

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

NELSON WILLIAMS, JR. and :  
DELORES D. WILLIAMS, :  
Complainants :  
: :  
: :  
: :  
vs. : DOCKET NO. H-2119  
: :  
: :  
: :  
STUART R. FEESER, JR. and :  
AVIS ANN FEESER, :  
Respondents :

HISTORY OF THE CASE, FINDINGS OF FACT,  
CONCLUSIONS OF LAW, COMMISSION'S  
DECISION, AND FINAL ORDER

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HISTORY OF THE CASE

This case involves a complaint filed with the Pennsylvania Human Relations Commission (hereafter the Commission) at Docket No. H-2119 charging the Respondents Stuart R. Feeser, Jr. and Avis Ann Feeser with refusing to sell the Complainants a house and real property which they had offered for sale to the public, because of the race of the Complainants and with, after the Complainants filed a complaint with the Commission, offering to sell the property in question to the Complainants at a price greatly in excess of the price stated by the Respondents before they learned the Complainants were Black. The complaint charges that this conduct was in violation of Sections 5(h)(1)(3) of the Pennsylvania Human Relations Act, (Act of October 27, 1955, P.L. 744, as amended.)

The Respondents filed an answer to the complaint denying any unlawful discriminatory action. An investigation into the allegations contained in the complaint was made by

representatives of the Commission and a determination was made that there was probable cause to credit the allegations therein. Thereupon, the Commission endeavored to eliminate the unlawful practices complained of by conciliation. These endeavors were unsuccessful and on November 19, 1973, a Public Hearing was convened pursuant to Section 9 of the Act. The Hearing Panel consisted of Commissioner Dr. Robert Johnson Smith, Chairperson, and Commissioners Robert Goode and Everett E. Smith. The Public Hearing was adjourned on November 19, 1973 and re-convened and completed on November 26, 1973.

The Hearing Panel, upon consideration of the transcripts and the briefs submitted subsequent to the Hearing by both parties recommended by a vote of 2-1 that the Commission find in favor of the Complainants, Commissioner E. E. Smith dissenting. The full Commission adopted the recommendation of the Panel with Commissioner Smith again dissenting.

## FINDINGS OF FACT

### I. The Merits of the Charge of Unlawful Discrimination

(1) The Complainants, Nelson Williams, Jr. and Delores D. Williams are Black individuals who are husband and wife.

(2) The Respondents, Stuart R. Feeser, Jr. and Avis Ann Feeser are individuals of the Caucasian race, who are husband and wife. Mr. Feeser is a builder of houses. Mrs. Feeser is associated in this business venture with Mr. Feeser and handles the design, pricing and sales. (T. 110)

(3) On August 13, 1973, Mrs. Williams, in a conversation she had with a friend, Larry Baker, told him she and her husband were interested in buying a house priced between \$35,000 and \$38,000.

(4) Mr. Baker encouraged her to telephone the Respondent, Stuart R. Feeser, Jr. and see if he had a house for sale. (T. 14)

(5) On August 15, 1973, Mrs. Williams telephoned Mr. Feeser and asked if he had a house available at the price range of \$35,000 to \$38,000.

(6) Mr. Feeser told her he had a house available for \$39,000 (T.15) which he identified as the house which Mrs. Williams knew was located at R.D. #1, Red Top Road, Harrisburg, the house which is the subject of this complaint. (T.16) Mr. Feeser described various features of the house and informed her she could further reduce the purchase price by doing the interior painting. Mrs. Williams indicated she wished to have further communication with Mr. Feeser about the house and he advised her she could telephone and that Mrs. Feeser usually answered the phone.

