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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel. KELLY WILKINS,)

Complainant,)

v.)

DOLPHIN TOURS,)

Respondent.)

ASCHR No. C-06-076
OAH No. 09-0316-HRC

ORDER GRANTING NONOPPOSED MOTION TO DISMISS

Based on the parties' successful settlement of this matter and for the reasons stated in the Nonopposed Motion to Dismiss, this case is now closed, and the Commission will take no further action in the matter.

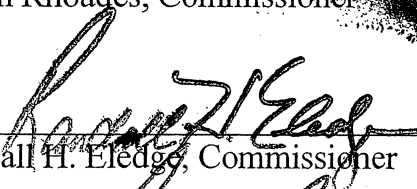
IT IS SO ORDERED.

Dated: October 29, 2009



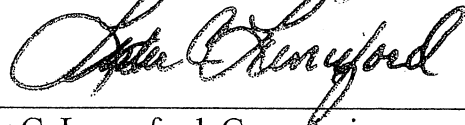
Karen Rhoades, Commissioner

Dated: October 29, 2009



Randall H. Eledge, Commissioner

Dated: October 29, 2009



Lester C. Lunceford, Commissioner

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CERTIFICATE OF SERVICE

I certify that on October 29, 2009, a true and correct copy of the **ORDER GRANTING NONOPPOSED MOTION TO DISMISS** was mailed or delivered to the following parties:

✓ Stephen Koteff, Human Rights Advocate
Alaska State Commission for Human Rights
800 A Street, Suite 204
Anchorage, AK 99501 (hand delivery)

Respondent or Respondent's Representative
Douglas H. Ward
Dolphin Tours
9571 Meadow Lane
Juneau, AK 99801

and a courtesy copy to:

Terry L. Thurbon, Administrative Law Judge
State of Alaska Office of Administrative Hearings
Box 110231
Juneau, AK 99811

Margaret Taylor
Margaret Taylor
Commission Secretary

1 BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS
2 ON REFERRAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS

3 ALASKA STATE COMMISSION FOR)
4 HUMAN RIGHTS, PAULA M.)
5 HALEY, EXECUTIVE DIRECTOR,)
6 ex rel. KELLY WILKINS ,)

7 Complainant,)

8 v.)

9 DOLPHIN TOURS,)

10 Respondent.)
11 _____)

ASCHR No. C-06-076
OAH No. 09-0316-HRC

12 **SETTLEMENT AGREEMENT**

13 Charges have been filed with the Alaska State Commission for Human Rights,
14 hereinafter the Commission, by the above-named complainant against the above-named
15 respondent, under the provisions of the Alaska Human Rights Law, AS 18.80.010-.300.
16 The charges have been investigated, and substantial evidence to support the allegations
17 of discrimination has been found. The parties agree to forgo a hearing on the merits and
18 resolve the matter according to the provisions herein.

19 I. GENERAL PROVISIONS:

20 A. All Parties:

- 21 1. It is agreed that this agreement constitutes a total settlement of the
22 issues between the parties in this case.
- 23 2. It is understood that this agreement does not constitute an
24 admission by the respondent of any violation of the Alaska
25 Human Rights Law or other applicable federal and municipal civil
26 rights laws. It is further understood that this agreement does not
27 represent an admission or statement by any party relating to the
28 requirements or remedies available pursuant to the Alaska Human
Rights Law.
3. All parties agree that Commission staff, on request of any party or
on its own motion, may review compliance with this agreement.

As a part of such review, Commission staff may require written reports concerning compliance, inspect premises, examine witnesses, and examine and copy documents.

4. The Commission will submit this agreement, if applicable, to the agencies that also have accepted this complaint pursuant to worksharing agreements with the Commission.

B. Commission Staff:

1. Commission staff agrees to close the case and refrain from seeking other statutory remedies relating to the above-captioned complaint, subject to the parties' compliance with the terms of this agreement.
2. If respondent does not comply fully with the terms of this agreement by the dates established herein, the parties agree that the Commission staff may rescind the agreement and seek full administrative remedies.

