STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.: 2008CN3446
CHRISTINE POHL,	)	ALS NO.: 09-0363
Petitioner.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr. and Rozanne Ronen, presiding, upon Christine Pohl's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")[1] of Charge No. 2008CN3446; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner'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 March 15, 2008, the Petitioner filed an unperfected charge of discrimination with the Respondent, perfected on July 25, 2008. The Petitioner alleged Accurate Personnel, LLC, a staffing agency (the "Agency"), failed to hire her in retaliation for having opposed unlawful discrimination, in violation of Section 6-101(A) of the Illinois Human Rights Act (the "Act"). The Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence on June 10, 2009. On July 14, 2009, the Petitioner filed a timely Request.

[1] In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

2. The undisputed evidence in the investigation file shows the Agency satisfies the temporary and permanent staffing needs of various companies. Lauren H. was a sales representative for the Agency.

3. In October 2007, the Petitioner conducted a job search using the Illinois Department of Employment Security ("IDES") Illinois Skills Match website. In so doing, she came across a job posting for a sales position, identified as Job Order Identification No. 349656. Lauren H. was indicated as the contact person, and her e-mail address was provided.

4. On October 22, 2007, the Petitioner sent Lauren H. an e-mail inquiry about the sales position No. 349656, and attached her résumé to the e-mail.

5. That same day, Lauren H. responded to the Petitioner, but not to discuss sales position No. 349656. Rather, Lauren H. informed the Petitioner that there might be a prospective international sales position available with an employer in Schaumburg, Illinois (the "Schaumburg Employer"). She told the Petitioner the position would be ideal for someone who was single and who did not have a family because the position would require her to travel for extended periods of time with little or no notice. Later on the same day, Lauren H. e-mailed the Petitioner and asked if she was married or had a family. The Petitioner never answered these questions. Instead she replied she believed she was a good match for the position and provided a phone number where she could be reached.

6. On October 22, 2007, the Petitioner complained to IDES that the Agency had asked about her marital status in response to her inquiry about an employment opportunity. There is no evidence the Agency was ever made aware of the Petitioner's complaint to IDES.

7. On October 23, 2007, Lauren H. contacted the Petitioner via e-mail in an attempt to have the Petitioner come to the Agency and complete an application and possibly interview for a position. The Petitioner never completed an application nor came in for an interview.

8. On October 26, 2007, the Agency removed sales position No. 349656 from the IDES Illinois Skills Match website.

9. However, Lauren H. sent two résumés, one of which was the Petitioner's, to the Schaumburg Employer for its consideration for the international sales position. The Schaumburg Employer advised Lauren H. that neither applicant had sufficient experience in its industry. The Schaumburg Employer also told Lauren H. not to send it anymore résumés.

10. On November 13, 2007, the Agency informed the Petitioner the international sales position with the Schaumburg Employer had been put on hold.

11. In her charge and in her Request, the Petitioner alleges the Agency caused her not to be hired for the international sales position in retaliation for having complained to IDES about unlawful discrimination. She contends the Respondent made improper credibility determinations and argues the Respondent's investigation was incomplete.

Conclusion

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. *See* 775 ILCS 5/7A-102(D).

In order to establish a *prima facie* case of retaliation, the Petitioner must show: (1) The Petitioner engaged in a protected activity; (2) The Employer committed an adverse action against the Petitioner and (3) a casual connection existed between the protected activity and the adverse action of the Employer. Welch v. Hoeh, 314 ILL.App.3d 1027, 1035, 733 N.E.2d 410, 416 (3rd Dist. 2000).

In this case, there is no substantial evidence the Agency committed an adverse action against the Complainant. Assuming *arguendo* the Agency had been made aware of the Petitioner's complaint, there is no substantial evidence the Agency thereafter prevented the Petitioner from being

hired by the Schaumburg Employer for the international sales position. Rather, the evidence shows the Agency forwarded her resume to the Schaumburg Employer for its consideration. There is no evidence the Agency had any control or influence over the Schaumburg Employer's hiring decision. Based on this evidence there is no substantial evidence that the Agency retaliated against the Petitioner.

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

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner'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 Accurate Personnel, LLC., as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
) **Entered this 27th day of January 2010.**
HUMAN RIGHTS COMMISSION)

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen