



**City of Chicago**  
**COMMISSION ON HUMAN RELATIONS**  
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654  
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

**IN THE MATTER OF:**

Crystal Williams  
**Complainant,**  
v.  
RCJ Inc. and Reese Charles  
**Respondents.**

**Case No.:** 10-E-91

**Date of Ruling:** October 19, 2011

**Date Mailed:** November 7, 2011

**TO:**

Crystal Williams  
714 East 82<sup>nd</sup> St.  
Chicago, IL 60619

RCJ Inc. and Owner Reese Charles  
8140 S. Cottage Grove  
Chicago, IL 60619

**FINAL ORDER ON LIABILITY AND RELIEF**

YOU ARE HEREBY NOTIFIED that, on October 19, 2011, the Chicago Commission on Human Relations issued a ruling in favor of Complainant in the above-captioned matter, finding that Respondents violated the Chicago Human Rights Ordinance. The findings of fact and specific terms of the ruling are enclosed. Based on the ruling, the Commission orders Respondents jointly and severally:

1. To pay to Complainant compensatory and punitive damages in the total amount of \$6,000, plus interest on that amount from August 31, 2010, in accordance with Commission Regulation 240.700.
2. To pay a fine to the City of Chicago in the amount of \$500.<sup>1</sup>

Pursuant to Commission Regulations 100(15) and 250.150, a party may obtain review of this order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law at this time. Respondent must comply with this Final Order shall occur no later than 28 days from the date of mailing of the order. Reg. 250.210.

**CHICAGO COMMISSION ON HUMAN RELATIONS**

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<sup>1</sup>**COMPLIANCE INFORMATION:** Parties must comply with a final order after administrative hearing no later than 28 days from the date of mailing of the later of a Board of Commissioners' final order on liability or any final order on attorney fees and costs, unless another date is specified. See Reg. 250.210. Enforcement procedures for failure to comply are stated in Reg. 250.220.

**Payment of damages and interest** is to be made directly to Complainant. **Payments of a fine** is to be made by check or money order payable to City of Chicago, delivered to the Commission at the above address, to the attention of the Deputy Commissioner for Human Rights Compliance and including a reference to this case name and number.

**Interest on damages** is calculated pursuant to Reg. 240.700, at the bank prime loan rate, as published by the Board of Governors of the Federal Reserve System in its publication entitled "Federal Reserve Statistical Release H.15 (519) Selected Interest Rates." The interest rate used shall be adjusted quarterly from the date of violation based on the rates in the Federal Reserve Statistical Release. Interest shall be calculated on a daily basis starting from the date of the violation and shall be compounded annually.

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Crystal Williams  
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**FINAL RULING ON LIABILITY AND RELIEF**

**I. INTRODUCTION**

On September 3, 2010, Complainant Crystal Williams filed a Complaint against Respondents RCJ Inc. and Reese Charles, alleging that they violated the Chicago Human Rights Ordinance ("CHRO") by engaging in sexual harassment when Complainant was employed by them as a convenience store cashier. Specifically, Complainant alleges that Respondents violated Section 2-160-040 of the CHRO, which explicitly prohibits sexual harassment.

Respondents filed a Response to the Complaint October 12, 2010, denying the allegations. After an investigation, the Commission issued an Order Finding Substantial Evidence on February 10, 2011. On March 11, 2011, the Commission mailed an Order Appointing Hearing Officer and Commencing Hearing Process to both parties. The order informed the parties that a pre-hearing conference was scheduled for April 14, 2011, at 10:00 a.m. Respondents failed to appear.

The hearing officer issued an order on April 15, 2011, which informed Respondents that pursuant to Commission Regulation 235.110, any further failure to comply with a procedural regulation, notice, or order may subject them to sanctions including fines and the entry of an order of default. The order also directed the parties to file and serve pre-hearing memoranda, and set the hearing date for June 3, 2011, starting at 10:00 a.m. at the office of the Commission. Respondents failed to file a pre-hearing memorandum and failed to appear for the administrative hearing.

