

United States Equal Employment Opportunity Commission
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UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
TARGET CORPORATION)	<u>COMPLAINT</u>
)	<u>JURY TRIAL DEMAND</u>
Defendant.)	
_____)	

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 and to provide appropriate relief to Michael Hill and a class of Black employees who were adversely affected by such practices. As articulated with greater particularity in paragraphs 7 through 12 below, the Commission alleges that Defendant, Target Corporation, discriminated against Mr. Hill, a Senior Merchant, on the basis of his race, Black, when he was subjected to differential terms and conditions of employment and a hostile work environment created by his immediate Supervisor, Jeff Barnes (White). The Commission further alleges that Defendant retaliated against Mr. Hill after he complained of race discrimination, repeatedly denied him a transfer to another store to escape the hostile work environment, and then offered him a demotion. Defendant's actions ultimately led Mr. Hill to constructively discharge from his position.

Further, the Commission alleges that Target Corporation subjected a class of Black employees to differential terms and conditions of employment and a hostile work environment based on their race. Mr. Hill and the class claimants suffered emotional distress and backpay damages as a result of Defendant's actions.

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 § 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f) 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 Eastern District of Pennsylvania.

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, Target Corporation ("Defendant Employer" or "Target"), has continuously been and is now doing business in the State of Pennsylvania and the city of Springfield and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Employer had 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, Michael Hill filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least 2003, Defendant Employer has engaged in unlawful employment practices at its Springfield, Pennsylvania facility, in violation of sections 703(a)(1) of Title VII, 42 U.S.C. Section 2000e-2(a)(1) and 704(a)(1) of Title VII, 42 U.S.C. § 2000e-3(a). These unlawful practices include, but are not limited to, the following:

(a) In July 2003, Defendant hired Michael Hill as a Senior Merchant for its Springfield store. The Senior Merchant position is a high-level store executive position. The Senior Merchant acts as an apprentice to the Store Manager, with the intent that the Senior Merchant will be trained to ultimately become a Store Manager.

(b) After eight (8) weeks of training, Mr. Hill began to work full-time in the Springfield store under the tutelage of Store Manager Jeff Barnes (White). He looked forward to the challenge of learning the business and the opportunity to become a Store Manager.

(c) However, from the beginning of his tenure at the Springfield store in September 2003, Mr. Hill was subjected to hostile treatment, disparaging comments and racial harassment by Jeff Barnes. Specifically, Mr. Hill was frequently spoken to in a demeaning and condescending manner, constantly yelled at and discredited in the presence of subordinate employees, and treated with overall hostility. Mr. Hill also noticed that Barnes' manner and demeanor in dealing with Black employees was far less accommodating, accepting and pleasant than his manner of dealing with White employees.

(d) In November 2003, Mr. Hill complained to then District Manager Mark Kerin (White), about the treatment he was receiving from Barnes. Kerin was Barnes' immediate supervisor. In an effort to work through the issues with Barnes, Mr. Hill met with a Human Resources representative and Barnes. At that time, Barnes informed Mr. Hill that he did not realize what he was doing. By the end of the meeting, Michael Hill believed that the issues were resolved.

(e) Sometime in November or December 2003, Mark Kerin was replaced as District Manager. During a private meeting with Mr. Hill in or about January 2004, it was acknowledged by the new District Manager Craig Snyderman (White), that Hill had experienced problems with Barnes in the past.

(f) Aware of the private meeting, after Mr. Hill's meeting with District Manager Snyderman, Barnes approached Hill on the store floor and asked him whether he had his meeting with Snyderman. Barnes then commented "well did he tell you...?" Mr. Hill responded asking "tell me what," to which Barnes further commented something to the effect "[w]ell, did he tell you that we will never put a Black person in the Store Manager position?"

(g) Thereafter, Barnes' demeanor became even more hostile and he made numerous racially insensitive comments, including but not limited to "Black women are the lowest form of life..." and that his mother used to work with Black people and she referred to them as "lazy."

(h) Yet another racially insensitive remark followed Mr. Hill's attempt to resolve issues. Specifically, Mr. Hill met with Barnes to discuss and address store issues, including the perception among minority supervisors that they would not be promoted to the store executive level. During the discussion, Barnes abruptly commented, "you know, I didn't have these problems until I got a Black Senior Merchant."

(i) In February 2004, Mr. Hill spoke to Snyderman about transferring to another store, and specifically indicated that the racially hostile work environment created by Barnes was beginning to make him ill. He informed Snyderman that Barnes constantly berated his work and interfered with his ability to do his job. Snyderman indicated that a transfer was not an option.

(j) On or about March 2, 2004, Mr. Hill experienced chest pains due to the stress of the environment and was hospitalized.

(k) When he returned to work, Mr. Hill again met with District Manager Snyderman and complained about the race-related statements made by Barnes and the impact it was having on him and his ability to perform his job. Hill again asked for a transfer, which was refused by Snyderman. Incredibly, Snyderman told Mr. Hill that he should not take Barnes' statements "so literally." He further stated "[w]hat you have to understand is that sometimes people say these things, and that doesn't mean they are racists."

(l) After the meeting with Snyderman, Mr. Hill decided to confront Barnes and informed him that he took offense, and totally objected to his racially insensitive and derogatory comments. He also told Barnes that he informed Snyderman about his objections. Barnes angrily responded, "when people f - - k with me, I f - - k with them." Barnes continued to undermine Mr. Hill's credibility and authority as a manager. Specifically, he would instruct Michael Hill's subordinates not to follow Hill's directions, and would yell at the employees if they did, causing confusion with staff as to which direction should be followed.

