

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR
HUMAN RIGHTS, ROBERT W. CORBISIER,
EXECUTIVE DIRECTOR,

Complainant,

v.

DENALI FOODS, INC. dba TACO BELL,

Respondent.

ASCHR No. J-21-098



ACCUSATION

Robert W. Corbisier, Executive Director of the Alaska State Commission for Human Rights, hereby alleges the following against Respondent Denali Foods, Inc. dba Taco Bell:

1. Denali Foods, Inc. filed a Certificate of Incorporation on June 24, 1983, to operate Taco Bell Restaurants within and without the State of Alaska.
2. A business license was issued to Denali Foods, Inc. on April 13, 2018, to operate Taco Bell ("Respondent") in Anchorage, Alaska.
3. Sydney Lutman was hired as a part-time team member at Respondent's Fort Richardson location on January 2, 2020.
4. Ms. Lutman was a minor during the majority of her employment with Respondent.
5. Ms. Lutman reported to the restaurant general manager, who reported to the area coach.
6. Chris Rick was the Fort Richardson restaurant's general manager for all times in question giving rise to this Accusation. Ms. Aeris Willie was the Fort Richardson's Taco Bell's assistant manager during the time at issue.

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- 1 7. Ms. Lutman first noticed Chris Rick's inappropriate sexual behavior toward
- 2 herself and other employees during the month of January 2020.
- 3 8. On July 18, 2020, Ms. Lutman reported to the Taco Bell corporate office that
- 4 Chris Rick had subjected her and other employees to unwanted and offensive
- 5 comments of a sexual nature, inappropriate memes, as well as offensive and
- 6 sexually explicit images and videos, including a photoshopped image of an
- 7 employee on a pornographic magazine.
- 8 9. On or about July 19, 2020, Chris Rick admitted to inappropriate behavior toward
- 9 Ms. Lutman and other employees.
- 10 10. Chris Rick's employment with Taco Bell's Fort Richardson location was
- 11 terminated on July 22, 2020.
- 12 11. Following his termination, Chris Rick "unfriended" multiple employees on
- 13 social media. Ms. Lutman was not one of those employees as she had no link to
- 14 her manager on social media.
- 15 12. Those employees who had been unfriended, believed that action would identify
- 16 them as witnesses or employees who had reported the sexual harassment that had
- 17 resulted in his termination. This resulted in multiple employees resigning Taco
- 18 Bell immediately.
- 19 13. Following the above actions, Ms. Lutman requested a transfer to the Eagle River
- 20 restaurant, which was granted July 24, 2020.
- 21 14. Ms. Lutman filed a complaint of discrimination with the Alaska State
- 22 Commission for Human Rights on August 18, 2020.
- 23 15. When attempts to reach a settlement failed, Ms. Lutman decided to pursue
- 24 personal damages in superior court and signed a Request for Withdrawal of
- 25 Complaint on October 5, 2021.
- 26 16. A closing order was issued for Ms. Lutman's complaint on October 11, 2021.
- 27 17. The complaint was converted to a director's charge on November 5, 2021.
- 28

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18. After attempts to reach a settlement between the Commission and Respondent failed a second time, a Certification of Conciliation Failure was filed with the Commission on January 5, 2022.

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

19. Paragraphs 1-18 above are realleged and incorporated herein.
20. Sydney Lutman was employed by Respondent Denali Foods, Inc. dba Taco Bell, as a part-time team member at the Fort Richardson location beginning January 2, 2020.
21. On July 18, 2020, Ms. Lutman reported receiving unwanted and offensive comments of a sexual nature, inappropriate memes, and offensive and explicit images of a sexual nature from the restaurant manager, Chris Rick.
22. As a result of reports of the same behavior from other employees, Chris Rick was terminated July 22, 2020.
23. Although Ms. Lutman had not “friended” Chris Rick on social media, other employees were “unfriended” and feared that action would convey the fact that they had also reported the inappropriate behavior by the restaurant manager.
24. When Ms. Lutman reported to work following her complaint, Chris Rick’s close work comrades treated Ms. Lutman unprofessionally.
25. Ms. Lutman requested a transfer to the Eagle River restaurant location on July 24, 2020.
26. On her last day at the Fort Richardson Taco Bell, some of Respondent’s employees subjected Ms. Lutman to debasing and unprofessional conduct, yelling “Porn!” at her.
27. Respondent violated AS 18.80.220(a)(1) by subjecting Ms. Lutman to a hostile work environment because of her sex.