At the commencement of the hearing, the hearing officer detailed the procedural history of the case, including Respondents' failure to appear at the pre-hearing conference and the administrative hearing as required by two Commission orders. Accordingly, the hearing officer found Respondents in default and moved forward with the hearing as a default proceeding pursuant to Commission Regulation 235.300.

On August 8, 2011, the hearing officer mailed her Recommended Ruling to the parties, informing them of their right to file and serve objections to the Recommended Ruling and a request for review of any interlocutory decision made during the hearing process, with a deadline of September 6, 2011. No objections or request for review have been received.

## II. FINDINGS OF FACT

1. In the early summer of 2010, Complainant moved to 82<sup>nd</sup> and Evans in Chicago, which was near Respondents' convenience store. (Tr. 6)
2. After becoming friendly with Respondent Reese Charles, who owned the store, Complainant learned that he was looking to hire someone to work a few hours. Charles would pay the person in cash. (Tr. 6)
3. Complainant began to work at the store in August 2010 as a clerk and cashier. (Complaint ¶2, Tr. 7)
4. To generate business, Respondent Charles asked Complainant to wear a certain type of clothing that Complainant felt was inappropriate for work. (Tr. 6, 10) Specifically, Respondent Charles told Complainant that she was pretty and that if she wore revealing clothes and even "flashed" them, male customers would come into the store. (Tr. 10-11) In sum, Complainant testified that Respondent Charles wanted her to "use her body to get him more business." Complainant refused. (Tr. 6, 11)
5. Complainant testified that there was a lot of down time at the store and she would talk to Respondent Charles. During these conversations, Respondent Charles would make sex-related comments to Complainant. He asked about sexual activities and inquired why Complainant didn't date men. (Tr. 8) On one occasion, he asked Complainant how much she would charge to give a blow job. (Tr. 12)
6. In another instance, Complainant was stacking new inventory on the shelves. Respondent Charles stood behind her and reached to position some of the bags on the shelf. Complainant asked him not to stand behind her. Instead, Respondent Charles remained standing behind her and pressed his penis against her. (Complaint ¶ 5, Tr. 7) Complainant became very upset and "went off crying." (Tr. 7)
7. Complainant called her then-girlfriend and was crying hysterically. (Tr. 7) Complainant's girlfriend came up to the store while Complainant finished her shift.
8. The same afternoon, Complainant's school-aged daughter also came up to the store. Respondent Charles told Complainant's daughter to go to the back of the store and help him with some garbage. Complainant asked why and Charles responded, "Your daughter says she's hungry, so she's going to work for her food." (Tr. 6, 8-9)
9. Complainant thought Charles' comment was inappropriate because it meant he would have taken her daughter to an alleyway where there were no cameras and where she wouldn't be able to see her child. Complainant believed there were underlying sexual connotations to Charles' statement. (Tr. 7-8)
10. After this last interaction with Respondent Charles, Complainant left the store and never went back. (Tr. 8) She testified that she worked at the store for approximately three weeks between August and September of 2010. (Tr. 9)
11. Complainant testified that she has been affected emotionally by these experiences. She sits up at night crying; doesn't sleep or eat well, and no longer enjoys activities. Complainant

testified that she goes out infrequently and has limited her daughter's activities with friends because she doesn't trust anyone after what happened. (Tr. 13-14)

12. Prior to these incidents, Complainant had sought counseling at Rape Victim Advocates to help her deal with a childhood trauma. Complainant had been working with a counselor regarding events from her childhood and also talked with the counselor about what happened to her while working at the convenience store. (Tr. 14-15)

#### IV. CONCLUSIONS OF LAW AND ANALYSIS

Section 2-160-040 of the CHRO makes it unlawful for an employer to engage in sexual harassment. Sexual harassment includes "conduct of a sexual nature when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment. Chicago Muni. Code §2-160-020(m). To determine whether alleged conduct constitutes sexual harassment, the Commission takes a "totality of the circumstances" approach and reviews the nature of the alleged sexual advances, conduct, or statements and the context in which the alleged incidents occurred from the perspective of a reasonable woman. CCHR Reg. 340.100; *Harper v. Cambridge Systematics, Inc.*, CCHR No. 04-E-86 (Feb. 17, 2010).

