	This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 12/11/06

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
P.F.,	)	
	)	**Charge No.: 2004CN3951**
Complainant,	)	**EEOC No.: N/A**
	)	**ALS No.: 06-112**
and	)	
	)	
CMP ANODIZING,	)	
	)	
Respondent.	)	

RECOMMENDED ORDER AND DECISION

This matter comes before me following a public hearing on damages held on September 11, 2006, after the Commission entered a Default Order against the Respondent on April 26, 2006. Complainant appeared *pro se*. Respondent did not appear. This matter is now ready for disposition.

The Illinois Department of Human Rights is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

Consistent with public policy favoring the protection of victims of sexual harassment, Complainant is identified herein only by her initials.

Findings of Fact

The following findings of fact were derived from the record file in this case and from the events and evidence presented at the damages hearing.

1. Complainant filed Charge Number 2004CN3951 with the Illinois Department of Human Rights ("Department") on July 27, 2004.

2. The charge alleges that Respondent's manager sexually harassed Complainant and other female employees from approximately December 16, 2002 until February 2, 2004.

3. On April 5, 2006, the Department's Chief Legal Counsel entered a Default Order against Respondent.

4. On April 5, 2006, the Department filed a Petition for Hearing to Determine Complainant's Damages.

5. On April 26, 2006, the Commission entered a Default Order and referred the matter to the Administrative Law Section for a hearing on damages.

6. On May 22, 2006, an order was entered that set this matter for a status hearing on July 6, 2006.

7. On July 6, 2006, Complainant appeared, *pro se*. Respondent failed to appear. An order was entered that set this matter for a damages hearing on September 11, 2006.

8. On September 11, 2006, Complainant appeared *pro se.* Respondent neither called nor appeared. Complainant presented her case on damages.

9. Complainant was employed as a Secretary at Respondent on or around December 16, 2002.

10. Respondent's business is family-owned.

11. Throughout her employment at Respondent, Complainant was sexually harassed by her immediate manager, Michael Langenstrass.

12. Michael Langenstrass in the son of the mother and father who own Respondent.

13. Michael Langenstrass's job was to supervise the employees.

14. Other female employees employed at Respondent were sexually harassed.

15. Respondent's management was aware of the sexual harassment and took no action to stop it.

16. Every day when Complainant arrived at work, Michael Langenstrass called her "bitch" or "bitch do that."

17. Michael Langenstrass called Complainant over to see pornographic materials on the internet.

18. Michael Langenstrass grabbed Complainant's breasts as she was leaving the washroom. Complainant pushed him away.

19. The day after that event, Complainant took a day off of work.

20. On or around February 2, 2004, Complainant was discharged.

21. Respondent would grab other female employees, but several of the girls are illegal immigrants and are afraid to disclose the sexual harassment.

22. Complainant responded to the harassing conduct by becoming distant and detached.

23. Complainant became depressed from the harassment and did not want to work.

24. Every time Complainant went to the bus stop to go to work, her friends would ask her what was wrong. She explained what was going on at work and they would talk to her and try to help her.

25. Complainant felt like she went through a lot of trauma and everyday she went home with a headache and felt stressed out.

26. Complainant was the first one in the office and the last one out of the office so she was by herself with Michael Langenstrass.

27. Complainant felt she had no choice but to put up with the sexual harassment because she is a single parent and needed a job.

28. Complainant would come home and yell at her child more than she had before working at Respondent. Her child would ask her what was wrong with her.

29. Complainant also did not want her boyfriend to touch her or have him near her because it felt like the grabbing at work.

30. Complainant eventually broke up with her boyfriend.

31. After being discharged, Complainant became very depressed and scared because she could not find a job, as well as because she was mad.

32. Complainant went to her family doctor for depression and was given Xanac and Zoloft.

33. Although she had been looking, Complainant could not find a job until July 31, 2006.

Conclusions of Law

1. Complainant is an "aggrieved party" and Respondent is an "employer" as those terms are defined in the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B).

2. The Commission has jurisdiction over the parties and the subject matter of this action.

3. In accordance with the Commission's April 26, 2006 Default Order, Respondent is in violation of the Illinois Human Rights Act that prohibits sexual harassment.

4. Complainant has demonstrated emotional suffering as a result of Respondent's actions of such magnitude that she is entitled to an award of emotional distress damages in the amount of $10,000.00.

5. In light of the findings of liability against Respondent, the Commission should order Respondent to cease and desist from any sexually harassing conduct.

Discussion

In accordance with the Commission's Default Order, this matter proceeded to a damages only public hearing. Complainant testified on her own behalf.

