

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M. HALEY,)
EXECUTIVE DIRECTOR, *ex rel.*)
SHAWNA MCCUMBY,)
)
Complainant,)
)
v.)
)
GENE'S GMC, LLC, d/b/a)
AURORA MOTORS,)
)
Respondent.)
_____)

ASCHR No. J-10-147

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Shawna McCumby, hereby alleges the following against Respondent Aurora Motors:

1. Respondent Gene's GMC, LLC, is an Alaska corporation that owns and operates Aurora Motors, a car dealership located at 3285 South Cushman Street in Fairbanks.
2. Respondent employed Shawna McCumby as a salesperson at its Aurora Motors location from June 22, 2009, to June 15, 2010.
3. During the time Ms. McCumby worked at Aurora Motors, Radley Espadron was also employed by Respondent at the same location as a salesperson.
4. On numerous occasions, Mr. Espadron subjected Ms. McCumby to unwelcome threatening, hostile, abusive, and sexually harassing conduct and comments.
5. Mr. Espadron's conduct and comments were so severe and pervasive that

they had the effect of altering the conditions of Ms. McCumby's employment.

6. Mr. Espadron's treatment of Ms. McCumby was often witnessed by others at Aurora Motors, and Respondent's management knew about the treatment.

7. Ms. McCumby complained to Respondent's managers on several different occasions about Mr. Espadron's treatment of her.

8. Despite Ms. McCumby's complaints, Respondent failed to take adequate remedial action to address Mr. Espadron's treatment of Ms. McCumby.

9. On May 15, 2010, Ms. McCumby again complained to Respondent's managers about Mr. Espadron's treatment of her.

10. In her May 15, 2010, complaint to Respondent, Ms. McCumby specifically described certain sexually harassing comments Mr. Espadron made toward her.

11. On June 15, 2010, Respondent terminated Ms. McCumby's employment.

**FIRST CAUSE OF ACTION
RETALIATION FOR COMPLAINING ABOUT DISCRIMINATION
A VIOLATION OF AS 18.80.220(a)(4)**

12. Paragraphs 1-11 above are realleged and incorporated herein.

13. Shawna McCumby was subjected to a hostile work environment by a coworker because of her sex while employed by Respondent.

14. Ms. McCumby complained to Respondent's managers on several occasions about the hostile work environment created by her coworker.

15. On May 15, 2010, Ms. McCumby again complained to Respondent's managers about the hostile work environment created by her coworker, specifically describing some of the sexually harassing comments he made.

16. Ms. McCumby opposed practices forbidden under AS 18.80.200 when she complained about the hostile work environment created by her coworker.

17. On June 15, 2010, Respondent terminated Ms. McCumby's employment.

18. Respondent terminated Ms. McCumby's employment in retaliation for her complaints about her coworker.

19. Respondent's termination of Ms. McCumby's employment constitutes a violation of AS 18.80.220(a)(4).

20. As a result of Respondent's termination of her employment, Ms. McCumby has suffered harm in the form of lost wages, commissions, and benefits.

PRAYER FOR RELIEF

Wherefore the Executive Director asks for the following relief:

1. That the Commission issue an order declaring that Respondent violated AS 18.80.220(a)(4) by terminating Ms. McCumby's employment.

2. That the Commission order Respondent to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law that includes a policy prohibiting discrimination against employees on the basis of sex, and a policy prohibiting retaliation for complaining about discrimination.

3. That the Commission order Respondent to obtain training of at least six hours in length for its managers and supervisors on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, with an emphasis on preventing a hostile work environment and retaliation.

4. That the Commission order Respondent to eliminate from Ms. McCumby's personnel records all documents and entries relating to the facts and circumstances that led Ms. McCumby to file the above-captioned charge of discrimination and any of the related events occurring thereafter.

5. That the Commission order Respondent to pay back wages, commissions, and any other lost remuneration to Ms. McCumby, plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

6. That the Commission order Respondent to pay front pay to Ms. McCumby, beginning with the date of the Commission's final order and ending with the date on which the statutory maximum front pay term expires.

7. That the Commission order Respondent to refrain from advising or informing any other employer or potential employer of Ms. McCumby of the facts or circumstances involved in this case.

Dated this 30th day of April 2012 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

/s/

Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070