

**STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS**

Commission on Human Rights and
Opportunities ex rel.
Qazi Azam

: CHRO No. 0430623
: Fed No. 16aa401553

v.

Yale University

: October 16 , 2006

Order re: commission's motion for an order compelling the respondent to produce
documents

By motion filed on October 12, 2006, the commission moves for an order to compel the respondent to produce documents responsive to its request for production dated August 3, 2006.¹

Order:

1. There being no objection by the respondent to the commission's request numbers 2, 3, 5, 6, 8-12, 17-22, 24, 26-29, 31, 33-35, 40 and 41, on or before

¹ The commission's motion references two motions for extension filed by the respondent, one dated August 15, 2006 and the other dated September 26, 2006. The public hearing filed does not contain a motion dated August 15, 2006; the motion dated September 26, 2006 was denied on September 29, 2006.

October 31, 2006, the respondent shall produce documents responsive to these requests for the commission to inspect and copy.

2. With respect to the commission's request number 1, on or before October 31, 2006, the respondent shall produce documentation sufficient to show the names(s), business address(es), job titles) and relationship to the respondent of the individual(s) who prepared or assisted in the preparation of the responses to the commission's request for production.
3. With respect to the commission's request number 4, the commission's motion for an order to compel is denied. Neither the complaint nor the answer indicate that the complainant's time sheets and attendance records are relevant and material to the complainant's allegations that the respondent failed to hire him for a permanent position.
4. The issue of the disclosure of personnel files is addressed in General Statutes § 31-128f which states in relevant part: "No individually identifiable information, contained in the personnel file or medical records of any employee shall be disclosed by an employer to any person or entity not employed by or affiliated with the employer without the written authorization of such employee except . . . where the disclosure is made: . . . (2) pursuant to a lawfully issued administrative summons or judicial order . . . (5) to comply with federal, state or local laws or regulations" "Although the material in the

personnel files may be disclosed, the decision to allow disclosure requires the court to balance the plaintiff's need for the material in the files against the privacy rights of the non-parties. In order to satisfy the process of balancing the competing interests, the court begins with a consideration of the nature of the complaint filed by the plaintiff." *Weston v. Wellcare Health Plans, Inc.*, 2006 WL 337216, 2 (Conn. Super.).

In this case, the complainant, a temporary employee with the respondent alleged, and the respondent admitted, that over a three year period he applied for at least twenty permanent positions but the respondent did not hire him. According to the respondent's answer, for at least one of these positions the complainant lacked the requisite experience and qualifications (Answer, ¶ 11). Thus, the experience and qualifications of the successful candidates for the positions the complainant applied for are clearly relevant and material to this complaint.

Therefore, with respect to the commission's request number 7, on or before October 31, 2006, the respondent shall produce copies of the complainant applications for all positions he applied for between January 1, 2001 to September 30, 2006; shall produce copies of the documents (including but not limited to applications and resumes) submitted by the successful candidates for those positions; shall produce copies of all

documentation created by the person(s) who interviewed the complainant and/or the successful candidates for those positions; and shall produce all documentation created by the person(s) who screened the applications.

5. With respect to the commission's request number 13, on or before October 31, 2006, the respondent shall produce copies of complaints made by employees of the respondent to (or otherwise received by) its human resources and/or EEO office alleging discrimination based upon age, ancestry and/or national origin from January 1, 2003 to September 30, 2006. Said documentation shall be sufficient to show the nature of the complaints and the resolution thereof. The respondent may identify the person making the complaint and the alleged discriminator by initials rather than full names. Upon receipt of the documents and for good cause shown, the commission may move for full disclosure of the complaining employee and the alleged discriminator.
6. With respect to the commission's request number 14, on or before October 31, 2006, the respondent shall produce copies of all complaints filed against the respondent in federal or state court alleging discrimination based upon age, ancestry or national origin from January 1, 2003 to September 30, 2006. The documentation shall be sufficient to show the nature of said complaints, the identities of the persons making the complaints and the resolutions

thereof. The respondent is not required to disclose the terms of any confidential agreements.

7. With respect to the commission's request number 15, on or before October 31, 2006, the respondent shall produce copies of documents created by the respondent, its managers and/or supervisors of the departments in which the complainant worked and its Investments Office regarding any and all meetings with the complainant or about the complainant.
8. With respect to the commission's request number 16, on or before October 31, 2006, the respondent shall produce copies of documents created by the respondent, its managers and/or supervisors of the two departments in which the complainant worked and its Investments Office regarding the complainant's job performance, job duties and responsibilities, and negative and positive comments about him.
9. With respect to the commission's request number 23, on or before October 31, 2006, the respondent shall produce all documents containing the names, business addresses, business telephone numbers, ages, ancestry and/or national origin, titles and functions of all persons who participated in the screening, interviewing and hiring process for the investment analyst position at issue in complaint number 0430623.

10. With respect to the commission's request number 25, on or before October 31, 2006, the respondent shall produce documents (a) containing the names, business telephone numbers, business address, ages, ancestry and/or national origin, titles and functions of all persons who participated in the decision not to interview the complainant in 2004; (b) related to the decision not to interview the complainant; (c) relied upon the decision-makers in their decisions on who would and would not be interviewed; and (d) the criteria used in deciding which applicants would and would not be interviewed.
11. With respect to the commission's request number 30, the commission's motion to produce responsive documents is denied. The commission failed to adequately explain the relevance and materiality of documents related to employees who separated from the respondent with this case in which the complainant is alleging the respondent failed to hire him.
12. With respect to the commission's request number 32, on or before October 31, 2006, the respondent shall produce documentation sufficient to show the names, ages, ancestry and/or national origin of all investment analysts employed in the respondent's investment office from January 1, 2001 through September 30, 2006.

13. With respect to the commission's request number 36, on or before October 31, 2006, the respondent shall produce copies of the personnel and disciplinary files of Jay Kang.
14. With respect to the commission's request number 37, on or before October 31, 2006, the respondent shall produce copies of the resume and application of the successful candidates hired for the investment analyst position from January 1, 2004 to September 30, 2006.
15. With respect to the commission's request number 38, on or before October 31, 2006, the respondent shall produce the pre-2004 disciplinary files of those successful candidates hired in 2004 as investment analysts who had previously worked for respondent (i.e., successful internal candidates only).
16. With respect to the commission's request number 39, on or before October 31, 2006, the respondent shall produce documentation sufficient to show the names, titles, ages, ancestry and/or national origin of the respondent's employees employed in respondent's investment office from January 2001 through September 30, 2006.
17. As set forth in section 46a-54-89a of the Regulations of Connecticut State Agencies, the respondent's failure to comply with this order for production may result in non-monetary sanctions. The sanctions "may include: (1) An order that the matters that are the subject of the request for production or

disclosure shall be established in accordance with the claim of the party requesting such order; and (2) An order prohibiting the party who has failed to comply from introducing designated matters into evidence.”

18. In the event that the respondent fails to comply with this order, the commission may file a motion for sanctions. The motion shall include an order page. The motion shall explain the relevance and materiality of the documents requested to the claim and proposed sanction. Both the motion and the proposed order shall state with specificity the sanctions sought, consistent with section 46a-54-89a of the Regulations of Connecticut State Agencies.

Hon. Jon P. FitzGerald
Presiding Human Rights Referee

C:
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