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**SECOND CAUSE OF ACTION
SEXUAL HARASSMENT
A VIOLATION OF AS 18.80.220(a)(1)**

28. Paragraphs 1-27 above are realleged and incorporated herein.
29. Ms. Lutman was subjected to sexual comments, memes, and explicit images by the restaurant manager, Chris Rick, while employed at the Fort Richardson Taco Bell.
30. In January 2020, Ms. Lutman brought her concerns regarding Chris Rick's inappropriate sexual comments, jokes and inuendoes.
31. Ms. Willie told Ms. Lutman that it was normal, and instructed her to tell Chris Rick to stop, or to ignore it.
32. Ms. Lutman did as she was instructed.
33. The sexually charged work atmosphere continued.
34. On or about or between January 2, 2020, and July 18, 2020, Chris Rick photoshopped Ms. Willie's face onto the cover of the pornography magazine, "18, The Only Teen Porn Mag, Run by Teens".
35. Chris Rick sent a the photoshopped image to Ms. Willie via text message.
36. Chris Rick also showed the photoshopped image to another then employee who was a minor at the time.
37. While at work, Chris Rick informed Ms. Willie that he had masturbated to one of her Facebook (now Meta) photos.
38. Ms. Willie was one of Chris Rick's sexual harassment targets during the time at issue in this complaint.
39. In July 2020, Chris Rick focused his sexual behavior toward Ms. Lutman.
40. On or about July 18, 2020, Chris Rick reported to work the morning shift after Ms. Lutman reported his behavior to the area coach.
41. When Ms. Lutman reported to work following her complaint, Chris Rick's close work comrades treated Ms. Lutman unprofessionally.

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42. Ms. Lutman and other employees were subjected to negative comments.
43. The sexual comments, memes, and explicit images were pervasive.
44. The sexual comments, memes, and explicit images were severe.

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)(1) by subjecting Ms. Lutman to discrimination based on sex.
2. That the Commission issue an order declaring that Respondent violated AS 18.80.220(a)(1) by subjecting Ms. Lutman to discrimination based on sexual harassment.
3. That the Commission order Respondent to adopt and disseminate a policy reflecting, as well as adopt and disseminate corresponding relevant procedure(s) implementing its nondiscriminatory posture, including a statement reflecting its opposition to any retaliatory practices within forty-five (45) days of the date the Commission approves this agreement. Said policy, and relevant procedure(s) shall provide that failure on the part of any employee to observe and implement such policy and procedure(s) shall constitute grounds for disciplinary action, including potential dismissal. The undersigned further requests the Commission order that both the policy and relevant procedure(s) must be approved by the Commission before they are adopted and disseminated.
4. That the Commission order Respondent to provide training to all Alaska based managers and supervisors regarding all Federal and Alaska laws prohibiting discrimination in employment, including sexual harassment, within ninety (90) days of the date the Commission approves this agreement. The training shall be at least two (2) hours in length and may be conducted in person; While COVID-19 public health measures promote and encourage social distancing, the amount of employees to attend in person is within Respondent's discretion. If all

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employees do not attend in-person training, said in-person training shall be recorded by video, and subsequently submitted to the Alaska State Commission for Human Rights. The training must include instruction on the applicable law, including sexual harassment, and should include examples or scenarios to explain how the law applies to situations or individuals in the workplace, but all topics must directly relate to the elements of the legal concepts being presented.

