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CV-S-02-1238-HDM-PAL

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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

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|----|-------------------------------------|---|----------------------------------|
| 10 | EQUAL EMPLOYMENT OPPORTUNITY |) | DOCKET NO. CV-S-02-1238-HDM(PAL) |
| 11 | COMMISSION, | |) |
| 12 | Plaintiff, |) | |
| 13 | v. | |) |
| 14 | RIVIERA OPERATING CORPORATION, |) | |
| 15 | d/b/a the Riviera Hotel and Casino, | |) |
| 16 | Defendant. |) | |

17 **JURISDICTION AND VENUE**

18 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
19 1343 and 1345. This action is authorized and instituted pursuant to: (a) Section 706(f)(1) and
20 (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3)
21 ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a; and
22 (b) Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C.
23 § 626(b) (the "ADEA"), which incorporates by reference Sections 16(c) and 17 of the Fair Labor
24 Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217.

25 2. The employment practices alleged to be unlawful were and are now being
26 committed within the jurisdiction of the United States District Court for the District of Nevada,
27 Southern Division.

ORIGINAL

1 NATURE OF THE ACTION

2 3. This is an action under Title VII and the ADEA to correct unlawful employment
3 practices on the basis of sex (female) and age (over 40), to provide appropriate relief to Jean
4 Sylvia, who was adversely affected by such practices. As alleged with more particularity in
5 paragraphs 8-9 and 14-15 below, Jean Sylvia was subjected to continual sexual, sex-based and
6 age-based harassment by supervisors and coworkers alike. The harassment altered the terms
7 and conditions of Ms. Sylvia's employment with Defendant Riviera Operating Corporation,
8 d/b/a the Riviera Hotel and Casino ("Defendant Employer").

9 PARTIES

10 4. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"),
11 is the agency of the United States of America charged with the administration, interpretation and
12 enforcement of Title VII and the ADEA, and is expressly authorized to bring this action by
13 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3) and by Section 7(b) of
14 the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978,
15 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

16 5. Plaintiff alleges that, at all relevant times, Defendant Employer has
17 continuously been a Nevada corporation doing business in the State of Nevada and the City of
18 Las Vegas, and has continuously had at least 20 employees.

19 6. At all relevant times, Defendant Employer has continuously been an employer
20 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of
21 Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h) and within the meaning of Sections 11(b), (g) and
22 (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

23 STATEMENT OF CLAIMS

24 Allegations Pertaining to Title VII Claims

25 7. More than thirty days prior to the institution of this lawsuit, Jean Sylvia filed a
26 charge with the Commission alleging violations of Title VII by Defendant Employer. All
27 conditions precedent to the institution of this lawsuit have been fulfilled.

1 8. Since at least on or about July 21, 1994, and continuing through on or about
2 September 27, 1999, Defendant Employer engaged in unlawful employment practices at its Las
3 Vegas, Nevada, casino in violation of Section 703 of Title VII, 42 U.S.C. § 2000e-2 by creating
4 and maintaining a sexually hostile, intimidating, and offensive work environment, which
5 impacted the terms and conditions of employment of its employee Jean Sylvia due to her
6 gender. Throughout her employment, Ms. Sylvia was subjected to unwanted and repeated
7 sexually explicit, lewd, and sexually derogatory commentary, jokes and name-calling, as well as
8 sexually explicit images and behavior by both her coworkers and supervisors. Plaintiff
9 Commission further alleges that Ms. Sylvia complained of the harassment to Defendant
10 Employer's management, including her supervisors, on several occasions, but that her
11 complaints were rebuffed or ignored, and the harassment continued. Defendant Employer failed
12 to take immediate and appropriate corrective action to eliminate the harassment.

13 9. With respect to the harassment perpetrated by Ms. Sylvia's nonsupervisory
14 coworkers, Plaintiff Commission further alleges that Defendant Employer knew or should have
15 known of the harassment and failed to take immediate and appropriate corrective action to
16 eliminate the harassment.

17 10. The effect of the practices complained of in paragraphs 8-9 above has been to
18 deprive Jean Sylvia of equal employment opportunities and otherwise adversely affect her
19 status as an employee, because of her sex (female).

20 11. The unlawful employment practices complained of in paragraphs 8-9 above were
21 intentional.

22 12. The unlawful employment practices complained of in paragraphs 8-9 above were
23 done with malice or with reckless indifference to the federally protected rights of Jean Sylvia.