Because of Respondents' default, they are deemed to have admitted the allegations of the Complaint and to have waived any defenses to the allegations, including defenses concerning the Complaint's sufficiency. CCHR Reg. 235.320. Commission Regulations further provide that because of the default, the Complainant need only establish a *prima facie* case of sexual harassment to prevail in this matter. *Id.*; *Flores v. A Taste of Heaven et al.*, CCHR No. 06-E-32 (Aug. 18, 2010); *Williams v. Funky Buddha Lounge*, CCHR No. 04-P-82 (July 16, 2008); *Shores v. Nelson*, CCHR No. 07-E-87 (Feb. 17, 2010).

Thus, to establish a *prima facie* case here, Complainant must show that (1) she was subjected to unwelcome conduct of a sexual nature; and (2) the conduct was severe or pervasive enough to render her working environment intimidating, hostile, or offensive. *Shores, supra*, citing to *Barnes v. Page*, CCHR No. 92-E-1 (Sept. 23, 1993). Complainant's burden is to establish by a preponderance of the evidence that sufficient facts exist to support an inference of harassment in the absence of a credible, non-discriminatory explanation for the respondent's actions. *Harper, supra*, citing to *Bell v. 7-Eleven Convenience Store*, CCHR No. 97-PA-68/70/72 (July 28, 1999).

Complainant has met her burden of proof and established a *prima facie* case. She testified that she worked for Respondents for about three weeks between August and September 2010. During that brief time, Respondent Charles engaged in multiple sexually harassing acts. He asked Complainant to wear revealing clothes and "flash" potential male customers to generate business. He inquired about her sex life, asked how much she would charge to give a blow job, and pressed his penis against her back side under the guise of helping her stock inventory. Respondent Charles was even sexually predatory toward Complainant's daughter, telling her to come with him to the back of the store so that she could "work for her food." This last comment suggested that Respondent Charles expected sexual favors from Complainant's daughter in exchange for getting her something to eat.

Based on Complainant's credible testimony, these comments and actions were not welcomed. Complainant either rejected Respondent Charles' comments outright, refused his advances, or became visibly upset by his comments and conduct. After Respondent Charles' comments toward her daughter, Complainant left the store and never returned, further showing that his actions were unwelcome.

Moreover, a reasonable woman would find Respondent Charles' conduct and comments sufficiently pervasive to create a hostile and offensive work environment in violation of the CHRO and corresponding regulations. Comments about her sex life, oral sex, and even suggesting that Complainant use her body to generate business were all highly inappropriate and offensive – not to mention the vulgarity of rubbing himself against her.

In *Shores*, the respondent directed sexually explicit comments toward the complainant, stating that “she had to do whatever he told her to do, including going to a hotel to have sex with him.” He asked whether they were boyfriend and girlfriend, told her she had to be “nicer” to him, and gave her a Sweetest Day card that she found inappropriate. While the respondent's conduct occurred over a short period of time between September and October of 2007, the Commission in *Shores* still found that it rose to the level of sexual harassment in violation of the CHRO.

In *Manning v. AQ Pizza, LLC*, CCHR No. 06-E-17 (Sept. 19, 2007), the Commission found sexual harassment in violation of the CHRO where the respondent repeatedly propositioned the complainant for sex, exposed himself, tried to kiss her on the mouth, and touched her inappropriately. See also *Hawkins v. Ward and Hall*, CCHR No. 03-E-114 (May 21, 2008), finding a violation of the CHRO where a respondent repeatedly made unwanted sexual advances toward the complainant; *Salwierak v. MRI of Chicago, Inc., & Baranski*, CCHR No. 99-E-107 (July 16, 2003), finding a hostile environment based on offensive sexual remarks, taunting about complainant's sex life, and inappropriate touching by her supervisor; *Duignan v. Little Jim's Tavern et al.*, CCHR No. 01-E-38 (Sept. 10, 2001), finding that a complaint stated a claim of hostile environment and *quid pro quo* sexual harassment based on allegations of sexual advances and inappropriate touching over a two month period.

