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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR HUMAN)
 RIGHTS, PAULA M. HALEY, EXECUTIVE)
 DIRECTOR, *ex rel.* MELISSA SCHASTEEN, n/k/a)
 MELISSA PARRISH,)
)
 Complainant,)
)
 v.)
)
 A B & M ENTERPRISES, INC., d/b/a)
 RUMRUNNER'S OLD TOWNE BAR & GRILL,)
)
 Respondent.)
 _____)

ASCHR No. E-09-006

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Melissa Parrish, formerly known as Melissa Schasteen, hereby alleges the following against Respondent A B & M Enterprises, Inc:

1. Respondent A B & M Enterprises, Inc., is an Alaska corporation that owns and operates Rumrunner's Old Towne Bar and Grill (Rumrunner's), a bar and restaurant located at 415 E Street in Anchorage.

2. Rumrunner's employed Melissa Parrish as a bartender from May 28, 2008, to November 26, 2008. Ms. Parrish worked at Rumrunner's main bar approximately four evening shifts each week.

3. During the time Ms. Parrish worked at the Rumrunner's bar, John Fuller also worked at Rumrunner's as a member of the bar's security staff. Mr. Fuller typically worked at least two shifts each week that coincided with Ms. Parrish's shifts.

4. After her shift ended on October 25, 2008, Ms. Parrish remained at the bar

1 and consumed one or two drinks. Although she was not intoxicated, Ms. Parrish asked Mr.
2 Fuller to drive her home because she felt tired and did not think it was safe for her to drive.

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4 5. After they arrived at Ms. Parrish's home, Mr. Fuller physically and sexually
5 assaulted Ms. Parrish and forced her to have sexual intercourse with him.

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7 6. Ms. Parrish reported the sexual assault to the Anchorage Police Department
8 (APD) and, as a result, the APD conducted a criminal investigation into the sexual assault

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10 7. Ms. Parrish returned to work on or about October 25 and informed Michael
11 Shomer, one of Respondent's owners, of the sexual assault by Mr. Fuller.

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13 8. At the time she made this report to Mr. Shomer, Ms. Parrish had a black eye
14 and other bruises on her face. Ms. Parrish also informed Mr. Shomer that she was afraid of
15 Mr. Fuller and did not want to work with him or be in his presence.

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17 9. As a result of Ms. Parrish's report, Respondent initially suspended Mr.
18 Fuller's employment for one week; however, after the one-week suspension Mr. Fuller was
19 placed back on the schedule to work two shifts per week with Ms. Parrish.

20
21 10. Neither Mr. Shomer, nor any of Respondent's other owners, nor any of
22 Respondent's managers or agents, conducted any investigation into Ms. Parrish's allegations
23 in order to determine whether Ms. Parrish was being subjected to a hostile work environment
24 because of Mr. Fuller's presence during her shifts.

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26 11. After Mr. Fuller was placed back on the schedule, Ms. Parrish again informed
27 Respondent that she did not want to work with or near Mr. Fuller. As a result, Respondent
28 assigned Ms. Parrish to work at a bar in a back room immediately adjacent to Rumrunner's
main bar.

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1 12. Far fewer customers ordered drinks at the bar in Rumrunner's back room than
2 at the main bar. Respondent's reassignment of Ms. Parrish to its back room thus resulted in a
3 significant diminution of earnings for Ms. Parrish. Respondent's reassignment of Ms.
4 Parrish was also ineffective in reducing or eliminating the visual contact between Ms. Parrish
5 and Mr. Fuller because Mr. Fuller had free range of Respondent's premises.

6 13. Because her reassignment to the back room resulted in a significant loss in
7 pay, and because working in the back room did not reduce her discomfort about working
8 near Mr. Fuller, Ms. Parrish asked to return to bartending at Rumrunner's main bar.

9 14. After returning to work at Respondent's main bar, Ms. Parrish asked her then-
10 fiancé, Robert Parrish, to sit at the bar while she worked her shifts to help her feel safe in Mr.
11 Fuller's presence.

12 15. Mr. Parrish sat at the bar for several shifts while Ms. Parrish worked, without
13 objection from Respondent. On November 26, 2008, however, Mr. Shomer told Ms. Parrish
14 that Mr. Parrish would have to leave the bar and would no longer be allowed to sit at the bar
15 during her shifts.

16 16. Ms. Parrish then informed Mr. Shomer that because she did not feel safe
17 around Mr. Fuller without her fiancé also present, she would have to quit her job, and that
18 she was resigning at the end of her shift.

19 17. After Ms. Parrish expressed her intent to resign at the end of her shift, Ellaina
20 Shomer, Respondent's office manager, approached the bar and told Ms. Parrish that she
21 would have to leave the premises immediately.

22 18. As she prepared to leave the bar area, Ms. Parrish attempted to collect the tips
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1 she had earned during her shift. Mr. Shomer, however, physically prevented Ms. Parrish
2 from collecting her tips and forced her to leave the premises.