(7) At no time during the conversation did Mrs. Williams indicate she and her husband were Black. (T. 20)

(8) Later in the evening of August 15, 1973, Mrs. Williams telephoned Larry Baker and told him she and her husband were excited about the Feeser house. Baker offered to call the Feesers and recommend the Williams. Mrs. Williams told Baker, who is Caucasian, that would be very kind of him and added that she didn't think Feeser knew she and Mr. Williams were Black. (T.21)

(9) After her conversation with Mr. Baker on August 15, Mrs. Williams telephoned the Feeser home again and spoke with Mrs. Feeser and arranged to have the Feesers show the house to the Williams on Friday, August 17 at 6:30 P.M. (T.23)

(10) Larry Baker did telephone the Feeser home on August 15 after Mrs. Williams had called Mrs. Feeser and made the appointment to see the house on the 17th. Baker spoke with Mrs. Feeser. After recommending the Williams highly, Baker "in passing" mentioned that they were Black. Mrs. Feeser told Baker that didn't make any difference to her and said Mr. Feeser was sitting near-by and nodded that it didn't make any difference to him. She added, "perhaps we'd better check with our neighbors first and see how they feel."  
(T.77-78)

(11) On Thursday, August 16, Mr. Baker received a telephone call during the supper hour from Mr. Feeser who asked him how Mr. Feeser could contact the Williams. The tone of Mr. Feeser's voice caused Mr. Baker to ask Mr. Feeser if he had changed his mind about selling to the Williams. Mr. Feeser replied that he had polled the neighbors and they all objected to a Black family living there. He said, in effect, that he had a large investment which he could not jeopardize. Mr. Baker said that at no time was the price of the house in question mentioned by Mr. Feeser. (T. 78-79)

(12) On Thursday, August 16, Mrs. Williams received a telephone call at home from Mr. Feeser who told her: "Mrs.

Williams, I am just going to come right out and tell you like it is. After I talked with Larry Baker last night and he told me the situation, I got up this morning and I went to all the neighbors up there and I told them the situation and Mrs. Williams, the neighbors just went to pieces. Mrs. Williams I am not a rich man." Mr. Feeser told Mrs. Williams of his plans to build eight (8) houses a year over the next ten (10) years in the area, that his monthly overhead was great and that he couldn't afford to have people angry with him and that if he were to sell the house to the Williams, people would be angry with him because of the "situation". He said because of the "situation", he would not sell the house. (T.29)

(13) In this conversation with Mrs. Williams, Mr. Feeser made no mention of the price of the house or said or inferred that the cancellation of the appointment was in any way because the house was beyond the Williams' price range.

(14) The Feesers, upon learning that the Williams were Black, decided to poll their neighbors, who are Caucasian, to see if they would object to a Black family living among them. When some neighbors objected to a Black family, the Feesers cancelled their appointment to show the house to the Williams because they felt that selling to a Black might antagonize the neighbors and thus might jeopardize their investment in the area in which they planned to continue to build.

(15) The Feesers cancelled their appointment with the Williams because of the Williams' race, Black, thus denying the Complainants the opportunity to negotiate for and the possibility of buying the house in question because of their race, Black. The Respondents, Stuart R. Feeser, Jr. and Avis Ann Feeser, each participated in the decision to cancel the appointment with the Complainants because of their race, Black.

(16) After the Complainants had filed a complaint with the Commission, the Respondents offered to sell the house to the Complainants for \$43,700.

## II. Damages

(1) As a direct result of the unlawful conduct of the Respondents in cancelling the appointment to see the house because of the race of the Complainants, the Complainants, Nelson Williams, Jr. and Delores D. Williams suffered grievous mental anguish and pain and suffering. It is impossible to determine the full extent of and the duration of this anguish and pain and suffering, but it is clear that it persisted for at least a considerable period beyond the date of the unlawful act. In addition, it appears that both Complainants suffered injury to their mental health and personality as a direct result of the Respondents' conduct, at least in the short-term and possibly for the indefinite future. (T. 30-31, 33-43, 61-69, 80-81, 90-91)

## CONCLUSIONS OF LAW

### I. The Merits

(1) The Commission had and still has jurisdiction over the Complainants and Respondents and subject matter of the complaint under the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended.

(2) The Respondents' conduct in cancelling the appointment with the Complainants because of their race was in violation of Section 5(h)(1) of the Pennsylvania Human Relations Act.

(3) Respondents' subsequent conduct in offering to sell the house to the Complainants after a complaint had been filed with the Commission at a price greatly in excess of the price originally stated by Mr. Feeser before he knew the Complainants were Black, was in violation of Section (5)(h)(3) of the Act.

(4) Respondents, Stuart R. Feeser, Jr. and Avis Ann Feeser, are jointly and severally liable to the Complainants for the unlawful discriminatory conduct.