As in all of the cases cited above, Respondents sexually harassed Complainant and engaged in conduct that created a hostile and offensive environment in violation of the CHRO.

## **V. REMEDIES**

### **A. Out-of-Pocket Losses**

Complainant neither sought nor provided evidence any out-of-pocket losses (such as lost wages or back pay) as a result of the discrimination. The sole remedies she seeks are emotional distress damages and punitive damages.

### **B. Emotional Distress Damages**

The Commission reviews several factors in determining the amount of emotional distress damages awards. Relatively modest awards have been made where (1) there was negligible or merely conclusive testimony about mental distress; (2) the discriminatory conduct occurred over a brief period of time; (3) there were no prolonged effects from the conduct; (4) there was no medical treatment and few if any physical symptoms; (5) the conduct was not so egregious that one would expect a reasonable person to experience severe emotional distress; and (6) the complainant was not particularly vulnerable. *Williams, supra*; *Horn v. A-Aero 24 Hour*

*Locksmith*, CCHR No 99-PA-32 (July 19, 2000); *Efstathiou v. Café Kallisto*, CCHR No. 95-PA-1 (May 21, 1997); and *Nash and Demby v. Sallas and Sallas Realty*, CCHR No. 92-H-128 (May 17, 1995). By contrast, larger awards have been made where detailed testimony revealed specific effects from the discrimination; the conduct and the emotional effects took place over a long period of time; there were physical manifestations or psychiatric treatment in addition to the emotional distress; the conduct was particularly egregious; and the complainant was vulnerable. See *Day v. CTA*, CCHR No. 05- E-115 (Nov. 15, 2010); *Winter v. Chicago Park District*, CCHR No. 97-PA-55 (Oct. 18, 2000).

Here, the harassing conduct took place over a short period of about three weeks. While the Complainant testified about crying, sleeplessness, loss of appetite, and restricted activities, not all of these emotional responses are directly attributable to Respondents' conduct. The Complainant also testified that she had been subjected to a childhood trauma that led her to seek counseling from Rape Victims Advocates before her encounter with the Respondents ever occurred. Thus, while she told her counselor about Respondents' sexual harassment, not all of her emotional distress arose because of it. Complainant had previously identified a need for counseling based on a prior traumatic experience. This fact affects the amount of emotional distress damages to which Complainant is entitled in this case.

The facts of this case are similar to those of *Shores* and *Hawkins*, *supra*, in which the respondents subjected the complainants to unwanted sexual advances, inappropriate sexual comments, and touching. Accordingly, like those cases, the hearing officer recommended an award of \$2,000 for emotional distress damages. The Commission agrees that this recommended amount is appropriate.

### C. Punitive Damages

The Commission awards punitive damages where a respondent's actions are willful and wanton, malicious, and/or taken in reckless disregard for the rights of the complainant. *Blakemore v. General Parking Corp.*, CCHR No. 99-PA-120 (Feb. 22, 2001); *Horn*, *supra*. The Commission also imposes punitive damages to punish and deter conduct that violates the CHRO. *Horn*, *supra*. Punitive damages awards a particularly important where, as here, the actual damages are low. *Id.*

Failure to participate in the Commission's proceedings is another factor that supports punitive damages. *Id.*; see also *Huff v. American Mgmt. & Rental Svc.*, CCHR No. 97-H-187 (Jan. 20, 1999), awarding punitive damages award where a respondent respondent disregarded Commission proceedings.

Ordinarily the Commission considers the income and assets of the respondent in determining the appropriate amount of punitive damages. However, the Commission may award such damages without having a respondent's specific financial information where the respondent fails to appear for the hearing. *Id.*; *Miller v. Drain Experts et al.*, 97-PA-29 (Apr. 15, 1998).