(m) In July 2004, Michael Hill again spoke to Snyderman about the worsening work environment and how Barnes was generally mistreating Black employees as a group. He again asked for a transfer which was denied.

(n) Frustrated that conditions were not improving and his complaints were not being taken seriously, on or about August 4, 2004, Mr. Hill spoke with the Regional Human Resources Manager, Mark Baker (White). He specifically complained about the hostile work environment created by Barnes and the fact that Snyderman had done nothing to stop the harassment and abuse. He further indicated that his requests for transfers had been denied many times, and emphasized that the work environment was severely impacting his health. Mr. Hill thereafter stated he would not return to the hostile environment. Baker told Mr. Hill that he would initiate an investigation.

(o) Ironically, and despite an explicit complaint that Mr. Snyderman had failed to take any action, Mark Baker assigned Snyderman to conduct an investigation of Mr. Hill's complaints.

(p) Defendant eventually offered Mr. Hill a demotion to another store. Feeling that his numerous complaints were not being adequately addressed, that Target had refused to consider him for a comparable transfer, and because the environment remained hostile, Michael Hill resigned on September 13, 2004.

(8) The effect of the practices complained of in paragraph 7(a) through (p) above has been to deprive Michael Hill of equal employment opportunities and otherwise adversely affect his status as an employee because he was forced to tolerate a working environment that was racially hostile and demeaning. He was further subjected to retaliation because he engaged in protected activity by opposing employment practices he believed to be discriminatory, in violation of Title VII.

(9) The unlawful employment practices complained of in paragraph 7(a) through (p) above were intentional and were done with malice or with reckless indifference to the federally protected rights of Mr. Hill.

(10) Since at least 2003, Defendant Employer has engaged in unlawful employment

practices in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by disparately treating a class of Black employees, when Defendant subjected them to differential terms and conditions of employment and a hostile work environment based on their race. These unlawful practices include, but are not limited to, the following:

(a) Black employees stated that Barnes provided no support for employees who worked with Michael Hill. They also indicated that Barnes provided differential levels of support to Black and White employees overall at the Springfield store. Specifically, Jeff Barnes treated White employees more favorably than Black employees.

(b) Black employees further expressed concern that despite the high composition of Black employees, there were few if any, Black management staff, and limited promotional opportunities. For example, one employee asserted that there had been only one Black manager at the Springfield store other than Mr. Hill.

(c) Several long term Black employees resigned their positions under the leadership of Jeff Barnes. At least one employee resigned his position despite having a long and successful career with Target, because Defendant and Barnes would not provide him with the support and promotional opportunities to advance within the company. According to this employee, Barnes' conduct was such that he believed he would never allow a Black person to be promoted to an Executive position.

(d) Black employees witnessed that Jeff Barnes interacted differently and more negatively with Mr. Hill than he had with a previous White Senior Merchant. Black employees also complained that unlike White employees, they were verbally abused by Barnes. Specifically, one Black employee stated how Barnes' verbal berating of her in the presence of her co-workers, was so outrageously embarrassing that she left the store crying hysterically and never returned.

(e) After the verbal berating and sudden discharge of this employee, Barnes told some Black employees that he did not "understand the problem" with the Black employees, since he brought Michael Hill to the store for them.

(f) Despite numerous complaints, clearly, a culture of racial tension was allowed to exist in the store under Barnes' management.

(11) The effect of the practices complained of in paragraph 10(a) through (f) above have been to deprive Black employees of equal employment opportunities and otherwise adversely affect their status as employees because of their race, in violation of Title VII.

(12) The unlawful employment practices complained of in paragraph 10(a) through (f) above were intentional and were done with malice or with reckless indifference to the federally protected rights of Black employees, in violation of Title VII.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from continuing to disparately treat individuals, and any other employment practice which discriminates on the basis of race and retaliation.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities to individuals, which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to institute and carry out a complaint procedure which encourages employees to come forward with complaints regarding violations of its policies against

discrimination, harassment and retaliation.

D. Order Defendant Employer to institute and carry out a training program which shall promote supervisor accountability imposing on all managers and supervisory personnel a duty to actively monitor their work areas to ensure compliance with policies on non-discrimination and anti-retaliation; and requiring all managers and supervisors to report any incidents and/or complaints of harassment and/or retaliation of which they become aware to the department charged with handling such complaints.

E. Order Defendant Employer to make whole Michael Hill and a class of Black employees 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, front pay or reinstatement.

F. Order Defendant Employer to make whole Michael Hill and a class of Black employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs above, including but not limited to out-of-pocket losses in amounts to be determined at trial.

G. Order Defendant Employer to make whole Michael Hill and a class of Black employees by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices described in paragraphs above, including pain and suffering, humiliation, embarrassment, and loss of life's pleasures, in amounts to be determined at trial.

H. Order Defendant Employer to pay Michael Hill and a class of Black employees punitive damages for its malicious and reckless conduct described in the paragraphs above, in amounts to be determined at trial.

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

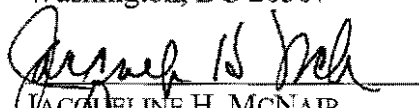
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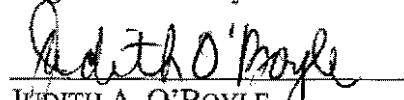
The Commission requests a jury trial on all questions of fact raised by its complaint.

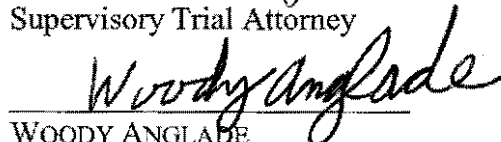
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