(5) The Commission has authority under Section 9 of the Act to order the Respondents to compensate the Complainants for the injury to their mental health and personality and the mental anguish and pain and suffering caused them as a direct result of Respondents' unlawful conduct.

### II. Legal Objections Raised by Respondents

(1) The finding of the Common Pleas Court of Dauphin County in denying the Commission's application for an injunction under Section 9.1 of the Pennsylvania Human Relations Act that no probable cause existed to credit the allegation of the complaint has no application to the adjudication of the Commission after a full evidentiary hearing, and is not binding upon the Commission so as to require it to dismiss the case.

(2) The Respondents were in fact not denied their statutory right to conciliation nor was it timely for the Respondents to raise the issue for the first time by Answer filed with the Commission on the Friday preceeding the Monday when the Public Hearing was convened.

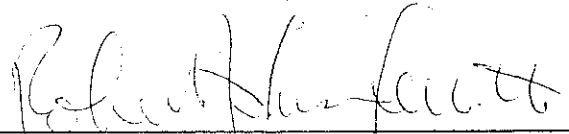
(3) It was not error for General Counsel for the Commission to present the case for the Complainants before the Commission. This procedure is authorized by Section 9 of the Act.

(4) It was proper as relevant to the issue of damages and potential relief for testimony relating to the emotional harm and anguish and pain and suffering which the Complainants averred they suffered, to be admitted.

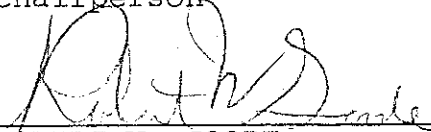


RECOMMENDATION OF HEARING COMMISSIONERS

AND NOW, this 4th day of November, 1974,  
upon consideration of all the evidence presented at the hearing  
on the above matter, the Findings of Fact and the Conclusions of  
Law, the Hearing Commissioners recommend to the entire Commission  
that an Order should be entered against Respondents, Stuart R.  
Feeser, Jr. and Avis Ann Feeser, in that they committed an  
unlawful discriminatory practice in violation of the Pennsylvania  
Human Relations Act with respect to the complaint of Nelson  
Williams, Jr. and Delores D. Williams.



DR. ROBERT JOHNSON SMITH  
Chairperson



ROBERT W. GOODE  
Commissioner

EVERETT E. SMITH  
Commissioner

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

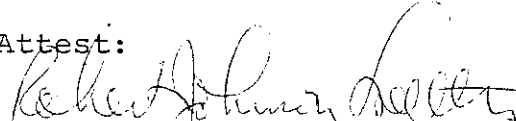
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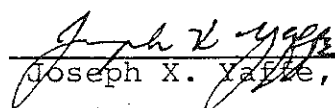
COMMISSION'S DECISION

AND NOW, this 4th day of November 1974,  
upon consideration of the History of the Case, Findings of  
Fact, Conclusions of Law and transcript of testimony, and  
Recommendations of the Hearing Commissioners, the Pennsylvania  
Human Relations Commissions finds and determines that  
Respondents, Stuart R. Feeser, Jr. and Avis Ann Feeser, has  
committed unlawful discriminatory practices in violation of Sec-  
tions 5(h) (1) and (3) of the Pennsylvania Human Relations Act,  
cited supra, in that they denied the Complainants the oppor-  
tunity to negotiate for and the possibility of buying the  
house in question because of their race, Black, and furthermore,  
after the Complainants had filed a complaint with the Com-  
mission, greatly increased the price they had originally quoted.  
It is therefore the decision of the Commission to enter an  
Order against the Respondents, Stuart R. Feeser, Jr. and Avis  
Ann Feeser, requiring them to take such action as enumerated  
in the Final Order attached hereto.

