

C O M M O N W E A L T H O F P E N N S Y L V A N I A

PENNSYLVANIA HUMAN RELATIONS COMMISSION

GOVERNOR'S OFFICE

Malcolm Tucker, : Docket No. E-6019  
Complainant :  
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: :  
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: :  
vs. :  
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: :  
K-D Manufacturing Company, :  
Respondent :  
:

CONCILIATION AGREEMENT

WHEREAS, on the 26th day of July, 1973, a formal Complaint was filed before the Pennsylvania Human Relations Commission (hereinafter called the "Commission") against: K-D Manufacturing Company, 3575 Hempland Road, Lancaster, Pennsylvania, 17604

(hereinafter called the "Respondent" whether singular or collective) by: Malcolm Tucker, 266 South Charlotte Street, Manheim, Pennsylvania, 17545

(hereinafter called the "Complainant" whether singular or collective) alleging that the Respondent had violated Section(s) 5(a) of the Act of October 27, 1955, P.L. 744, more commonly known as the Pennsylvania Human Relations Act, Tit. 43, Pa. Stat. Ann. §§ 951 et seq, as amended (hereinafter called the "Act"), in that the Respondent committed or caused to be committed the acts or actions more specifically referred to as contained in Exhibit "A" which is attached hereto and incorporated herein as an integral part of this Agreement.

WHEREAS, the Commission and the Respondent, to avoid litigation, but without admission by the Respondent of any actions violative of the Act do hereby waive a public hearing under Section 9 of the Act and the Regulations promulgated by the Commission, and do hereby consent to the entry of this Conciliation Agreement as a Consent Order and Decree of the Commission. This Consent Order and Decree shall have the full force of a Commission Order and Decree following a Public Hearing by the Commission and shall be enforceable as such under Section 10 of the Act. The waiver of said Public Hearing is made knowingly, understandingly and voluntarily with an unqualified intent to be legally bound hereby.

NOW, THEREFORE, the Respondent and the Commission do hereby agree to be legally bound as follows:

1. The foregoing preambles shall be included herein as fully set forth.

2. The Respondent admits the jurisdiction of the Commission in this matter and hereby waives all objections thereto.

3. All exhibits annexed hereto are to be incorporated into this Agreement as an integral part thereof.

4. The term "Respondent" as used in this Conciliation Agreement shall include the Respondent, its successors and assigns, agents, servants and employees, either and/or jointly and severally.

5. The execution and implementation of this Agreement shall in no manner or form constitute any waiver or powers and duties conferred upon the Commission, nor shall this Agreement be deemed as a declaration of policy or precedent by the Commission. This Agreement shall in no manner or form affect the intake, processing, adjudication and disposition of future complaints involving the Respondent, except that the Respondent may in the course of any proceedings refer to the same and to its performance thereunder to the extent relevant to such proceedings.

6. The Respondent shall fully comply with all of the provisions of the Act and the Regulations promulgated by the Commission and shall follow the terms of adjustment set forth in Exhibit "B."


7. It is expressly understood by the Respondent that any violation or infraction of the terms and conditions set forth herein by the Respondent, shall constitute a violation of an Order of the Commission pursuant to Section 11 of the Act.

8. The status of the relationship between the Complainant and the Respondent shall be subject to and defined by Exhibit "C" if attached hereto, and which in such event, is incorporated as an integral part of this Agreement.

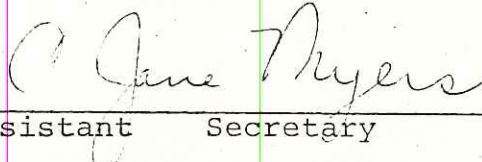
9. If any portion of this Agreement, or the application thereof, to any person or circumstance, should for any reason be adjudged invalid, such judgment shall not affect, impair or invalidate the remaining portion of said Agreement.

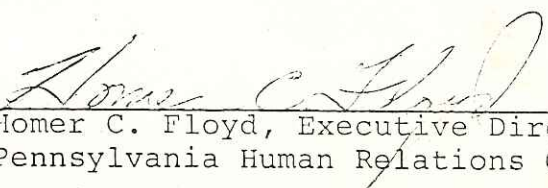
10. The Commission and the Respondent enter into this Agreement with the intent to be legally bound hereby. This Agreement shall not become final and binding upon all parties until approved by the Commission and a Final Order is thereupon issued; and thereafter shall be binding upon and inure to the benefit of the parties hereto, their and each of their respective heirs, legal representatives, successors and assigns.

In Witness Whereof, the Respondent, being duly authorized so to do, has executed the foregoing on the day of \_\_\_\_\_, 19 \_\_\_\_\_.

  
\_\_\_\_\_  
President

ATTEST:

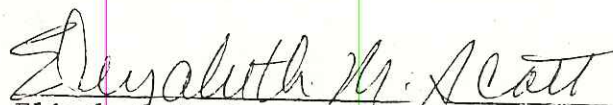
  
\_\_\_\_\_  
Assistant Secretary

  
\_\_\_\_\_  
Homer C. Floyd, Executive Director  
Pennsylvania Human Relations Commission

Approved and ratified at a meeting of the Pennsylvania  
Human Relations Commission on the 28th day of March  
19 76.

  
\_\_\_\_\_  
Joseph X. Yaffe, Chairperson  
Pennsylvania Human Relations Commission

ATTEST:

  
\_\_\_\_\_  
Elizabeth M. Scott, Secretary  
Pennsylvania Human Relations Commission

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION  
GOVERNOR'S OFFICE

Malcolm Tucker,  
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COMPLAINANT'S ALLEGATION

The Complainant charges that he was discharged from his job because of his race, black.

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TERMS OF ADJUSTMENT

(1) Tender the sum of two hundred fifty dollars (\$250) to the Complainant.

(2) The Respondent shall consider racial provocation as a mitigating factor in future disciplinary actions.

This should not necessarily mean that an employee who reacts to racial insults with physical violence may not be disciplined at all, but that the action taken should be less severe than in cases of unprovoked physical assault or physical assault provoked by other types of verbal abuse.

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CERTIFICATE OF SATISFACTORY ADJUSTMENT

I, Malcolm Tucker, Complainant, in the above-docketed case, do hereby certify that my Complaint has been adjusted to my satisfaction and I hereby request the Pennsylvania Human Relations Commission to close the above-docketed case.

\_\_\_\_\_  
Complainant

Date: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION  
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FINAL ORDER AND DECREE

AND NOW, this 28th day of March, 1976,  
upon consideration of the Conciliation Agreement submitted in the  
above captioned case it is hereby ORDERED AND DECREED that said  
Conciliation Agreement be entered into the official record of the  
Pennsylvania Human Relations Commission as a Final Order, to  
be given the same force and effect as if entered after a public  
hearing.

BY Joseph X. Yaffe  
JOSEPH X. YAFFE, CHAIRPERSON  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

BY Elizabeth M. Scott  
Elizabeth M. Scott, Secretary  
PENNSYLVANIA HUMAN RELATIONS COMMISSION