

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CH1017
	)	EEOC NO.: N/A
JAMES GARNER,	)	HUD NO.: 050819288
	)	ALS NO.: 09-0155
Complainant.	)	

**ORDER**

This matter coming before the Commission by a panel of two, Commissioners Sakhawat Hussain, M.D. and Rozanne Ronen presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2009CH1017, James Garner, Complainant, and P.C. Development and Philip Cocomise, Respondents; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request; and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

1. On September 26, 2008, the Complainant filed an unperfected charge of discrimination with the Department, perfected on October 16, 2008, in which he alleged that the Respondents, P.C. Development and Philip Cocomise ("Cocomise"), subjected him to discriminatory financing and that Cocomise made discriminatory statements because of the Complainant's race (African American), in violation of § 3-102(B) and § 3-102(F) of the Illinois Human Rights Act ("Act"). On March 3, 2009, the Department dismissed the Complainant's charge for lack of substantial evidence. On April 6, 2009, the Complainant filed a timely request for review.

2. The Department's investigation revealed that since August 2004, Cocomise and the Complainant have had agreements for real estate loans. The allegations contained in the Complainant's charge of discrimination involve two specific

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agreements between Cocomise and the Complainant: a March 2008 Agreement and an April 2008 Agreement. The Complainant alleges that the Respondents subjected him to discriminatory financing because of his race in modifying the terms of the proposed loan agreements by increasing the corresponding interest rate. The Complainant also alleges that Cocomise made discriminatory statements in connection with the real estate transactions.

3. In the March 2008 agreement, Cocomise offered to make a bid of up to \$25,000 toward the purchase of property ("Subject Property") at an April 2008 auction. The Complainant argues that this agreement indicated that Cocomise would provide the Complainant with a loan toward the purchase of the Subject Property. The agreement actually indicates that Cocomise would provide the Complainant a loan so that the Complainant could buy the subject property for a price of \$20,000 above the auction price if Cocomise purchased the subject property.

4. The Department's investigation did not reveal evidence that Cocomise was the successful bidder on the Subject Property.

5. In the April 2008 agreement, Cocomise agreed to loan the Complainant \$40,000 toward any purchase that the Complainant made at an April 10, 2008 auction.

6. The Department's investigation did not reveal evidence that the Complainant purchased any property at an April 10, 2008 auction.

7. Further, the Department's investigation did not reveal evidence that Cocomise made discriminatory statements in connection with any real estate transaction.

8. In his Request, the Complainant alleges that the Department was biased in its investigation of his claim. The Complainant also contends that the Department investigator assigned to his charge was coercive and corrupt.

9. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because the Complainant did not provide any evidence that the Respondents subjected him to discriminatory financing or that the Respondents made discriminatory statements in relation to a real estate transaction. If no substantial evidence of discrimination exists after the Department's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D)(2008).

10. The March 2008 agreement clearly indicates that Cocomise agreed to pay up to \$25,000 for the Subject Property and that the Complainant would be "given the opportunity to purchase the [Subject] Property from [Cocomise] for \$20,000 above the total auction price." There is no evidence in the investigation file, and the Complainant presented no evidence, that Cocomise purchased the Subject Property. Thus, no substantial evidence of discriminatory financing in regards to this purchase exists because the purchase was never made.

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11. Further, the April 2008 agreement indicates that Cocomise agreed to loan the Complainant \$40,000 to close on property purchased at an April 10, 2008 auction. There is no evidence in the investigation file, and the Complainant presented no evidence, that the Complainant purchased any property at the April 10, 2008 auction. Thus, no substantial evidence of discriminatory financing in regards to this purchase exists because the purchase was never made.

12. The investigation file contains no context or details regarding the real estate transaction about which Cocomise allegedly made discriminatory statements. The investigation file chronicles the multiple unsuccessful attempts that the Department staff made to contact the Complainant to garner details about this allegation. There is no detailed or contextual evidence in the investigation file, and the Complainant fails to present any such evidence, supporting the Complainant's allegation that Cocomise made discriminatory statements in relation to a real estate transaction.

13. The Commission's review of the investigation file indicates that the Department's investigation was conducted in a neutral manner and followed the established Department investigation procedures.

14. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of his charge was not in accordance with the Act. The Complainant's Request is not persuasive.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of the Complainant's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Respondents, P.C. Development and Philip Cocomise, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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**Entered this 17<sup>th</sup> day of June 2009.**

Commissioner Sakhawat Hussain, M.D.

Commissioner Rozanne Ronen