Attest:

  
Dr. Robert Johnson Smith  
Secretary

PENNSYLVANIA HUMAN RELATIONS  
COMMISSION

BY:   
Joseph X. Yaffe, Chairperson

COMMONWEALTH OF PENNSYLVANIA

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Respondents :

FINAL ORDER

AND NOW, this 4th day of November, 1974,  
upon consideration of the foregoing Findings of Fact and  
Conclusions of Law, and pursuant to Section 9 of the Pennsyl-  
vania Human Relations Act, cited supra, the Pennsylvania  
Human Relations Commission

ORDERS:

1. The Respondents, Stuart R. Feeser, Jr. and Avis Ann Feeser, shall pay Complainants, Nelson Williams, Jr. and Delores D. Williams, husband and wife, the sum of \$5500.00 as compensation for their mental anguish and pain and suffering and the injury to their mental health and personality which each of them suffered as a direct result of the Respondents' unlawful conduct, said figure having been determined upon consideration of the Commission's Guidelines and Considerations in Fixing Monetary Damages to Complainants.
2. Payment of the compensation pursuant to paragraph 1 shall be held in abeyance and shall be effective if and when the Pennsylvania Supreme Court upholds the Commission's authority to order compensatory damages. PHRC V. Zamantakis, No. 33,

May Term 1974.

3. If the Respondents have not fully complied with the requirement of paragraph 1 within 30 days of the date of a decision of the Court affirming the Commission's authority, interest of 6 per cent per annum shall accrue on the unpaid amount.

4. The Respondents shall forthwith adopt and implement the following affirmative program of compliance with the Pennsylvania Human Relations Act:

1. Within 45 days of the date of this Order, the Respondents shall adopt and implement, in consultation with the Housing Director of the Pennsylvania Human Relations Commission, if they desire, uniform, objective and reviewable procedures which shall set forth:

a. The circumstances under which their housing units may be inspected by a prospective buyer.

b. The information which is to be obtained from a prospective buyer.

(1) Before inspection

(2) After inspection

c. The information which is to be given the prospective buyer.

(1) On initial contact

(2) In other pre-inspection contacts

(3) During inspection

(4) In post-inspection contacts

d. Criteria for selection of buyers, such as the amount of down-payment required, credit references, mortgage application information.

The above written procedures and standards shall be filed with the Housing Director of the Pennsylvania Human Relations Commission, at 100 N. Cameron Street, Harrisburg, Pennsylvania 17101, within 60 days of the effective date of

this Order for review and written approval. Such procedures shall be reviewable annually by the Commission and the Respondents may alter them provided such changes are non-discriminatory and approved in writing by the Commission.

5. Employees and agents of the Respondents shall be informed in writing of their specific responsibilities under the Order and under the Pennsylvania Human Relations Act and shall be informed that any failure to comply shall subject them to dismissal or disciplinary action as well as prosecution under the Pennsylvania Human Relations Act. Respondents shall secure from employees and agents signed statements confirming that they have been advised of and understand the requirements of this paragraph. Copies of such statements shall be submitted to the Housing Director of the Commission.

6. Within 45 days of the date of this Order, Respondents shall take the following steps to acquaint the general community with their non-discriminatory policy:

a. Posting of the Federal and the Pennsylvania Human Relations Commission's Fair Housing Poster in all their properties for sale as well as offices where they conduct their business.

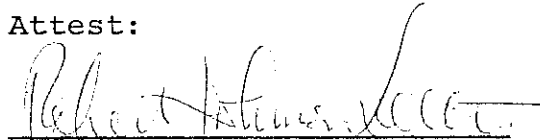
b. Include in all advertising of their housing, a statement that such property is available without discrimination. Such requirement may be satisfied by using the "Equal Housing Opportunity" slogan and logotype.

7. The Respondents shall for a period of 5 years from the date of this Order send to the Commission, in care of its Housing Specialist at the Harrisburg Regional Office, at 301 Muench Street, Harrisburg, Pennsylvania, within five working days, notification of the availability for sale of any housing unit which they own or operate or act as agent, manager, broker or in any manner furnish facilities

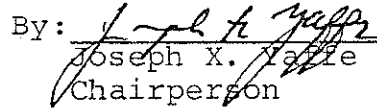
in connection with. Such notification shall contain the date of availability, a description of the property and the proposed terms.

8. The Respondents shall within five working days of the sale of the aforesaid properties, notify the Housing Specialist of the Commission of the name, address and phone number of the Buyer as well as all prospective buyers whom they rejected.

Attest:

  
Dr. Robert Johnson Smith  
Secretary

PENNSYLVANIA HUMAN RELATIONS  
COMMISSION

By:   
Joseph X. Yaffe  
Chairperson