

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

FILED

MAY 30 2003

LARRY W. PROPPS, CLERK
U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

HOMES AMERICA, INC.,
ACCENT MOBILE HOMES, INC., AND
SOUTHERN SHOWCASE HOUSING, INC.,

Defendants.

CIVIL ACTION NO.

8 03183020BJ

COMPLAINT
(JURY TRIAL DEMAND)

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 to provide appropriate relief to Peggy Cox and Diane Ballew who were adversely affected by such practices. As alleged in more particularity below, the Equal Employment Opportunity Commission ("EEOC") alleges that Defendants subjected Ms. Cox and Ms. Ballew to a sexually hostile working environment, which was created by their Sales Center Manager, and Defendants retaliated against Ms. Cox because she opposed practices made illegal by Title VII.

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 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 United States District Court for the District of South Carolina, Anderson Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "EEOC"), 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, Defendant Homes America, Inc. ("Homes America"), a Michigan corporation, continuously did business in the State of South Carolina and the City of Anderson and continuously had at least 15 employees.

5. At all relevant times, Defendant Accent Mobile Homes, Inc. ("Accent"), a North Carolina corporation, continuously did business in the State of South Carolina and the City of Anderson and continuously had at least 15 employees.

6. At all relevant times, Defendant Southern Showcase Housing, Inc. ("SSH"), a North Carolina corporation, has continuously been doing business in the State of South Carolina and the City of Anderson and has continuously had at least 15 employees.

7. At all relevant times, Defendants have continuously been employers 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). Defendants were an integrated enterprise and were joint employers of Ms. Cox and Ms. Ballew.

8. In addition to employing Ms. Cox and Ms. Ballew as part of an integrated enterprise or as a joint employer, SSH is jointly and severally liable as a successor entity to

Accent and Homes America. On December 13, 2001, Accent and Homes America merged into SSH.

STATEMENT OF CLAIMS

9. More than thirty days prior to the institution of this lawsuit, Peggy Cox and Diane Ballew filed charges with the EEOC alleging violations of Title VII by Defendants, Employers. All conditions precedent to the institution of this lawsuit have been fulfilled.

10. From approximately April 30, 2001 through July 20, 2001, Defendant Homes America has engaged in unlawful employment practices at its Anderson, South Carolina, facility, in violation of Sections 703(a)(1) and Section 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) and 2000e-3(a) as follows:

(a) By subjecting Ms. Ballew to a sexually hostile working environment, including sexual comments, sexual advances and physical touching, culminating in her constructive discharge, because of her gender (female) in violation of Section 703(a)(1);

(b) By subjecting Ms. Cox to a sexually hostile working environment, including sexual comments, sexual advances and physical touching, culminating in her actual and/or constructive discharge, because of her gender (female) in violation of Section 703(a)(1); and

(c) By subjecting Ms. Cox to discrimination in the terms and conditions of her employment and discharging her and/or constructively discharging her in retaliation for her opposition to practices made unlawful by Title VII in violation of Section 704(a).

11. From approximately April 30, 2001 through July 20, 2001, Defendant Accent has

engaged in unlawful employment practices at its Anderson, South Carolina, facility, in violation of Sections 703(a)(1) and Section 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) and 2000e-3(a) as follows:

- (a) By subjecting Ms. Ballew to a sexually hostile working environment, including sexual comments, sexual advances and physical touching, culminating in her constructive discharge, because of her gender (female) in violation of Section 703(a)(1);
- (b) By subjecting Ms. Cox to a sexually hostile working environment, including sexual comments, sexual advances and physical touching, culminating in her actual and/or constructive discharge, because of her gender (female) in violation of Section 703(a)(1); and
- (c) By subjecting Ms. Cox to discrimination in the terms and conditions of her employment and discharging her and/or constructively discharging her in retaliation for her opposition to practices made unlawful by Title VII in violation of Section 704(a).

12. From approximately April 30, 2001 through July 20, 2001, Defendant SSH has engaged in unlawful employment practices at its Anderson, South Carolina, facility, in violation of Sections 703(a)(1) and Section 704(a) of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) and 2000e-3(a) as follows:

- (a) By subjecting Ms. Ballew to a sexually hostile working environment, including sexual comments, sexual advances and physical touching, culminating in her constructive discharge, because of her gender (female) in violation of Section 703(a)(1);
- (b) By subjecting Ms. Cox to a sexually hostile working environment, including

sexual comments, sexual advances and physical touching, culminating in her actual and/or constructive discharge, because of her gender (female) in violation of Section 703(a)(1); and

(c) By subjecting Ms. Cox to discrimination in the terms and conditions of her employment and discharging her and/or constructively discharging her in retaliation for her opposition to practices made unlawful by Title VII in violation of Section 704(a).

13. The effect of the practices complained of in paragraphs 10, 11, and 12 above has been to deprive Ms. Cox and Ms. Ballew of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex or their opposition to practices made illegal by Title VII.

14. The unlawful employment practices complained of in paragraphs 10, 11 and 12 above were intentional.

15. The unlawful employment practices complained of in paragraphs 10, 11 and 12 above were taken against Ms. Cox and Ms. Ballew with malice or with reckless indifference to the federally protected rights of Ms. Cox and Ms. Ballew.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in sex discrimination, including sexual harassment, and from engaging in retaliation against employees because they have opposed employment practices made unlawful under Title VII or otherwise

engaged in protected activity under Title VII.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and for persons who oppose employment practices made unlawful under Title VII or otherwise engage in protected activity under Title VII, and which eradicate the effects of their past and present unlawful employment practices.

C. Order Defendants to make whole Peggy Cox and Diane Ballew by providing appropriate backpay, with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including but not limited to reinstatement of Ms. Cox and Ms. Ballew.

D. Order Defendants to make whole Peggy Cox and Diane Ballew, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 10, 11 and 12 above, including expenses for medical treatment and medication, in amounts to be determined at trial.

E. Order Defendants to make whole Peggy Cox and Diane Ballew by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 10, 11 and 12 above, including, but not limited to, fear, anxiety, loss of earning capacity, loss of enjoyment of life, suffering, humiliation, emotional pain, loss of dignity, loss of civil rights, anger, and inconvenience, in amounts to be determined at trial.

F. Order Defendants to pay Peggy Cox and Diane Ballew punitive damages for Defendants' malicious and reckless conduct described in paragraphs 10, 11 and 12 above, in amounts to be determined at trial.

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

H. Award the EEOC its costs of this action.

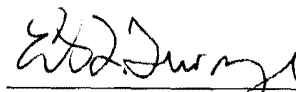
JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by the pleadings and papers filed with the Court.

Dated this 30th day of May, 2003.

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