

1 BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

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

6 Complainant,)

7 v.)

8 GUARDIAN FLIGHT, INC.,)

9 Respondent.)
10 _____)

ASCHR Nos. J-14-332,
J-14-344, and
J-17-030

11 **ACCUSATION**

12
13 Marti Buscaglia, Executive Director of the Alaska State Commission for Human
14 Rights, *ex rel.* Russell Baker, hereby alleges the following against Respondent
15 Guardian Flight, Inc.:

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17 1. Respondent Guardian Flight, Inc. (Guardian), owns an air medical
18 transportation company doing business in Alaska.

19 2. Russell Baker was employed by Guardian as a second in command pilot
20 (SIC) from April 2013 to October 2014.

21 3. Mr. Baker was one of the most experienced SIC's employed by Guardian in
22 Alaska. Mr. Baker performed his job as an SIC satisfactorily.

23 4. On October 15, 2014, Guardian terminated Mr. Baker's employment.

24 5. Guardian informed Mr. Baker that his employment was being terminated
25 because of a need to reduce the number of pilots it employed in Anchorage.
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ALASKA STATE COMMISSION FOR HUMAN RIGHTS
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1 6. At the time it terminated Mr. Baker's employment, Guardian retained other
2 pilots who were less experienced than Mr. Baker.

3
4 7. At the time his employment was terminated, Mr. Baker was fifty-eight
5 years old and the oldest SIC employed by Guardian in Anchorage.

6 8. After his employment with Guardian was terminated, Mr. Baker sought
7 letters of reference from other Guardian personnel.

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9 9. On October 21, 2014, Mr. Baker filed a complaint of discrimination against
10 Guardian with the Human Rights Commission, alleging that Guardian terminated his
11 employment because of his age.

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13 10. After Mr. Baker filed his complaint with the Commission, Guardian refused
14 to provide him with a job reference and instructed its employees, on whom Mr. Baker
15 depended for job references, not to communicate with others outside the company.

16
17 11. Mr. Baker filed a second complaint against Guardian with the Commission on
18 October 31, 2014, alleging that Guardian retaliated against him for filing his first
19 Commission complaint by refusing to give him a job reference. Mr. Baker later amended
20 this second complaint to allege that Guardian also retaliated against him by refusing to
21 rehire him.

22
23 12. After Guardian terminated Mr. Baker's employment, it considered and
24 hired other pilots to fill SIC positions in Anchorage, but it did not consider Mr. Baker,
25 even though it knew Mr. Baker wanted to return to his SIC position with Guardian.
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1 13. On September 6, 2016, Mr. Baker formally applied for an open, available
2 SIC position with Guardian in Anchorage.

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4 14. Mr. Baker was not selected for the position for which he applied. Instead,
5 Guardian hired a less experienced and substantially younger pilot to fill the SIC position.

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7 **FIRST CAUSE OF ACTION**
8 **TERMINATION BECAUSE OF AGE**
9 **A VIOLATION OF AS 18.80.220(a)(1)**

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

11 16. In October 2014, Russell Baker was fifty-eight years old and employed as
12 a pilot for Guardian Flight, Inc.

13 17. Mr. Baker was performing his job as a pilot satisfactorily.

14 18. Guardian terminated Mr. Baker's employment on October 15, 2014.

15 19. At the time it terminated Mr. Baker's employment, Guardian retained other
16 pilots who were substantially younger and less experienced than Mr. Baker.

17 20. Guardian's termination of Mr. Baker was based on his age.

18 21. Guardian's termination of Mr. Baker's employment constitutes a violation
19 of AS 18.80.220(a).

20 22. As a result of Guardian's illegal termination of Mr. Baker, Mr. Baker has
21 suffered harm in the form of lost wages and remuneration and out-of-pocket expenses.

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23 **SECOND CAUSE OF ACTION**
24 **RETALIATION FOR FILING A DISCRIMINATION COMPLAINT**
25 **A VIOLATION OF AS 18.80.220(a)(4)**

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

24. Russell Baker filed complaints of discrimination against Guardian Flight with the Human Rights Commission on October 21, 2014, and October 31, 2014.

25. After Mr. Baker filed his first complaint with the Commission, Guardian refused to provide Mr. Baker with a job reference.

26. After he filed his second complaint with the Commission, Guardian refused to rehire Mr. Baker for several pilot jobs.

27. Guardian's refusal to provide Mr. Baker with a job reference, and its refusal to rehire him for available pilot jobs, constitute retaliation and are violations of AS 18.80.220(a)(4).

28. As a result of Guardian's illegal refusal to rehire Mr. Baker, Mr. Baker has suffered harm in the form of lost wages and remuneration and out-of-pocket expenses.

PRAYER FOR RELIEF

Wherefore, the Executive Director asks for the following relief:

1. That the Commission issue an order declaring that Respondent Guardian Flight, Inc. violated AS 18.220(a)(1) by terminating Russell Baker's employment because of his age.

2. That the Commission issue an order declaring that Respondent Guardian Flight, Inc. violated AS 18.220(a)(4) by refusing to provide a reference for Mr. Baker and by refusing to rehire Mr. Baker in retaliation for Mr. Baker's filing discrimination complaints with the Commission.

1 3. That the Commission order Guardian to adopt and disseminate a policy of
2 nondiscrimination under the Alaska Human Rights Law.

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4 4. That the Commission order Guardian to obtain in-person training of at least
5 three hours in length for its managers and supervisors on the provisions of the Alaska
6 Human Rights Law that prohibit discrimination in employment, and that such order
7 specify that the trainer and training curriculum be approved by the Executive Director
8 prior to the training being conducted.

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10 5. That the Commission order Guardian to eliminate from Mr. Baker's
11 personnel records all documents and entries relating to the facts and circumstances that led
12 to Mr. Baker's filing of the above-captioned charges and any of the related events occurring
13 thereafter.

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15 6. That the Commission order Guardian to refrain from penalizing Mr. Baker in
16 any way in future considerations for employment and, if rehired, for transfers, promotions,
17 or upgrading because Mr. Baker complained about discrimination or because he filed a
18 complaint with the Commission.

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20 7. That the Commission order Guardian to refrain from advising or informing
21 any other employer or potential employer of Mr. Baker of the facts or circumstances
22 involved in this case.

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24 8. That the Commission order Guardian to pay back pay, including any lost
25 benefits or remuneration, to Mr. Baker plus interest at the applicable legal rate, the exact
26 amount of which will be proven at hearing.
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1 9. That the Commission order Guardian to reinstate Mr. Baker to a pilot
2 position in Anchorage that is at least equivalent to the position Mr. Baker held at the time
3 Guardian terminated his employment.
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5 10. That the Commission order Guardian to pay front pay to Mr. Baker until he
6 is reinstated in accordance with the preceding paragraph.
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8 Dated this 27th of December 2017 at Anchorage, Alaska.

9 ALASKA STATE COMMISSION
10 FOR HUMAN RIGHTS

11 **SIGNATURE REDACTED**

12 By: _____

13 Stephen Koteff
14 Human Rights Advocate
15 Alaska Bar No. 9407070
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