee whether she liked "cream filling" or sex with females;

e. Stewart sexually groped female employees and touched them in their private areas, including sticking his hands down their pants;

f. Stewart took sexual photographs and videos of female employees' bodies and then displayed them in the workplace;

g. Stewart engaged in sexually graphic demonstrations and gestures, including grabbing or pointing to his penis, pointing to female employee's private parts, and stuffing food in his groin area to simulate a sexual organ;

h. Stewart's conduct was open and notorious and Defendant, including its supervisors, and managers, was aware of it;

i. Women who objected to or rejected Stewart's sexual advances and comments, or refused to engage in them, were threatened by Stewart with termination, reduction in pay, and other tangible changes in their conditions of employment;

j. Many female employees were afraid to complain about Stewart's conduct because Stewart was intimidating and had a reputation for penalizing employees who resisted, complained about, or challenged him;

k. Some female employees complained to Defendant, including its supervisors and managers, about Stewart's conduct, but nothing was done to stop it;

l. Many female employees, aware that nothing had been done about Stewart's conduct and complaints to Defendant about it, did not believe Defendant would stop the conduct even if they complained;

m. Defendant failed to take prompt or effective preventive, corrective or remedial action;

n. Employee protests directly to Stewart did not stop Stewart's unlawful conduct;

o. Stewart either took or threatened to take adverse actions against employees who refused to acquiesce to his sexual demands, conduct and comments; and

p. Stewart's conduct was unwanted, severe and pervasive, and female employees' were offended by it.

9. On or about August 2009, Defendant Employer engaged in unlawful employment practices at its Mississippi stores by retaliating against Hodge in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

a. The Commission incorporates by reference paragraph nine (9) of this Complaint.

b. Hodge complained to Defendant's Store Manager, Sam Whitehead ("Whitehead"), about Stewart's sexually harassing conduct.

c. Shortly after Hodge reported the harassment to Whitehead, Defendant terminated Hodge allegedly because of a minor verbal dispute she had with a co-worker. In contrast, no action was taken against the co-worker although she instigated the dispute.

d. Defendant's decision to terminate Hodge was in retaliation for her having engaged in activity.

e. Whitehead later told Hodge that the incident was not her fault. Nevertheless, she was not reinstated.

10. Since at least June, 2011, Defendant Save-A-Lot has failed, in violation of Section 711(a) and (b) of Title VII, 42 U.S.C. § 2000e-10(a) and (b), to post and keep posted notices which have been prepared or approved by the Commission setting forth excerpts from or summaries of the pertinent provisions of Title VII and information pertinent to the filing of a charge or complaint.

a. During an onsite investigation at Defendant's premises on June 2, 2011, an EEOC investigator saw that Defendant did not have posted in conspicuous places where notices to employees and applicants for employment are customarily posted, the required notices.

11. The effect of the practices complained of in paragraph(s) six (6) through ten (10) above has been to deprive Hodge and/or a class of female employees who worked at Defendant's Mississippi stores of equal employment opportunities and, otherwise, adversely affect their status

as employees because of their sex (female) and/or in retaliation for opposition to acts made unlawful by Title VII.

12. The unlawful employment practices complained of in paragraphs six (6) through ten (10) above were intentional.

13. The unlawful employment practices complained of in paragraphs six (6) through ten (10) above were done with malice or with reckless indifference to the federally protected rights of Hodge and other female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant Save-A-Lot, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in sexual harassment, and any other employment practices which discriminate on the basis of sex, and from engaging in retaliation for opposition to employment practices which discriminate on the basis of sex.
- B. Order Defendant Save-A-Lot to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and for persons who oppose conduct prohibited by Title VII, and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant Save-A-Lot to make whole Hodge, and the class of female employees, by providing, as appropriate, appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices including, but not limited to, front pay.

- D. Order Defendant Save-A-Lot to make whole Hodge and class of female employees by providing, as appropriate, compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs six (6) through nine (9) above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.
- E. Order Defendant Save-A-Lot to pay to Hodge and the class of female employees punitive damages for its malicious and reckless conduct described in paragraphs six (6) through ten (10) above, in amounts to be determined at trial.
- F. Order Defendant Save-A-Lot to post and keep posted notices in accordance with the provisions of Section 711(a) of Title V II, 42 U.S.C. § 2000e-10(a) and assess appropriate civil fines against the Defendant pursuant to Section 711(b) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-10(b).
- 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.

Date: December 8, 2011

RESPECTFULLY SUBMITTED,

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