Here, Respondents disregarded the rights of Complainant and the importance of these proceedings. Respondent Charles' actions were willful and wanton. He repeatedly engaged in offensive conduct and comments that were directed at Complainant and her school-aged daughter. He ignored Complainant's rejection of his advances and comments. Moreover, Respondents disregarded the Commission's proceedings by failing to appear at both the pre-hearing conference and the administrative hearing. Respondents also failed to file a pre-hearing memorandum, as ordered by the hearing officer. Therefore, the hearing officer recommended

punitive damages equal to the amount of emotional distress damages, that is, \$2,000, citing *Hawkins, supra*, where the Commission awarded \$2,000 each in emotional distress damages and punitive damages.

The hearing officer was aware that Complainant sought only \$1,000 for emotional distress damages and \$1,000 for punitive damages in her Pre-hearing Memorandum. However, based on the cases cited above and the nature of Respondents' conduct, she found these amounts insufficient to make Complainant whole and noted that Complainant appeared in this case *pro se*, without the benefit of counsel regarding appropriate damage awards.

As noted in Section 2-120-510(l) of the Chicago Municipal Code, the Commission has the authority to modify the recommendations of a hearing officer in whole or in part and in ordering relief to take such action as may be necessary to make the individual complainant whole. The Commission may in a proper case increase the amount of punitive damages from what was requested or recommended. See, e.g., *Torres v. Gonzales*, CCHR No. 01-H-46 (Jan. 18, 2006), where the Commission increased the punitive damages from the hearing officer's recommended \$1,000 to \$5,000 based on the direct evidence of discriminatory intent and the respondent's refusal to cooperate with the adjudication process after a substantial evidence determination.

The Commission not only agrees with the hearing officer's analysis, but also believes the punitive damages in this case should be even higher in light of Reese Charles' blatant violation of Complainant's rights and refusal to participate in the hearing process. As a business owner, Charles should have understood and discharged his responsibilities under what is now long-standing law and should have ensured that no employee is subjected to unwanted sexual conduct. The Commission thus finds that on this evidence Complainant should be awarded punitive damages at a level of twice the amount of the relatively low emotional distress damages. Accordingly, the Commission modifies the hearing officer's recommendation and orders payment of punitive damages of \$4,000.

#### **D. Interest on Damages**

Section 2-120-510(1) of the Chicago Municipal Code allows an additional award of interest on damages ordered to remedy violations of the CHRO. Pursuant to CCHR Reg. 240.700, the Commission routinely awards pre- and post-judgment interest at the prime rate, adjusted quarterly from the date of the violation, and compounded annually. The Complaint lists August 31, 2010, as the date of the last incident of discrimination. Accordingly, the hearing officer recommended that the Commission award interest on all damages awarded in this case, starting from August 31, 2010. The Commission agrees and adopts this recommendation.

#### **E. Fine**

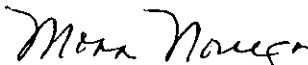
Pursuant to Section 2-160-120 of the Chicago Municipal Code, the Commission may impose a fine of no less than \$100 and no more than \$500 per offense if a respondent is found to have violated the Chicago Human Rights Ordinance. The hearing officer recommended the maximum fine of \$500. The Commission agrees with the recommendation and so fines Respondents \$500, imposed on the corporate and individual Respondents jointly and severally.

## VI. CONCLUSION

The Commission finds Respondents RCJ Inc. and Reese Charles jointly and severally liable for sex discrimination in the form of sexual harassment in violation of the Chicago Human Rights Ordinance and orders them jointly and severally to pay the following as relief:

1. Payment to the City of Chicago of a fine of \$500;
2. Payment to Complainant of emotional distress damages in the amount of \$2,000 and punitive damages in the amount of \$4,000, for a total of \$6,000;
3. Payment of pre- and post-judgment interest on the foregoing damages from the date of violation on August 31, 2010;

CHICAGO COMMISSION ON HUMAN RELATIONS



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By: Mona Noriega, Chair and Commissioner

Entered: October 19, 2011