

FILED

CO JUDGE AMI: 1/7

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
v. )  
 )  
SANCTUARY GOLF CLUB, INC. )  
 )  
Defendant. )

CIVIL ACTION NO. 2:00-CV-265-FTH-19D

COMPLAINT  
JURY TRIAL DEMAND

INJUNCTIVE RELIEF SOUGHT

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 race, and to provide appropriate relief to Samuel Hulsinger who was adversely affected by such practices. As stated with greater particularity in paragraphs 8 and 9, the Commission alleges that Mr. Hulsinger, Black, was forced to endure a hostile environment while employed at Defendant's place of business. Furthermore, Samuel Hulsinger was constructively discharged.

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 Middle District of Florida, Fort Myers Division.

### 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 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 The Sanctuary Golf Club, Inc. (the "Employer"), a Florida corporation, has continuously been doing business in the State of Florida and the City of Sanibel Island, and has continuously had at least 15 employees.

5. At all relevant times, Defendant The Sanctuary Golf Club, Inc., has continuously been an employer 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).

### STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Samuel Hulsinger filed a charge with the Commission alleging violations of Title VII by Defendant Employer The Sanctuary Golf Club, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least April 14, 1997, Defendant Employer has engaged in unlawful employment practices at its place of business in Sanibel Island, Florida in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

8. Samuel Hulsinger was subjected to racial harassment by his co-workers and by management on a daily basis. The harassment included verbal abuse, racial slurs, and the displaying of a noose. This unwelcome racial harassment created an intimidating, hostile or offensive work environment which was sufficiently severe and pervasive to affect the terms and conditions of their employment. Defendant Employer was placed on notice about the harassment, but Defendant Employer failed to exercise reasonable care in preventing or correcting the racially harassing behavior. Additionally, Defendant Employer failed to take prompt remedial action when it knew or should have known of the racial harassment of Samuel Hulsinger.

9. Samuel Hulsinger's working conditions became so unpleasant that a reasonable person in his position would feel compelled to resign. Mr. Hulsinger was, therefore, constructively discharged.

10. The effects of the conduct complained of in paragraphs 8 and 9 above have been to deprive Samuel Hulsinger of equal employment opportunities and otherwise adversely affect their status as employees because of race.

11. The unlawful employment practices complained of in paragraphs 8 and 9 above were intentional.

12. The unlawful employment practices complained of in paragraph 8 and 9 above were done with malice or with reckless indifference to the federally protected rights of Samuel Hulsinger.

#### PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant The Sanctuary Golf Club, Inc., its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in racial harassment and any other employment practice which discriminates on the basis of race.

B. Order Defendant The Sanctuary Golf Club, Inc. to institute and carry out policies, practices, and programs which provide equal employment opportunities for Blacks, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant The Sanctuary Golf Club, Inc. to make whole Samuel Hulsinger, by providing appropriate back pay with prejudgment interest, if any, 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 reinstatement and/or frontpay.

D. Order Defendant The Sanctuary Golf Club, Inc. to make whole Samuel Hulsinger, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 8 and 9 above, including but not limited to, out of pocket losses in amounts to be determined at trial.

E. Order Defendant The Sanctuary Golf Club, Inc. to make whole Samuel Hulsinger, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices described in paragraphs 8 and 9 above, including but not limited to, emotional pain, suffering, inconvenience, humiliation, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant The Sanctuary Golf Club, Inc., to pay Samuel Hulsinger punitive damages for its malicious and/or reckless conduct described in paragraphs 8 or 9 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 Commission its costs of this action.

JURY TRIAL DEMAND

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

C. GREGORY STEWART  
General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

DELNER FRANKLIN-THOMAS  
Regional Attorney

GILBERT CARRILLO  
Supervisory Trial Attorney



RACHEL H. SHONFIELD  
Senior Trial Attorney  
Florida Bar No. 988626

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Miami District Office  
Two South Biscayne Boulevard  
One Biscayne Tower, 27<sup>th</sup> Floor  
Miami, Florida 33131  
(305) 530-6003  
(305) 536-4494 facsimile