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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff,

v.

VISTA MANAGEMENT ASSOCIATES, INC., Defendant.

Case 1:05-cv-02338-PSF.

November 18, 2005.

Complaint and Jury Trial Demand

NATURE OF THE ACTION

This is an action under the Equal Pay Act of 1963 to correct the unlawful employment practice of payment of wages to employees of one sex at rates less than the rates paid to employees of the opposite sex, and to provide appropriate relief due to employees as a result of such unlawful practices. As alleged with greater particularity below, the United States Equal Employment Opportunity Commission ("Plaintiff" or the "Commission") alleges that Vista Management Associates, Inc. ("Defendant") paid Victoria Khatchatourian and a class of similarly situated female Property Managers at a wage rate which was less than the rate paid to its male Property Managers for performing substantially equal work. Furthermore, the Commission alleges that Defendant retaliated against Khatchatourian when, at a minimum, Defendant provided negative job references on Khatchatourian's behalf and misrepresented the conditions under which she separated from employment, also in violation of the Equal Pay Act provisions of the Fair Labor Standards Act.

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 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217, to enforce the requirements of the Equal Pay Act of 1963, codified as Section 6(d) of the FLSA, 29 U.S.C. § 206(d).

2. The employment practices were committed within the jurisdiction of the United States District Court for the District of Colorado.

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 the Equal Pay Act and is expressly authorized to bring this action by Sections 16(c) and 17 of the FLSA, 29 U.S.C. §§ 216(c) and 217, as amended

by Section 1 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant was a Colorado corporation doing business in the State of Colorado, the City of Westminster.

5. At all relevant times, Defendant has acted directly or indirectly as an employer in relation to employees and has continuously been an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

6. At all relevant times, Defendant has continuously employed employees engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(b), (i) and (j) of the FLSA, 29 U.S.C. §§ 203(b), (i) and (j) has continuously been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and (s) of the FLSA, 29 U.S.C. §§ 203(r) and (s), in that said enterprise has continuously been an enterprise whose annual gross volume of sales made or business done is not less than \$500,000.

STATEMENT OF CLAIMS

7. Since at least April 4, 2002, Defendant has violated Sections 6(d)(1) and 15(a)(2) of the FLSA, 29 U.S.C. §§ 206(d)(1) and 215(a)(2), by paying wages to its female Property Managers at rates less than the rates paid to male employees in the same establishment for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

8. As a result of the acts complained of above, Defendant unlawfully has withheld and is continuing to withhold the payment of wages due to Victoria Khatchatourian and a class of similarly situated female Property Managers.

9. Since at least March of 2003, Defendant has violated Section 15(a)(3) of the FLSA, 29 U.S.C. §§ 215(a)(3), by retaliating against Khatchatourian for asserting her rights under the Equal Pay Act, by, at a minimum, providing negative job references and misrepresenting the conditions under which she separated from employment.

10. The unlawful practices complained of above were and are willful.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating within any of its establishments between employees on the basis of sex, by paying wages to employees of one sex at rates less than the rates at which it pays wages to employees of the opposite sex for substantially equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

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

C. Grant a judgment requiring Defendant to pay appropriate back wages in amounts to be determined at trial, an equal sum as liquidated damages, or prejudgment interest in lieu thereof, to employees whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Victoria Khatchatourian and a class of similarly situated female Property Managers.

D. Order Defendant to make whole Khatchatourian by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices relating to retaliation complained of in the paragraphs above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

E. Order Defendant to pay Khatchatourian punitive damages for its malicious and reckless conduct relating to retaliation described in the paragraphs above, in amounts to be determined at trial.

F. Grant such further relief as this Court deems necessary and proper in the public interest.

G. 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.

Dated: November 18, 2005

Respectfully Submitted,

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GWENDOLYN REAMS, Associate General Counsel

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