5. That the Commission order Respondent to provide training to all Alaska based managers and supervisors who did not physically attend the initial live in-person training articulated in paragraph 4 above, via video conference or recorded video within sixty (60) days following the initial training date. The training must include instruction on the applicable law, including sexual harassment, and should include examples or scenarios to explain how the law applies to situations or individuals in the workplace, but all topics must directly relate to the elements of the legal concepts being presented. The training must also include, for each type of discrimination being discussed, an explanation of the employees' rights and remedies, including a procedure for complaining about discrimination, including sexual harassment, and assurances that employees will not be retaliated against for any complaints they make.
6. That the Commission's order specify that Respondent shall send an outline of the proposed program and training materials, including trainer's notes to the Commission for review and approval at least forty-five (45) days prior to the date of the initial training. Within fifteen (15) days after the date the initial training session takes place, Respondent shall submit a report to the Commission on the training provided, including the subject matters covered, as well as the names and job titles of the attendees; Respondent shall attach a copy of the training materials distributed to the attendees.
7. That the Commission order all other existing employees not included in said training as articulated above complete an anti-discrimination questionnaire

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1 containing a minimum of ten (10) questions, with scenarios describing various
2 possible interactions that may occur, including sexual harassment. This
3 questionnaire must be presented to the Commission for approval within fifteen
4 (15) days after the Commission approves the training materials described above.
5 All completed questionnaires will be reviewed by the Area Coach or other
6 member of upper management or corporate staff and any incorrect answers will
7 be discussed with each employee to ensure the concepts in those questions are
8 understood.

- 9 8. That the Commission order Respondent to provide all new employees with a
10 copy of the questionnaire along with their copy of the Public Accommodation
11 Policy within two (2) weeks of their start date during their new hire orientation.
12 9. That the Commission order Respondent to submit a report to the Commission
13 within one hundred eighty (180) days of the date the Commission approves this
14 agreement, describing the manner in which it has carried out the undertakings
15 herein outlined. After the Commission reviews the report, it will evaluate
16 whether all of the terms and conditions of this agreement have been met. If the
17 Commission determines that all terms and conditions have been satisfied, the
18 Commission will issue a closing order.

2/22/2022

Dated at Anchorage, Alaska _____.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

Signature Redacted

By: _____

Helen T. Hickmon
Human Rights Advocate
ABA 0211067

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ENTRY OF APPEARANCE

Helen T. Hickmon, Human Rights Advocate for the Alaska State Commission for Human Rights, hereby enters her appearance as attorney of record for complainant Alaska Human Rights Commission, Executive Director Robert W. Corbisier, and requests that copies of all documents filed in this action be mailed to her office at 800 A Street, Suite 204, Anchorage, Alaska, 99501-3669 or electronically to helen.hickmon@alaska.gov, with a copy to Carolyn A. Thomas to carolyn.thomas@alaska.gov.

Dated 2/22/2022 at Anchorage, Alaska.



ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

Signature Redacted

By: _____

Helen T. Hickmon
Human Rights Advocate
ABA No. 0211067

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REFERRAL OF COMPLAINT TO HEARING

Pursuant to AS 18.80.120, the above-captioned case is hereby referred to the Commission for hearing. This referral is accompanied by an accusation pursuant to 6 AAC 30.340(f)(2).

Dated 2/22/2022 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS



Signature Redacted

By:

Robert W. Corbisier
Executive Director

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CERTIFICATE OF SERVICE

I certify that on 2/22/2022, true and correct copies of the foregoing **Referral of Complaint to Hearing** and the accompanying **Accusation** and **Entry of Appearance** were served via U.S. Certified Mail on:

Renea I. Saade
Littler Mendelson, P.C.
500 L Street, Ste. 201
Anchorage, AK 99501

Receipt # 7017 3380 0000 4616 9276

and that the original filing was submitted on the same date to:

William Craig, Acting Chairperson
Alaska State Commission for Human Rights
800 A Street, Suite 204
Anchorage, AK 99501

Notarized by
Signature Redacted

Carolyn A. Thomas
Paralegal

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