24 **Allegations Pertaining to ADEA Claims**

25 13. Prior to institution of this lawsuit, the Commission's representatives attempted to
26 eliminate the unlawful employment practices alleged below and to effect voluntary compliance
27 with the ADEA through informal methods of conciliation, conference and persuasion within the

1 meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b). All conditions precedent to the
2 institution of this lawsuit have been fulfilled.

3 14. Since at least on or about July 21, 1994, and continuing through on or about
4 September 27, 1999, Defendant Employer has engaged in unlawful employment practices at its
5 Las Vegas, Nevada, casino, in violation of Section 4 of the ADEA, 29 U.S.C. § 623, by creating
6 and maintaining a hostile, intimidating, and offensive work environment, which impacted the
7 terms and conditions of employment of its employee Jean Sylvia because of her age. Ms. Sylvia
8 was subjected to unwanted and repeated derogatory commentary and name-calling based on her
9 age by both her coworkers and supervisors, which often took place in front of other employees
10 and/or customers. Defendant Employer ignored and failed to remedy the situation, despite
11 repeated complaints by Ms. Sylvia. Plaintiff Commission further alleges that Ms. Sylvia
12 complained of the harassment to Defendant Employer's management, including supervisors, on
13 several occasions, but that her complaints were rebuffed and ignored, and the harassment
14 continued. Defendant Employer failed to take immediate and appropriate corrective action to
15 eliminate the harassment.

16 15. With respect to the harassment perpetrated by Ms. Sylvia's nonsupervisory
17 coworkers, Plaintiff Commission further alleges that Defendant Employer knew or should have
18 known of the harassment and failed to take immediate and appropriate corrective action to
19 eliminate the harassment.

20 16. The effect of the practices complained of in paragraphs 14-15 above has been to
21 deprive Ms. Sylvia of equal employment opportunities and otherwise adversely affect her status
22 as an employee, because of her age (over 40).

23 17. The unlawful employment practices complained of in paragraphs 14-15 above
24 were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

25 **PRAYER FOR RELIEF**

26 Wherefore, the Commission respectfully requests that this Court:

27 A. Grant a permanent injunction enjoining Defendant Employer, its officers,

1 successors, assigns, and all persons in active concert or participation with it, from engaging in
2 sexual, sex-based and age harassment and any other employment practice which discriminates
3 on the basis of sex or age.

4 B. Order Defendant Employer to institute and carry out policies, practices, and
5 programs which provide equal employment opportunities for women and for all individuals over
6 40 years of age, and which eradicate the effects of its past and present unlawful employment
7 practices.

8 C. Order Defendant Employer to make whole Jean Sylvia by ordering other
9 affirmative relief necessary to eradicate the effects of Defendant Employer's unlawful
10 employment practices.

11 D. Order Defendant Employer to make whole Jean Sylvia, by providing
12 compensation for past and future pecuniary losses resulting from the unlawful employment
13 practices described in paragraphs 8-10 above, including relocation expenses, in amounts to be
14 determined at trial.

15 E. Order Defendant Employer to make whole Jean Sylvia by providing
16 compensation for past and future nonpecuniary losses resulting from the unlawful practices
17 complained of in paragraphs 8-10 above, including emotional pain, suffering, inconvenience,
18 loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

19 F. Order Defendant Employer to pay to Jean Sylvia punitive damages for its
20 malicious and reckless conduct described in paragraphs 8-12 above, in amounts to be
21 determined at trial.

22 G. Order Defendant Employer to make whole Jean Sylvia, by providing appropriate
23 relief available under the ADEA, 29 U.S.C. § 621 et seq., as necessitated by the unlawful
24 practices complained of in paragraphs 14-16 above in amounts to be determined at trial.

25 H. Grant a judgment requiring Defendant Employer to pay liquidated damages to
26 Jean Sylvia, with prejudgment interest, as available under the ADEA, 29 U.S.C. § 621 et seq.,
27 for Defendant Employer's willful violations as described in paragraphs 14-17 above.

- 1 I. Grant such further relief as the Court deems necessary and proper in the public
- 2 interest.
- 3 J. Award the Commission its costs of this action.

4 **DEMAND FOR JURY TRIAL**


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

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7 Respectfully submitted,

8 EQUAL EMPLOYMENT
9 OPPORTUNITY COMMISSION
10 Anna Y. Park
Samantha E. Blake

11 Date: September 18, 2002

12 By:


13 Anna Y. Park
14 Regional Attorney
15 Attorneys for Plaintiff
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