3
4 19. Mr. Shomer escorted Ms. Parrish to Rumrunner's exit. After she had exited
5 the building, Mr. Shomer then told Ms. Parrish that she would not be permitted to return to
6 Rumrunner's ever again.

7
8 **FIRST CAUSE OF ACTION**
9 **DISCRIMINATION BECAUSE OF SEX**
10 **A VIOLATION OF AS 18.80.220(a)(1)**

11 20. Paragraphs 1-19 above are realleged and incorporated herein.

12 21. Melissa Parrish was employed by Respondent A B & M Enterprises, Inc. as a
13 bartended at Rumrunner's Old Towne Bar and Grill from May 28, 2008, to November 26,
14 2008.

15 22. On October 25, 2008, Melissa Parrish was physically and sexually assaulted
16 by a coworker, John Fuller, at her home.

17 23. Ms. Parrish immediately reported the sexual assault to Respondent and placed
18 Respondent on notice that Mr. Fuller's presence in her work environment created a hostile
19 work environment.

20 24. Respondent failed to conduct an adequate investigation into Ms. Parrish's
21 allegations of hostile work environment.

22 25. Respondent failed to take prompt, corrective action to effectively eliminate
23 the hostile work environment to which Ms. Parrish was being subjected.

24 26. As a result of Respondent's failure to take prompt corrective action in
25 response to Ms. Parrish's complaints, Respondent subjected Mr. Parrish to a continuing
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1 hostile work environment until the last day of her employment with Respondent.

2 27. Respondent violated AS 18.80.220(a)(1) by subjecting Ms. Parrish to a hostile
3 work environment because of her sex.
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5 **SECOND CAUSE OF ACTION**
6 **CONSTRUCTIVE DISCHARGE**
7 **A VIOLATION OF AS 18.80.220(a)(1)**

8 28. Paragraphs 1-27 above are realleged and incorporated herein.

9 29. The hostile work environment to which Ms. Parrish was subjected by
10 Respondent created working conditions that were so intolerable that a reasonable person in
11 Ms. Parrish's position would have felt forced to resign.

12 30. Because the hostile working environment to which she was subjected created
13 working conditions that were intolerable, Ms. Parrish did resign from Respondent's employ on
14 November 26, 2008.
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16 31. Ms. Parrish's resignation constituted a constructive discharge of Ms. Parrish by
17 Respondent because of her sex, in violation of AS 18.80.220(a)(1).
18

19 32. As a result of her forced resignation, Ms. Parrish has suffered harm in the form of
20 lost wages, tips, and other remuneration.
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22 **THIRD CAUSE OF ACTION:**
23 **RETALIATION FOR COMPLAINING ABOUT DISCRIMINATION,**
24 **A VIOLATION OF AS 18.80.220(a)(4)**

25 33. Paragraphs 1-32 above are realleged and incorporated herein.

26 34. Ms. Parrish's complaint to Respondent that Mr. Fuller had physically and
27 sexually assaulted her constituted opposition to a practice forbidden under AS 18.80.200 –
28 AS 18.80.280.

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1 3. That the Commission order Respondent to obtain training of at least six hours
2 in length for its managers and supervisors on the provisions of the Alaska Human Rights
3 Law that prohibit discrimination in employment, with an emphasis on preventing a hostile
4 work environment and retaliation.
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6 4. That the Commission order Respondent to eliminate from Ms. Parrish's
7 personnel records all documents and entries relating to the facts and circumstances that led
8 Ms. Parrish to file the above-captioned charge of discrimination and any of the related events
9 occurring thereafter.
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11 5. That the Commission issue an order declaring that Respondent violated AS
12 18.80.220(a)(1) by constructively discharging Ms. Parrish.
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14 6. That the Commission issue an order declaring that Respondent violated AS
15 18.80.220(a)(4) by retaliating against Ms. Parrish when it banned her from its premises.
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17 7. That the Commission order Respondent to immediately make accessible to
18 Ms. Parrish all of its goods, services, facilities, advantages, and privileges that are
19 normally afforded to members of the general public, and that Respondent inform its
20 managers, supervisors, and employees that its goods, services, facilities, advantages, and
21 privileges that are normally afforded to members of the general public are to be provided
22 to Ms. Parrish.
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24 8. That the Commission order Respondent to pay back wages, tips, and any
25 other lost remuneration to Ms. Parrish, plus interest at the applicable legal rate, the exact
26 amount of which will be proven at hearing.
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9. That the Commission order Respondent to pay front pay to Ms. Parrish, beginning with the date of the Commission's final order and ending with the date on which the statutory maximum front pay term expires.

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

Dated this 17th day of February 2011 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

/s/
Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070
Lauri J. Owen
Human Rights Attorney
Alaska Bar No. 0705032