C. Respondent:

1. Respondent hereby waives all further administrative procedures before the Commission on this matter, including a Commission hearing.
2. This agreement shall not be interpreted to mean that respondent is absolved from any duty to afford equal employment opportunities or affirmative action as may be required under other applicable laws and regulations.

II. ENFORCEMENT:

- A. The parties to this agreement agree that the terms of this agreement are legally binding in the same manner and to the same extent as a Commission order issued following a public hearing pursuant to AS 18.80.130. This agreement shall be enforceable in any court of competent jurisdiction.

SETTLEMENT AGREEMENT

ASCHR, Paula M. Haley, Executive Director, ex rel. Kelly Wilkins v. Dolphin Tours, ASCHR No. C-06-076, OAH No. 09-0316-HRC

- B. The parties agree that in the event of a party's noncompliance with this agreement, the Commission may elect to seek the remedies set forth in Section I.B of this agreement or it may seek to enforce the agreement in court.

III. REMEDIAL PROVISIONS:

- A. Respondent agrees and asserts its belief that discrimination based on race, color, sex, age, national origin, physical or mental disability, religion, pregnancy, parenthood, marital status, or changes in marital status has no place in the consideration of employees for positions, promotions, layoffs, terminations, or any other employment practices.
- B. Respondent also agrees and asserts its belief that to discharge, expel, or otherwise discriminate against a person because that person has filed a complaint, testified, or assisted in a proceeding filed under the Human Rights Law or because that person has opposed any practice forbidden under AS 18.80.200-.260 is to engage in unlawful retaliation.
- C. Respondent therefore agrees to adopt and disseminate to all employees an approved statement of corporate policy reflecting respondent's nondiscriminatory posture and opposition to any retaliatory practices within 30 days of the date of this agreement. The statement shall provide that failure on the part of any employee to observe and implement such policy shall constitute grounds for disciplinary action, including dismissal. Respondent shall send a copy of its proposed policy to the Commission staff for review and approval no more than 15 days of the date of this agreement. The statement must be approved by Commission staff before it is adopted and disseminated.
- D. Respondent agrees that within 30 days of this agreement it will eliminate from its records all documents and entries relating to the facts and circumstances that led to Kelly Wilkins' filing of the above-captioned charge of discrimination and the related events occurring thereafter. Respondent also affirms that it will not retaliate in any way against Ms. Wilkins, and that no other employer or potential employer of Kelly Wilkins will be advised in any fashion of the facts or circumstances

SETTLEMENT AGREEMENT

ASCHR, Paula M. Haley, Executive Director, ex rel. Kelly Wilkins v. Dolphin Tours, ASCHR No. C-06-076, OAH No. 09-0316-HRC

involved in this case.

- E. Respondent agrees to obtain training for its managers, supervisors, and any employees involved in supervising personnel in the laws prohibiting discrimination in employment within 45 days of the date of this agreement. The training shall be at least three hours in length and shall be conducted in person by a trainer approved by the Commission. The training shall contain an emphasis on preventing sexual harassment. Respondent shall send a copy of the resume of the person it proposes to conduct this training, along with an outline of the proposed program and training materials, to the Commission staff for review and approval at least fifteen days prior to the date of the training. Within fifteen days after the date the training session takes place, respondent shall submit a report to the Commission on the training provided, including the subject matters covered and the names and job titles of the attendees. Respondent shall attach to the report a copy of the training materials distributed to the attendees.
- F. Respondent shall submit a report to the Commission within 15 days of the date the training is conducted that describes the manner in which it has carried out the undertakings herein outlined.

10/23/09
Date

DNW
Douglas Ward, Owner, Dolphin Tours, for
Respondent

10/27/09
Date

Paula M. Haley
(for) Paula M. Haley, Executive Director, Alaska State
Commission for Human Rights, for Commission
Staff

SETTLEMENT AGREEMENT

*ASCHR, Paula M. Haley, Executive Director, ex rel. Kelly Wilkins v. Dolphin
Tours, ASCHR No. C-06-076, OAH No. 09-0316-HRC*