

1 BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

2 ALASKA STATE COMMISSION FOR)
3 HUMAN RIGHTS, MARTI)
4 BUSCAGLIA, EXECUTIVE)
5 DIRECTOR *ex rel.*, SAMANTHA)
6 PUSHROK,)

7 Complainant,)

8 v.)

ASCHR Nos. J-15-151 and
J-16-041

9 907NOREFUND, INCORPORATED)
10 d/b/a CHEAP SMOKES,)

11 Respondent.)
12

13 ACCUSATION

14 Marti Buscaglia, Executive Director of the Alaska State Commission for Human
15 Rights, *ex rel.* Samantha Pushruk, hereby alleges the following against Respondent
16 907Norefund, Incorporated d/b/a Cheap Smokes:
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18 1. Respondent, 907Norefund, Incorporated is a corporation located in Anchorage,
19 Alaska, that sells cigars, lottery tickets, and other general sundries.

20 2. Ki Kang is the sole proprietor of 907Norefund, Incorporated, which conducts
21 business as Cheap Smokes ("Cheap Smokes").
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23 3. Samantha Pushruk was employed by Cheap Smokes as a cashier from May 17,
24 2015, to May 23, 2015.

25 4. During the time Ms. Pushruk was employed by Cheap Smokes, Mr. Kang
26 subjected her to inappropriate, offensive comments and conduct of a sexual nature.
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6. Ms. Pushruk did not encourage, solicit or respond favorably to any of Mr. Kang's advances, which she found patently offensive.

7. On May 23, 2015, three days after she had been hired and subsequent to her refusal to engage in activities on the “Lovers Lotto Game” scratch card, Ms. Pushruk was fired from her position at Cheap Smokes by Mr. Kang.

8. Paragraphs 1-7 above are realleged and incorporated herein.

9. Ms. Pushruk, because of her sex, was subjected to offensive sexual comments and sexual suggestions by Mr. Kang, her supervisor and the owner of Cheap Smokes.

10. The sexual comments and suggestions were sufficiently pervasive and severe to alter the conditions of Ms. Pushruk's employment; they included being asked if she was interested in performing any of the acts listed on a "Lovers Lotto Game" scratch card. The card listed scratch off answers for "when/where/how" and revealed options such as "morning nookie," "sex from behind," "now," and "suck erogenous zone." She was also subjected to deeply personal inquiries about her marital and dating status.

11. The sexual comments and suggestions were unwelcome, offensive and humiliating, and created an abusive working environment.

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12. As Mr. Kang is the sole owner of Cheap Smokes, Ms. Pushruk could not seek relief from a supervisor or human resources representative.

13. After not responding favorably to Mr. Kang's offensive comments and conduct, Ms. Pushruk was subsequently fired by Mr. Kang.

14. As a result of her termination, Ms. Pushruk suffered damages in the form of lost wages and other benefits.

**SECOND CAUSE OF ACTION
SEXUAL HARRASSMENT (QUID PRO QUO)
A VIOLATION OF 18.80.220(a)(1)**

15. Paragraphs 1-14 above are realleged and incorporated herein.

16. On the first day of Ms. Pushruk's employment at Cheap Smokes Mr. Kang asked her if she was married and if she cheated on her boyfriend.

17. On her last day of employment as a cashier at Cheap Smokes, Mr. Kang presented Ms. Pushruk with the "Lotto Love Game" scratch card and asked if she wanted to play a game with him. After she told him this was inappropriate he repeated his request.

18. Subsequent to Ms. Pushruk's refusal to perform any of the scratch card sexual acts with Mr. Kang, he fired her.

19. As a result of her termination, Ms. Pushruk suffered damages in the form of lost wages and other benefits.

**THIRD CAUSE OF ACTION
RETALIATION FOR OPPOSITION TO PRACTICES
FORBIDDEN BY AS 18.80
A VIOLATION OF AS 18.80.220(a)(3)**

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20. Paragraphs 1-18 above are re-alleged and incorporated herein.

21. Samantha Pushruk was employed by Mr. Kang at Cheap Smokes as a cashier and was qualified for her job.

22. During her employment, Ms. Pushruk was subjected to severe and pervasive comments and suggestions based on her sex.

23. These comments were objectively offensive to Ms. Pushruk.

24. The comments were so severe, pervasive, offensive, and unwelcome, they altered the terms and conditions of Ms. Pushruk's employment by creating an abusive working environment.

