WILLIAM R. TAMAYO, # 084965 (CA) JONATHAN T. PECK, #12303 (VA) SANYA HILL MAXION # 18739 (WA) EQUAL EMPLOYMENT OPPORTUNITY 3 **COMMISSION** San Francisco District Office 4 350 The Embarcadero, Suite 500 San Francisco, California 94105-1260 5 Telephone: (415) 625-5650 Attorneys for Plaintiff 6 7 8 9 UNITED STATES DISTRICT COURT 10 NORTHERN DISTRICT OF CALIFORNIA 11 12 EQUAL EMPLOYMENT OPPORTUNITY ) COMMISSION, CIVIL ACTION NO. C03-4383-MEJ 13 14 Plaintiff. AMENDED 15 COMPLAINT v. Civil Rights - Employment Discrimination 16 STEPHENS INSTITUTE d/b/a ACADEMY OF ART COLLEGE JURY TRIAL DEMAND 17 18 Defendant. 19 20 21 **NATURE OF THE ACTION** 22 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil 23 Rights Act of 1991 to correct unlawful employment practices on the basis of race and to provide 24 appropriate relief to Charging Party David T. Banks and other black employees of the defendant, 25 who were adversely affected by such practices. The Commission alleges that the defendant 26 discriminated against Mr. Banks and other black employees by subjecting them to a racially hostile 27 work environment and discharging the Mr. Banks because of his race. 28

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COMPLAINT

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### **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. §§ 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 in the City and County of San Francisco, California, which is within the jurisdiction of the United States District Court for the Northern District of California.

## **PARTIES**

- 3. Plaintiff, the Equal Employment Opportunity Commission (the "Comission"), 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 Sections 706 (f) (1) and (3) of Title VII, 42 U.S.C. §§2000e-5 (1) and (3).
- 4. At all relevant times, Defendant, Stephens Institute d/b/a Academy of Art College (the "Employer") has continuously been doing business in the State of California and in the City and County of San Francisco, California, and has continuously employed at least fifteen employees.
- 5. At all relevant times, Defendant Employer has continuously been an employer 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 institution of this lawsuit, David T. Banks filed a Charge of Discrimination 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 at least September 11, 2000, Defendant Employer has engaged in unlawful employment practices at its San Francisco, California campus in violation of Section 703 (a) of Title VII, 42 U.S.C. §2000e-3 (a). These practices include subjecting Mr. Banks and other black employees to a racially hostile work environment and discharging Mr. Banks because of his race.

- 8. The effect of the practices complained of above has been to deprive Mr. Banks and other black employees of equal employment opportunities and to otherwise adversely affect their employment status as employees because of their race.
  - 9. The unlawful employment practices complained of above were intentional.
- 10. The unlawful employment practices complained of above were and are done with malice and/or reckless indifference to the federally protected rights of Mr. Banks and other black employees.

# **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in racial discrimination and any other employment practices which discriminate on the basis of race.
- B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for their black employees and which eradicate the effects of its past and present unlawful employment practices.
- C. Order Defendant Employer to make whole Mr. Banks and other black employees by providing appropriate compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.
- D. Order Defendant Employer to make whole Mr. Banks and other black employees by providing compensation for past and future non-pecuniary losses caused by the above unlawful conduct described above, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.
- E. Order Defendant Employer to pay Mr. Banks and other black employees punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.
- F. Grant such further relief as the Court deems necessary and proper in the public interest.
  - G. Award the Commission its costs of this action.

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2	JURY TRIAL DEMAND  The Commission requests a jumy trial on all questions of fact raised by its commisint	
3	The Commission requests a jury trial on all questions of fact raised by its complaint.	
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5	Respectfully submitted,	
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12		/s/
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16	DATED: November <u>25</u> , 2003_	/s/
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