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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11

12 EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

CIVIL ACTION NO. C-03-4383-PJH

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Plaintiff,)

v.)

SECOND A M E N D E D
C O M P L A I N T

Civil Rights - Employment Discrimination

16 STEPHENS INSTITUTE d/b/a
ACADEMY OF ART COLLEGE)

JURY TRIAL DEMAND

Defendant.)
_____)

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, Oscar Jordan, Taa Willis and Hayes Campbell
25 and other black employees of the defendant who may be determined through the discovery process,
26 who were adversely affected by such practices. The Commission alleges that the defendant
27 discriminated against Mr. Banks, Mr. Jordan, Mr. Willis and Mr. Campbell and other black
28 employees who may be determined through the discovery process by subjecting them to a racially

1 hostile work environment and discharging Mr. Banks because of his race.

2
3 **JURISDICTION AND VENUE**

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

8 2. The employment practices alleged to be unlawful were committed in the City and
9 County of San Francisco, California, which is within the jurisdiction of the United States District
10 Court for the Northern District of California.

11
12 **PARTIES**

13 3. Plaintiff, the Equal Employment Opportunity Commission (the “Comission”), is the
14 agency of the United States of America charged with the administration, interpretation, and
15 enforcement of Title VII and is expressly authorized to bring this action by Sections 706 (f) (1) and
16 (3) of Title VII, 42 U.S.C. §§2000e-5 (1) and (3).

17 4. At all relevant times, Defendant, Stephens Institute d/b/a Academy of Art College
18 (the “Employer”) has continuously been doing business in the State of California and in the City and
19 County of San Francisco, California, and has continuously employed at least fifteen employees.

20 5. At all relevant times, Defendant Employer has continuously been an employer
21 engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of
22 Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

23
24 **STATEMENT OF CLAIMS**

25 6. More than thirty days prior to the institution of this lawsuit, David T. Banks filed a
26 Charge of Discrimination with the Commission alleging violations of Title VII by Defendant
27 Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

28 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-2 (a), by subjecting Mr. Banks, Mr. Jordan, Mr. Willis and Mr. Campbell and other black employees who may be determined through the discovery process 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, Mr. Jordan, Mr. Willis and Mr. Campbell and other black employees who may be determined through the discovery process 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, Mr. Jordan, Mr. Willis, Mr. Campbell and other black employees who may be determined by the discovery process.

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 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 front pay.

D. Order Defendant Employer to make whole Mr. Banks, Mr. Jordan, Mr. Willis and Mr. Campbell and other black employees who may be determined by the discovery process 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.

1 E. Order Defendant Employer to make whole Mr. Banks, Mr. Jordan, Mr. Willis and Mr.
2 Campbell and other black employees who may be determined by the discovery process by providing
3 compensation for past and future non-pecuniary losses caused by the above unlawful conduct
4 described above, including pain and suffering, emotional distress, indignity, loss of enjoyment of
5 life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

6 F. Order Defendant Employer to pay Mr. Banks, Mr. Jordan, Mr. Willis, Mr. Campbell
7 and other black employees who may be determined through the discovery process punitive damages
8 for its malicious and reckless conduct described above, in amounts to be determined at trial.

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

11 H. Award the Commission its costs of this action.

12 **JURY TRIAL DEMAND**

13 The Commission requests a jury trial on all questions of fact raised by its complaint.
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15

16 Respectfully submitted,

17 ERIC S. DREIBAND
18 General Counsel

19 JAMES L. LEE
20 Deputy General Counsel

21 EQUAL EMPLOYMENT OPPORTUNITY
22 COMMISSION
23 1801 L Street, N.W.
24 Washington, D.C. 10507

25 /s/

26 DATED: March 4, 2004 _____
27 WILLIAM R. TAMAYO
28 Regional Attorney

/s/

DATED: March 3, 2004 _____
JONATHAN T. PECK
Supervisory Trial Attorney

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2
3 DATED: March 4, 2004 /s/

4 SANYA P. HILL MAXION
5 Senior Trial Attorney

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