25. On her last day of employment, Ms. Pushruk was fired after Mr. Kang repeatedly asked her if she would perform any of the sexual acts listed on a "Lovers Lotto Game" scratch card and she refused.

26. Ms. Pushruk demonstrated her opposition to the abusive work environment created by the presence of discrimination and her immediate dismissal following her refusal to participate in sex acts with Mr. Kang, behaviors forbidden by AS 18.80.200 – AS 18.80.280, by filing a complaint with the Alaska State Commission for Human Rights on May 29, 2015.

27. As the result of Ms. Pushruk's opposition to practices forbidden under AS 18.80.200 – AS 18.80.280, Respondent took adverse action against Ms. Pushruk which was retaliatory in nature.

28. On August 2, 2015, Mr. Kang entered Ms. Pushruk's new place of

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1 employment where she was working at the member's service desk. Mr. Kang refused to be
2 assisted by Ms. Pushruk, and proceeded to inform the manager on duty that he could not
3 believe the business had hired Ms. Pushruk and then made several offensive and insulting
4 comments about her.
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6 29. Respondent's actions described in the preceding paragraph constitute
7 unlawful retaliation and a violation of AS 18.80.220(a)(3).
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9 **PRAYER FOR RELIEF**

10 Wherefore the Executive Director asks for the following relief:

11 1. That the Commission issue an order declaring that Respondent 907Norefund,
12 Incorporated d/b/a Cheap Smokes, violated AS 18.80.220(a)(1) by subjecting Ms. Pushruk to
13 discrimination based on sex by creating an abusive work environment.
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15 2. That the Commission issue an order declaring that Respondent
16 907Norefund, Incorporated d/b/a Cheap Smokes, violated AS 18.80.220(a)(1) by subjecting
17 Ms. Pushruk to subjecting her to quid pro quo sexual harassment by firing her after she refused
18 to engage in sex acts with him.
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20 3. That the Commission issue an order declaring that Respondent 907Norefund,
21 Incorporated d/b/a Cheap Smokes, violated AS 18.80.220(a)(3) by retaliating against Ms.
22 Pushruk for having filed a complaint with the Human Rights Commission objecting to a
23 practice forbidden under AS 18.80.200 – AS 18.80.280.
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25 4. That the Commission order 907Norefund, Incorporated d/b/a Cheap Smokes
26 to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights
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1 Law.

2 5. That the Commission order the managers and supervisors and owner of
3 907Norefund, Incorporated d/b/a Cheap Smokes to obtain training of at least two (2) hours
4 on the provisions of the Alaska Human Rights Law that prohibit discrimination in
5 employment, that employees of 907Norefund, Incorporated d/b/a Cheap Smokes obtain
6 training of at least two (2) hours on the provisions of the Alaska Human Rights Law that
7 prohibits discrimination in employment, and that such order specify that the trainer(s) and
8 training curricula be approved by the Executive Director prior to the training being
9 conducted.

10 6. That the Commission order 907Norefund, Incorporated d/b/a Cheap Smokes
11 to eliminate from Ms. Pushruk's personnel records all documents and entries relating to the
12 facts and circumstances that led to Ms. Pushruk's filing of the above-captioned charge and any
13 of the related events occurring thereafter.

14 7. That the Commission order 907Norefund, Incorporated d/b/a Cheap Smokes
15 to refrain from penalizing Ms. Pushruk in any way in future considerations for employment
16 and, if rehired, for transfers, promotions, or upgrading because Ms. Pushruk complained about
17 discrimination or because she filed a complaint with the Commission.

18 8. That the Commission order Respondent 907Norefund, Incorporated d/b/a
19 Cheap Smokes to refrain from advising or informing any other employer or potential employer
20 of Ms. Pushruk of the facts or circumstances involved in this case.

21 9. That the Commission order 907Norefund, Incorporated d/b/a Cheap Smokes
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1 to pay back pay, including any lost benefits or other remuneration, to Ms. Pushruk, plus
2 interest at the applicable legal rate, the exact amount of which will be proven at hearing.
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4 10. That the Commission order 907Norefund, Incorporated d/b/a Cheap Smokes
5 to pay to Ms. Pushruk the statutory maximum amount of front pay, including benefits or
6 remuneration, the exact amount of which will be proven at hearing.
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8 Dated this 16th of August 2018 at Anchorage, Alaska.

9 ALASKA STATE COMMISSION
10 FOR HUMAN RIGHTS

11 **SIGNATURE REDACTED**

12 By:

13  Danika Swanson
14 Human Rights Attorney
15 Alaska Bar No. 0508067
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