Emotional Distress

It is apparent from the record that Complainant suffered a severe emotional reaction to the sexual harassment by Respondent. The degree of emotional distress was significantly over and above that which would be expected from "the mere fact of a civil rights violation" and is therefore compensable under the Illinois Human Rights Act**.** **Harris and Vinylgrain Industries of Illinois**, ___ *Ill. HRC Rep. ___, (1996CA1087, Aug. 1, 2001).*

Complainant testified that one of Respondent's managers, Michael Langenstrass (the son of the owners of this family-owned business), sexually harassed her for approximately one year. Complainant testified, "I would be the first one to arrive at work and the last one to leave. So I was always in there by myself in the office with him." (Tr. at 11). Complainant testified that Mr. Langenstrass would regularly call her "bitch" and directed her to do her tasks by saying "bitch, do this" or "bitch, do that." There were times when Mr. Langenstrass called Complainant to see pornography on the internet. Complainant stated that Mr. Langenstrass grabbed her breasts one day as she was leaving the washroom. The next day, Complainant did not go to work. She was discharged shortly thereafter. Complainant stated that Mr. Langenstrass regularly harassed other female workers, but since most of them are illegal immigrants from Mexico, they refused to report the improper conduct for fear they would lose their jobs. In fact, Complainant explained at the hearing that the other female workers were afraid to sign a sworn statement or appear before the Commission in this case because they are illegal immigrants.

Complainant explained that she became depressed from Respondent's sexually harassing conduct and eventually dreaded going to work. (Tr. at 14). She said that at the bus stop, her friends noticed she was upset and asked her questions. They tried to help her. (Tr. at 14 and 17). Complainant stated: "I was going through a lot of trauma

with these people. Every day I come home with a headache, stressed out." (Tr. at 8). Complainant became distant and tried to disengage herself from her manager. (Tr. at 7). Complainant also testified that Respondent's conduct led her to yell at her kid more often. Her son would ask her what was wrong and she would just tell him to leave her alone. (Tr. at 8). Respondent's conduct also had a significant impact on Complainant's sexual relationship with her partner and her feelings about sex. Complainant testified: "Or my boyfriend would touch me, I just didn't want to – I didn't want him near me. So I just called it off with him." (Tr. at 8). "I didn't want to look at my boyfriend anymore. Didn't want him to touch me." (Tr. at 17). "It kind of did because of grabbing, the grabbing. I was like, okay, get away. That was like for a couple of months. I just didn't want nothing to do with him. I was to myself. I didn't want him to touch anything." (Tr. at 17).

In determining the appropriate emotional distress damages in the case, I have considered the following: (1) the sexually harassing conduct went on for approximately one year; (2) the harassing conduct involved primarily verbal comments, but also involved at least one physical act of grabbing Complainant's breasts; and (3) Respondent required Complainant to watch pornography.

Respondent's sexually harassing conduct clearly had a negative impact on Complainant's life. Her relationship with her child became strained because she was "stressed out" from being sexually harassed at work. Complainant yelled at her child much more frequently than before she was sexual harassed. In addition, Complainant's relationship with her boyfriend was negatively impacted. Complainant viewed sex in a different way than before the sexually harassing conduct and no longer desired to be touched. Ultimately, she terminated her relationship with her boyfriend. Further, Complainant sought help and support from her friends. Complainant's personality and attitude changed. She dreaded going to work and felt traumatized. Also, she suffered

from headaches upon returning home from work. Complainant became depressed and distant.

Accordingly, after considering the record and reviewing Commission cases, I recommend an award for emotional distress damages in the amount of $10,000.00.

Cease and Desist

Since a Default Order has been entered and there has been a finding of liability against the Respondent, it is recommended that Respondent be ordered to cease and desist from sexually harassing conduct in the future. *See* **Magraff and Alexopolis**, ___ *Ill. HRC Rep. ___, (1990CN0209, Nov. 8, 1993*).

Sensitivity Training

The Department's Human Rights Training Institute provides training to companies and their employees to prevent civil rights violations. Based on the facts of this case, I recommend that Michael Langenstrass attend such training.

Recommendation

I recommend the Commission:

(1) award emotional distress damages in the amount of $10,000.00;

(2) order Respondent to cease and desist from any sexually harassing conduct in the future;

(3) order Michael Langenstrass, one of Respondent's managers, to undergo sensitivity training at the Department's Human Rights Training Institute within three months of a final order in this matter.

HUMAN RIGHTS COMMISSION

BY: _____
REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: October 5, 2006