

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)		
)		
JOHN H. HORTON,)		
Complainant,)	EEOC No.	21BA02539
and)	Charge No.	2001CF0017
)	ALS No.	11638
UNIVERSAL DISTRIBUTION, INC.,)		
a/b/a COBRA INTERNATIONAL, INC.,)		
UNIVERSAL EXPEDITED, f/k/a,)		
MUSTANG INTERNATIONAL, INC.)		
Respondents.)		

ORDER AND DECISION
MODIFIED & FINAL

Issued: August 26, 2004

Presiding: Marti Baricevic, James Maloof and Rozanne Ronen

For the Complainant: James T. Derico, Jr.
Derico & Associates, PC

For the Respondent: Matthew P. Connelly
Connelly, Roberts & McGivney, LLC

For the Commission: James E. Snyder, General Counsel
Matthew Hammoudeh, Asst. General Counsel

Pursuant to the Illinois Human Rights Act at 775 ILCS 5/8A 103(G)(1), the Commission hereby modifies its Order and Decision of January 14, 2004, and issues this final Order and Decision.

This matter comes before the Commission pursuant to the Respondent's exceptions to a Recommended Order and Decision issued by Administrative Law Judge Nelson Perez. For the reasons set forth herein, the recommended order is sustained and adopted as our final order.

On July 11, 2000, the Complainant, John H. Horton, filed a charge of discrimination with the Illinois Department of Human Rights (the "Department"). He charged that he had been discharged from employment due to race discrimination. The Complainant named the following Respondent's: "Universal Distribution, Inc. d/b/a Cobra Intl.", "Universal

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Expedited Industrial, Inc. f/k/a Mustang, Inc." (Respondent Universal) and "Industrial Staffing Services, Inc." (Respondent SSI).

On September 13, 2001, the Department filed a Petition for Hearing to Determine Complainant's Damages. The Illinois Human Rights Act requires the Commission to grant such a petition, and we did so on October 10, 2001. A public hearing was held on damages and Judge Perez issued a recommended order.

The Illinois Department of Human Rights' petition indicated that, although Respondent ISS was listed in the caption of the petition, it only sought damages from Respondent Universal.

On October 10, 2001 we granted the Department's petition. Our order included Respondent ISS in the captioned list of Respondents. Later pleadings filed by the parties and orders from this Commission listed Industrial Staffing Services, Inc. as a Respondent party.

It is clear from the record that Industrial Staffing Services was dismissed from these proceedings during the Department's investigation, the caption of the Department's September 13, 2001 petition notwithstanding.

Industrial Staffing Services is dismissed from these proceedings.

Respondent Universal has filed exceptions to the recommended order by way of a letter. Respondent Universal argues that it is not liable under the Act. Respondent Universal further argues that the Complainant is not a proper party, it is not a proper Respondent and therefore, the Department's finding of default is erroneous.

Respondent Universal's arguments about the relationship of several companies, contractors and employers may have had some bearing on the issues of liability, but that issue is not subject to review here.

The Illinois Human Rights Act does not permit the Commission to entertain a challenge to the Illinois Department of Human Rights' finding of default, 775 ILCS 5/7 - 101.1 (C), *Pinkerton Security Services v. Department of Human Rights, et al.* (1999), 309 Ill. App. 3d 48, 772 N. E.2d 1148, 243 Ill. Dec. 79. We did not review the propriety of default in considering Judge Perez's recommendations. The Illinois Department of Human Rights did not indicate a position on Respondent Universal's exceptions.

Respondent Universal has not filed exceptions as to the damages recommended by Judge Perez and they are accepted and adopted as our final order.

