

BEFORE THE NEVADA EQUAL RIGHTS COMMISSION

KARA M. JENKINS, Administrator,
NEVADA EQUAL RIGHTS COMMISSION,
STATE OF NEVADA,

Petitioner

vs.

RED ROCK COUNTRY CLUB,

Respondent

CHARGE NO. 1206-16-0659L
1031-17-0511L

SETTLEMENT AGREEMENT AND ORDER

WHEREAS, as more fully addressed below, the Administrator of the NEVADA EQUAL RIGHTS COMMISSION ("NERC"), and RESPONDENT Red Rock Country Club ("RRCC" or "Respondent"), (collectively referred to as "the Parties"), hereby enter into this Stipulation for Settlement of Disciplinary Actions as follows:

JURISDICTION

1. The Nevada Equal Rights Commission has jurisdiction over Respondent pursuant to Nevada Revised Statutes (NRS) Chapter 233, NRS 613.330(1) and NRS 613.405 and Title VII of the Civil Rights Act of 1964, as amended.

FACTUAL ALLEGATIONS AND VIOLATIONS

2. Respondent, at all times and relevant and hereto, is a membership country club that provides sports and social activities. Respondent employed 15 or more persons at the time of the allegations.
3. Respondent employed¹ tennis instructor, Carmel-Mary Hill, Caucasian female, from about May 24, 2015 until September 30, 2016 when Respondent terminated her employment.

¹ Respondent alleged that Ms. Hill was an independent contractor, however, when applying the "agency test" here, Ms. Hill's earning records, hours and details of work indicate that she was an employee. See *N.L.R.B. v. Friendly Cab Co., Inc.*, 512 F.3d 1090, 1096-97 (9th Cir. 2008).

- 1 4. Upon hiring Ms. Hill, Respondent informed her the daycare services, Tot Shop,
2 was for members use only.
- 3 5. Ms. Hill's children, ages five and three, are bi-racial, Caucasian and African-
4 American.
- 5 6. Ms. Hill and other members alleged to have observed another tennis instructor,
6 Caucasian male, use the daycare services, Tot Shop, for his two children,
7 Caucasian.
- 8 7. Respondent held the annual Red Rock Professional Open ("Tournament")
9 beginning September 25, 2016, wherein Respondent permitted tennis instructors
10 to bring their children to this Tournament.
- 11 8. Ms. Hill brought her children to this Tournament.
- 12 9. At the Tournament, a wealthy and longtime Caucasian member of RRCC was
13 allegedly overheard stating in reference to Ms. Hill's children: "Whose black kids
14 are these?" and subsequently, this wealthy and longtime member complained to
15 Respondent's management. ¹
- 16 10. On or about September 29, 2016, Director of Tennis, Michael Copenhaver,
17 allegedly informed another tennis instructor, Caucasian male, not to bring his
18 children to the daycare services, Tot Shop, the next day as Ms. Hill was going to
19 be fired.
- 20 11. On or about September 30, 2016, Mr. Copenhaver allegedly informed Ms. Hill
21 that General Manager, Thom Blinkinsop, observed her children behaving
22 unruly and Ms. Hill violating company policy. Mr. Copenhaver terminated Ms.
23 Hill allegedly for violation of a company policy, including unauthorized use of a
24 sponsored vehicle.
- 25 12. On October 4, 2016, Ms. Hill timely filed a race discrimination complaint with
26 NERC.
- 27 13. Subsequent to the NERC complaint, Mr. Blinkinsop banned Ms. Hill from
28 Respondent's property citing "company policy." Ms. Hill was unable to
29 coach/observe her tennis students at any tournaments held at RRCC.

¹ The exact timing of the complaint is unclear.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14. Confidential witness statements to NERC indicate that a member of RRCC made derogatory racial statements regarding Ms. Hill's children and that this member informed Respondent's management that she did not want Ms. Hill and/or her children at RRCC.
15. Confidential witness statements to NERC further indicate that Mr. Blinkinsop was on notice regarding the member's comments and failed to act regarding the race based discrimination. *See Folkerson v. Circus Circus Enters., Inc.*, 107 F.3d 754, 756 (9th Cir. 1997).
16. On or about March 18, 2019, NERC issued a Probable Cause finding supporting the charge of racial discrimination against Respondent.
17. On or about March 18, 2019, NERC issued a Probable Cause finding supporting the charge of retaliation against Respondent.
18. Pursuant to NRS 233.170(2), on or about April 2, 2019, the Administrator of NERC attempted conciliation; conciliation failed.
19. Pursuant to NRS 233.170(3), on or about July 23, 2019, NERC noticed Respondent of a Public Hearing to take place in front of the Commissioners of the Nevada Equal Rights Commission ("Commission").
20. Respondent acknowledges that information has been received by NERC or its agent, which constitutes sufficient grounds for the initiation of a Public Hearing.
21. Respondent admits that the conduct set forth above may constitute a violation of Title VII of Civil Rights Act of 1964, as amended, and Nevada State Law, including NRS 613.330(1), NRS 233.010, and NRS 613.340.
22. Respondent believes that some of the factual allegations contained herein are inaccurate and/or incomplete statements. However, this settlement was reached as a result of a compromise among the Parties of disputed claims. This settlement is not an admission of liability and/or responsibility for the alleged claims of the part of the Respondent.

