



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DALLAS DISTRICT OFFICE
8303 ELMBROOK DRIVE
DALLAS, TEXAS 75247

AREA CODE 214
COM: 214-767-7015
FTS: 729-7015

CHARGE NUMBER: 310 89 2438

Mr. Bruce Hanson
33 Wildwood Drive
Flower Mound, Texas 75028

CHARGING PARTY

Information Systems Consulting
(Division of Diversified Human
Resources Group)
5001 Spring Valley Road
Dallas, Texas 75244-3910

RESPONDENT

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue, on behalf of the Commission, the following determination as to the merits of the subject charge.

Respondent is an employer within the meaning of Title VII and the timeliness and all other jurisdictional requirements for coverage have been met.

Charging Party alleges that the Respondent discharged him and refused to accommodate his religion, Christian Fundamentalist, in violation of Title VII of the Civil Rights Act of 1964, as amended.

The Charging Party was hired for a Computer Programmer position. During his interview for the position, he informed Respondent's official that he had no Social Security number and that his religious beliefs prevented him from obtaining or using one. He submitted documentation concerning the "exemption" from the use of a Social Security number. After the Charging Party began work the Respondent allegedly had discussions with the Internal Revenue Service and determined that unless the Charging Party had a Social Security number, the Respondent would be in violation of Internal Revenue Regulations and subject to various penalties. The Charging Party was notified that unless he obtained a Social Security number, he would be discharged. The Charging Party refused and was discharged as a result.

The Respondent alleges that it was unable to accommodate the Charging Party's religious beliefs without undue hardship. It alleges that pursuant to the Internal Revenue Code Section 6676, it will be subject to a \$50.00 fine each time it provides documents to the Internal Revenue Service that omit the Charging Party's

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Social Security number. Its only attempt at accommodation occurred two months after the Charging Party's discharge. The Respondent at that time offered to accept a Taxpayer Identification number in lieu of a Social Security number. This was unacceptable to the Charging Party, as his beliefs do not allow him to obtain such a number.

The evidence shows that the Respondent's position is unsupported by the law as it existed at the time of the Charging Party's discharge, and as it exists now, following the passage of the Omnibus Budget Restoration Act (Public Law 101-239) on December 19, 1989.

Internal Revenue Code Section 310.6676-1, which was in effect at the time of the Charging Party's discharge, states, "Under Section 301.6109-1(c) a payer is required to request the identifying number of the payee. If after such a request has been made, the payee does not furnish the payer with his identifying number, the penalty will not be assessed against the payer." (emphasis added) Therefore, under the law as it existed on the day that the Charging Party was discharged, the Respondent could have accommodated the Charging Party without undue hardship. All that was necessary was that it request a number and so notify the Internal Revenue Service by affidavit, that it had.

The Omnibus Budget Restoration Act (Public Law 101-239) provides that "No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect." The temporary regulations make clear that under the present law, if an employer requests an identifying number and so notifies the Internal Revenue Service, by affidavit, it will not be subject to any penalties for failure to report an identifying number.

The evidence supports the charge that there is a violation of Title VII of the 1964 Civil Rights Act, as amended, because of the Charging Party's religious beliefs, Christian Fundamentalist.

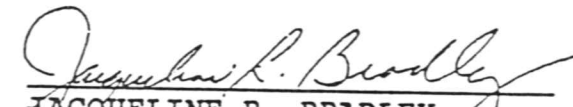
Section 706(b) of Title VII requires that if the Commission determines there is reasonable cause to believe that the charge is true, it shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Having determined there is reasonable cause to believe the charge is true, the Commission now invites the parties to join with it in a collective effort toward a just resolution of this matter. A representative of this office will be in contact with each party in the near future to begin the conciliation process.

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Disclosure of information obtained by the Commission during the conciliation process will be made in accordance with 706(b) of Title VII and 1601.26 of the Commission's Procedural Regulations. If the Respondent declines to enter into settlement discussions, or if the Commission's representative for any other reason is unable to secure a settlement acceptable to the Commission, the Director shall so inform the parties in writing and advise them of the court enforcement procedures available to the Charging Party and the Commission.

ON BEHALF OF THE COMMISSION:

May 2, 1990
DATE ..


JACQUELINE R. BRADLEY
DALLAS DISTRICT DIRECTOR