IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA ORLANDO DIVISION

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UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

EXECUTIVE RECORD SERVICES, INC.

Defendant.

6: 04-CV-1223-0RL-22 KRS CIVIL ACTION NO.

COMPLAINT

<u>JURY TRIAL DEMANDED</u> INJUNCTIVE RELIEF SOUGHT

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 and retaliation, and to provide appropriate relief to Cynthia Lane who was adversely affected by such practices. As stated with greater particularity in paragraph 7, the Commission alleges that Cynthia Lane was subjected to sexual harassment by Defendant's Director of Marketing and Sales. The conduct was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. The Commission further alleges that Defendant subsequently retaliated against Cynthia Lane for complaining of the unlawful sexual harassment by terminating her employment with Defendant.

JURISDICTION AND VENUE

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 Section 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) ("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 Untied States District Court for the Middle District of Florida, Orlando Division.

PARTIES

3. Plaintiff, the United States 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. § 2000e-5(f)(1) and (3).

4. At all relevant times, Executive Record Services, Inc. (the "Employer"), has continuously been a Florida corporation doing business in the State of Florida and the City of Orlando, 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, Cynthia Lane filed a charge with the Commission alleging violations of Title VII by the Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least February, 2002, Defendant Employer engaged in unlawful employment practices at its Orlando, Florida location in violation of Section 703(a) and Section 704(a) of Title VII, 42 U.S.C. §2000e-2(a) and § 2000e-3(a).

- Cynthia Lane was subjected to sexual harassment by Defendant's Director of Marketing and Sales, in the form of unwelcome physical and verbal conduct of a sexual nature which was sufficiently severe and pervasive to constitute an intimidating, hostile and offensive work environment. The harassment included, but was not limited to, offensive touching; sexually graphic and suggestive comments; requests for sex; descriptions about the Director's own sexual prowess, and comments about his alleged relationship with the owner of Defendant Employer.
- b. Cynthia Lane repeatedly complained about the sexual harassment to Defendant's management officials who failed to take any action to correct the harassment.
- c. Defendant Employer is liable for the unlawful sexual harassment to which it subjected Cynthia Lane during her employment
- d. Defendant unlawfully retaliated against Cynthia Lane for complaining about the unlawful sexual harassment by terminating her employment.

8. The effect of the conduct complained of in paragraph 7 above has been to deprive Cynthia Lane of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex and/or in retaliation for her opposition to unlawful employment practices.

9. The unlawful employment practices complained of in paragraph 7 above were intentional.

10. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to the federally protected rights of Cynthia Lane.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with Defendant, from engaging in sexual harassment or any other employment practice which discriminates on the basis of sex and/or opposition to an unlawful employment practice.

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

C. Order Defendant to make whole Cynthia Lane by providing appropriate back pay 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 reinstatement and/or front pay.

D. Order Defendant to make whole Cynthia Lane by providing compensation for past
and future pecuniary losses resulting from the unlawful employment practices described in paragraph
7 above, including out of pocket losses in amounts to be determined at trial.

E. Order Defendant to make whole Cynthia Lane by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant to pay Cynthia Lane punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

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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.

Respectfully Submitted,

ERIC S. DRIEBAND General Counsel

JAMES L. LEE Deputy General Counsel

GWENDOLYN YOUNG REAMS Associate General Counsel

DELNER FRANKLIN-THOMAS Regional Attorney

MICHAEL J. FARRELL Supervisory Trial Attorney

s/ Kenneth L. Gillespie KENNETH L. GILLESPIE Trial Attorney Florida Bar. No. 0083054 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION MIAMI DISTRICT OFFICE One Biscayne Tower 2 South Biscayne Boulevard Suite 2700 Miami, Florida 33131 Phone: (305) 530-6006 Fax: (305) 536-4494 E-mail: kenneth.gillespie@eeoc.gov

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