

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

Equal Employment Opportunity Commission,	)	
	)	Case No. 10-CV-2882
	)	
Plaintiff,	)	Judge Patricia A. Gaughan
	)	
vs.	)	<u>AMENDED COMPLAINT</u>
	)	
Kaplan Higher Education Corporation	)	
	)	
and	)	
	)	
Kaplan, Inc.,	)	
	)	
and	)	
	)	
Iowa College Acquisition Corporation d/b/a Kaplan University	)	
	)	
Defendants.	)	
	)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, to correct unlawful employment practices on the basis of race and to provide appropriate relief to a class of aggrieved Black job applicants and incumbents who were adversely affected by such practices. As alleged with greater particularity in Paragraphs 9-12, below, the U.S. Equal Employment Opportunity Commission ("Commission" or "EEOC") alleges that since at least January, 2008, Defendants Kaplan Higher Education Corporation (captioned in the Complaint, Doc. #1, as Kaplan Higher Education, Inc. and also known as Kaplan Career Institute), Kaplan, Inc. and Iowa College Acquisition Corporation d/b/a Kaplan University ("ICAC" or "Kaplan University") have engaged in

an on-going, nationwide pattern or practice of race discrimination against Black job applicants and incumbents in violation of 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 Sections 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and 2000e-6 ("Title VII").

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Northern Ohio, and throughout the United States.

#### PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission" or "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 Sections 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and 2000e-6.

4. At all relevant times, Defendant Kaplan Higher Education Corporation, ("KHEC" or "Employer") has continuously been a Delaware corporation doing business in Cuyahoga County, Ohio, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Kaplan, Inc. ("KI" or "Successor") has been a successor to both Employer KHEC above and Successor ICAC below and has continuously been a Delaware corporation doing business in the State of Ohio and has continuously had at least 15 employees.

6. At all relevant times, Defendant Iowa College Acquisition Corporation d/b/a Kaplan University (“ICAC” or “Kaplan University”) has been a successor of KHEC and has continuously been a Delaware corporation doing business in the State of Ohio and throughout the United States and has continuously had at least 15 employees.

7. At all relevant times, Defendants KHEC, KI and ICAC have continuously been employers engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e(b), (g) and (h).

#### STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Charging Party Shandria S. Nichols filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least January, 2008, KHEC has engaged in unlawful employment practices at its facilities throughout the United States in violation of Sections 703(a)(1), (a)(2), and (k) of Title VII, 42 U.S.C. § 2000e-2(a)(1), (a)(2) and (k).

10. Since at least January, 2008, KHEC has subjected a class of aggrieved Black job applicants and incumbents throughout the United States to an ongoing pattern or practice of discriminatory failure to hire such persons because of their race, Black, in violation of Title VII. In this regard, KHEC has used, and continues to use, a selection criterion for hiring and discharge, namely, credit history information, that has had, and continues to have, a significant disparate impact on Black job applicants and incumbents, is not job-related and consistent with business necessity, and for which there are appropriate, less-discriminatory alternative selection procedures.

11. Since at least July, 2011, Defendants KI and ICAC have been and continue to be successors of KHEC, and have continued to provide substantially the same educational and career services, through the same subsidiary business units, Kaplan College/Kaplan Career Institute campuses and Kaplan University, as did KHEC, using substantially the same employees and facilities as did KHEC.

12. Since at least July, 2011, Defendants KI and ICAC have continued the employment practices alleged to be unlawful in paragraphs 8 and 9 above.

13. The effect of the practices complained of in paragraphs 9-12, above, has been to deprive a class of Black job applicants and incumbents of equal employment opportunities and otherwise adversely affect their status as applicants because of their race.

14. The unlawful employment practices complained of in paragraphs 9-12, above, are part of a continuing course of race discrimination perpetrated against Black job applicants and incumbents by Defendant Employer KHEC, Defendant Successor KI and Defendant Successor ICAC that has persisted since at least January, 2008.

15. In 2011, Defendant Employer KHEC underwent a corporate reorganization. As a result of the reorganization, Defendants KI and ICAC are parties to be joined as Defendants under Rule 19(a)(1)(A).

#### PRAYER FOR RELIEF

Wherefore, the Commission 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 race, discrimination, including discriminatory denial of hire and discharge, use of selection criteria with significant disparate impact on Black job applicants and

incumbents that are not job-related and consistent with business necessity or for which there less-discriminatory alternatives, and any other employment practice which discriminates on the basis of race.

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

C. Order Defendants to make whole a class of aggrieved Black job applicants, deterred applicants and incumbents by providing appropriate back pay with prejudgment interest, 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 front pay in lieu thereof.

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

E. Award the Commission its costs of this action.

Respectfully submitted,

EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
Washington, DC

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