PUBLIC RECORD

- 1
2 23. Respondent acknowledges that if accepted by the Commission, this settlement
3 agreement becomes a matter of public record.

VOLUNTARY WAIVER OF RIGHTS

- 4
5 24. Respondent may at all times obtain the advice from competent counsel of
6 choice. No coercion has been exerted upon Respondent, nor have any
7 promises been made other than those reflected in this agreement. Respondent
8 freely and voluntarily entered into this agreement, motivated only by a desire to
9 resolve the issues addressed herein. Respondent has executed this settlement
10 only after a careful reading of it and a full understanding of all its terms.
11 25. Respondent is fully aware of any and all rights to contest the charges pending.
12 These rights include: representation by an attorney at its own expense, the right
13 to a public hearing on any charges or allegations filed, the right to confront and
14 cross-examine witnesses called to testify against, the right to present evidence
15 on its own behalf, the right to compulsory process to secure the attendance of
16 such witnesses, the right to testify on its own behalf, the right to receive written
17 findings of fact and conclusions of law supporting the decision of the merits of
18 the complaint and the right to obtain judicial review of the Commission's
19 decision.
20 26. Respondent in exchange for the Commission's acceptance of this settlement
21 agreement is voluntarily waiving all of these rights.

ACCEPTANCE BY THE COMMISSION

- 22
23 27. The settlement agreement shall not become effective until it has been approved
24 by a majority of the Commission and endorsed by a representative member of
25 the Commission.
26 28. Respondent understands that the Commission is free to accept or reject this
27 settlement agreement and, if rejected by the Commission, a public hearing on
28 the Administrator's Charge against Respondent may immediately commence.

The Commission members who review this matter for approval of this settlement may be the same members who ultimately hear the disciplinary complaint if this settlement agreement is not approved by the Commission.

29. Respondent hereby agrees to waive any rights it might have to challenge the impartiality of the Commission to hear the charge, based on prior knowledge obtained by the Commission through consideration of this settlement agreement, if after review by the Commission, this settlement agreement is rejected.

30. If the Commission does not accept the settlement agreement, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as evidence at the subsequent hearing. Respondent will be free to defend and no inferences will be made from the willingness to have entered into this agreement.

COMPLETE AGREEMENT

31. This settlement agreement consists of five pages and embodies the entire agreement between the Commission and Respondent. It may not be altered, amended or modified without the express consent of the Parties.

32. Based upon the foregoing stipulations and recitals, it is hereby agreed that the Commission may issue the included Decision and Order.

Date: 7-30-19
RED ROCK COUNTRY CLUB
By: [Signature]
Representative:

Date: 7-30-19
NEVADA EQUAL RIGHTS COMMISSION
By: [Signature]
Kara Jenkins, Administrator

Approved as to form and content:
SKANE WILCOX

AARON D. FORD
Attorney General

By: [Signature]
Stephanie Mazzei, Esq.
1120 Town Center Dr., Suite 200
Las Vegas, Nevada 89144
(702) 363-2535
Attorney for Respondent

By: [Signature]
Sophia G. Long, Esq.
Deputy Attorney General
555 E. Washington Ave, Suite 3900
Las Vegas, Nevada 89101
(702) 486-3420

DECISION AND ORDER

The above-captioned matter having come before the Commissioners of the NEVADA EQUAL RIGHTS COMMISSION ("Commission"), and the Commission being fully apprised in the premises, and good cause appearing,

IT IS HEREBY ORDERED:

1. That the Settlement Agreement incorporated herein, is approved in full;
2. That Respondent will draft an EEO manual approved by NERC that incorporates EEOC guidance on workplace policies, within one hundred and twenty (120) days from the date of the Commission's Order;
3. That Respondent will provide discrimination training to all employees by the Equal Rights Commission ("EEOC") or NERC, within one hundred and twenty (120) days from the date of the Commission's Order;
4. That this matter will be brought before the Commission at the meeting following one hundred and twenty (120) days from the date of the Commission's Order to review compliance with its order.

The NEVADA EQUAL RIGHTS COMMISSION retains jurisdiction of this case until all conditions have been met to the satisfaction of the Commission.

IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 30 day of July, 2019.



Connye Harper, Chairperson