

5-6-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
2004 AUG -6 P 12:15
COMMISSION OF
HUMAN RELATIONS
SFD-CL03

LAKEYTA GIVENS,

EEOC Case No. 15DA300495

Petitioner,

FCHR Case No. 23-01354

v.

AT

DOAH Case No. 03-3590

U.S. MORTGAGE, INC.

FCHR Order No. 04-094

Respondent.

**FINAL ORDER AWARDING
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Petitioner, LAKEYTA GIVENS, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, U.S. MORTGAGE, INC., committed an unlawful employment practice by failing to promote her and terminating her due to her race. The allegations set forth in the complaint were investigated and on September 2, 2003, the Executive Director issued his determination that there was reasonable cause to believe that a discriminatory act occurred. The Petitioner filed a Petition for Relief and was granted a formal evidentiary hearing that was held in Tallahassee, Florida, on December 11, 2003, before Administrative Law Judge Stephen F. Dean.

Judge Dean issued a Recommended Order dated May 6, 2004, which found that the Respondent engaged in unlawful discrimination and recommended an order directing that the Respondent desist from discriminatory employment practices and an award of \$4,800.00 in damages for lost wages.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact and Conclusions of Law

The Commission's file contains a no transcript of the proceeding before the Administrative Law Judge. In the absence of a transcript of the proceeding before the Administrative Law Judge, his Recommended Order is the only evidence for the Commission to consider. National Industries, Inc. vs. Commission on Human Relations, et al., 527 So. 2d 894, at 898 (Fla. 5th DCA 1988).

The Administrative Law Judge found that the Petitioner established a prima facie case of discrimination. The Respondent failed to attend the hearing and, therefore, demonstrated no legitimate, non-discriminatory reason for the termination.

We adopt the Administrative Law Judge's findings of fact and conclusions of law.

Exceptions

Neither party filed any exceptions to the Recommended Order.

Affirmative Relief

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that the unlawful discrimination has occurred in this matter and have adopted the ALJ's recommendation for the award of \$4,800.00 in damages for lost wages. In addition, the Commission requires the Respondent to cease and desist its discriminatory practices.

Respondent is hereby ORDERED:

- (1) to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against the Petitioner;
- (2) to remit to Petitioner affirmative relief in the amount of \$4,800.00 in damages for lost wages; and
- (3) to pay Petitioner statutorily established interest rates on the amount awarded Petitioner in (2) above for the period subsequent to April 4, 2003, until said amount, with interest, is paid to Petitioner.


The Commission reserves jurisdiction over the determination of precise amounts of interest owed Petitioner, as well as over the amounts of attorney's fees and costs owed Petitioner should they be incurred by Petitioner in the enforcement of this Order.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 4th day of August, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Donna Elam, Panel Chairperson
Commissioner Billy Whitefox Stall
Commissioner P.C. Wu

Filed this 4th day of August, 2004
in Tallahassee, Florida.


Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, Florida 32301
(850) 488-7082

NOTICE TO COMPLAINANT/PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request the EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131

Copies furnished to:

Lakeyta Givens
PO Box 293
Sanderson, FL 32087

U.S. Mortgage, Inc.
28 West Macclenny Avenue, Suite 14
Macclenny, FL 32063

Honorable Stephen F. Dean, Administrative Law Judge (DOAH)
Jim Tait, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 4th day of August, 2004.

BY: 
Clerk of the Commission