

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

**FILED**

NOV 21 2003

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

Equal Employment Opportunity  
Commission,  
  
Plaintiff,  
  
vs.  
  
Homes America Inc., Accent Mobile  
Homes, Inc., and Southern Showcase  
Housing, Inc.,  
  
Defendants.

Civil Action No. 8:03-1830-26BI

**ORDER**

This matter is before the court on the plaintiff's motion to compel responses to its Requests to Produce Nos. 14 and 15. Plaintiff Equal Employment Opportunity Commission ("EEOC") alleges causes of action for hostile work environment and retaliation pursuant to Title VII of the Civil Rights Act of 1964, as amended. Specifically, the EEOC alleges that the defendants subjected former employees Diana Ballew and Peggy Cox to a sexually hostile work environment created by their Sales Center Manager, Chip Chavis. The EEOC further alleges that the defendants retaliated against Cox when she complained about sexual harassment by Chavis.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(A), and Local Rule 73.02(B)(2)(g), D.S.C., all pretrial matters in employment discrimination cases are referred to a United States Magistrate Judge for consideration.

The defendants sell manufactured homes. Cox and Ballew were sales representatives and were paid commissions on the homes they sold. Cox was employed from March 1, 2001, to April 21, 2001, and from June 15, 2001, to July 20, 2001. Ballew was employed from April 30, 2001, until May 30, 2001. The EEOC contends that the defendants

were an integrated enterprise and were joint employers of Cox and Ballew (comp. ¶ 7). The EEOC further contends that defendant Southern Showcase Housing, Inc. is jointly and severally liable as a successor entity to defendants Homes America, Inc., and Accent Mobile Homes, Inc. (comp. ¶ 8). The EEOC seeks backpay, compensatory damages, and punitive damages on behalf of Ballew and Cox.

On August 6, 2003, the EEOC served the defendants with its First Document Requests to Defendants, and on September 22, 2003, the defendants served their responses. The requests and responses for Request Nos. 14 and 15 are set forth below:

14. For each Defendant, all of the following financial documents created since January 1, 2000:

- a. Federal and State Corporation Income Tax Returns;
- b. Balance Sheets;
- c. Statements of Income (reflecting gross and net income);
- d. Profit and Loss statements;
- e. Statements of Retained Earnings;
- f. Statements of Cash Flow;
- g. Schedule of General and Administrative Expenses; and
- h. Annual reports filed with the Secretary of State for the state of incorporation.

**RESPONSE:** Objection. This request is overly broad, unduly burdensome, and not likely to lead to the discovery of admissible evidence.

15. For each Defendant, all corporate records, including the articles of incorporation, articles of organization, notices, reports, minutes that relate to annual or special shareholder and director meetings, stock ledgers, and any other document or writing that relates to the corporate formalities.

**RESPONSE:** Objection. This request is overly broad, unduly burdensome, and not likely to lead to the discovery of admissible evidence.

(Pl. motion, ex. B.)

On October 10, 2003, the defendants served Supplemental Responses to the EEOC's First Document Requests to Defendants. The defendants made no additional response to Request No. 15, and made the following response to Request No. 14:

**RESPONSE:** Objection. This request is overly broad, unduly burdensome, and not likely to lead to the discovery of admissible evidence. Notwithstanding this objection, Defendants will provide financial documents for the nine months ending September 27, 2003 subject to a protective order mutually agreed upon by both parties.

(Pl. motion, ex. G.)

The EEOC argues that the “financial and corporate records sought could themselves constitute admissible evidence, or they might lead to admissible evidence on the following issues: Defendants’ status as an integrated enterprise; successor liability; back pay; and Defendants’ ability to pay punitive damages” (pl. motion 5) (footnote omitted). The EEOC further contends that the documents sought are routine corporate or financial documents and thus the production of such documents would not be unduly burdensome. *Id.* The EEOC argues that the scope of the request is reasonable as Ballew and Cox were employed by the defendants during the spring and summer of 2001 and “the period of time for which financial records are sought brackets the time around the employment period of Ms. Ballew and Ms. Cox.” *Id.*

The defendants contend that “[a]t this stage, only the back pay to which Cox and Ballew may be entitled relate to the discovery propounded by [the] [p]laintiff” (def. resp. 2). The defendants further argue that they have “produced information which would allow [the] [p]laintiff to calculate alleged back pay which may be owed to Cox and Ballew,” including “information regarding all the manufactured homes sold by the Anderson lot during the time in which Cox and Ballew were employed until the date the lot closed.” *Id.* With regard to Request No. 14, as set forth above, the defendants have agreed to provide the plaintiff with their financial statements for the nine month period ending September 27, 2003, once a protective order is entered. According to the defendants, “[t]his financial statement will provide [the] [p]laintiff with the information it seeks regarding [the] [d]efendants’ financial status and ability to pay any possible judgment. Any other financial information is simply not relevant” (def. resp. 5).

With regard to Request No. 15, the defendants contend that they already have answered interrogatories that provide the plaintiff with necessary information to determine whether the defendants are joint employers (def. resp. 6). The defendants argue that “[v]ery few, if any[,] of the documents responsive to Request No. 15 would contain information relating to the issue of whether [the] [d]efendants are joint employers. The documents would, however, provide sensitive information regarding corporate governance, and similar information not at all related to any issue even remotely related to this case” (def. resp. 6).

Wherefore, based upon the foregoing, this EEOC’s motion to compel should be granted in part and denied in part. With regard to Request No. 14, this court finds that the request is overly broad and unduly burdensome. The defendants are directed to provide the financial documents for the nine months ending September 27, 2003, subject to a confidentiality order<sup>1</sup> mutually agreed upon by both parties, as the defendants have previously agreed to do. With regard to Request No. 15, the EEOC’s motion to compel is granted, again subject to a mutually agreed upon confidentiality order. The defendants are directed to produce the aforementioned documents to the EEOC within twenty (20) days of the filing date of this order. The EEOC’s request for sanctions is denied.

IT IS SO ORDERED.

  
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BRUCE H. HENDRICKS  
UNITED STATES MAGISTRATE JUDGE

November 21, 2003

Greenville, South Carolina

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<sup>1</sup>The court has adopted a form confidentiality order for use in this district. The form may be found on the district court’s website ([www.scd.uscourts.gov](http://www.scd.uscourts.gov)) under “Forms.”