

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

**ESTATE OF JOSEPH PONAS,
Complainant**

v.

**UNITED BROTHERHOOD OF
CARPENTERS & JOINERS OF
AMERICA, LOCAL 261,
Respondent**

DOCKET NO. E-61335-A

STIPULATIONS OF FACT

FINDINGS OF FACT

CONCLUSIONS OF LAW

OPINION

RECOMMENDATION OF PERMANENT HEARING EXAMINER

FINAL ORDER

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

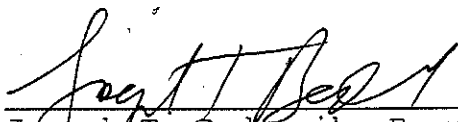
ESTATE OF JOSEPH PONAS, :
Complainant :
v. : Docket No. E-61325-A
UNITED BROTHERHOOD OF :
CARPENTERS AND JOINERS OF :
AMERICA, LOCAL 261, :
Respondent :

JOINT STIPULATION OF FACTS

Complainant Estate of Joseph Ponas and Respondent United Brotherhood of Carpenters and Joiners of America, Local 261 ("Respondent") hereby stipulate that the following facts are true and correct and no proof thereof shall be required:

1. Joseph Ponas was an individual who, at all times relevant, resided in the Commonwealth of Pennsylvania.
2. At all times relevant, Respondent was a "labor organization" within the meaning of Section 4(d) of the Pennsylvania Human Relations Act ("PHRAct").
3. Respondent's administrative offices are located at *314 Pearl St* *18505 ml RDM* ~~431 Wyoming Avenue~~, Scranton, PA ~~18503~~ in the county of Lackawanna.
4. At all times relevant, Joseph Ponas was a member of Respondent.
5. Joseph Ponas was born on April 30, 1921.


6. Joseph Ponas died on April 26, 1994.
7. Glenn Ponas is Joseph Ponas' son and executor of his estate.
8. Joseph Ponas filed a verified Complaint, Docket No. E-61335-A, with the Pennsylvania Human Relations Commission ("PHRC") on September 1, 1992.
9. Respondent filed its Answer to the Complaint on or about November 19, 1992.
10. On or about February 9, 1993, the Commission's investigator notified Respondent "that probable cause exists to credit the allegations of the complaint."
11. A Conciliation Conference was held on March 11, 1993.
12. Conciliation was not successful.
13. All jurisdictional prerequisites for a public hearing have been met.
14. By letter dated July 14, 1994, the PHRC notified Respondent that this matter was approved for public hearing and was placed on the public hearing docket at the Commission meeting held on June 27, 1994.



Joseph T. Bednarik, Esquire
Counsel for the Complaint

1/11/95

Date



Counsel for the Respondent

1/10/95

Date

10. Effective May 1, 1992, the sum deducted from the member's wages and paid to the Organization Fund was \$0.21 per hour per employee.

Joseph T. Bernarik

Joseph T. Bernarik
Counsel for the Complaint

Robert W. Mariani

Robert W. MARIANI
Counsel for Respondent

September 14, 1995

Date

9/14/95

Date

FINDINGS OF FACT *

1. The original Complainant, Joseph Ponas (hereinafter "Complainant"), was born on April 30, 1921 and died on April 26, 1994. (SF 5, 6.)
2. Glenn Ponas is Complainant's son and executor of his estate. (SF 7.)
3. On or about October 5, 1994, Glenn Ponas filed a written, verified third amended complaint which incorporated the allegations set forth in the first two complaints.
4. The Respondent, United Brotherhood of Carpenters & Joiners of America, Local 261 (hereinafter "Respondent"), is a labor organization within the meaning of Section 4(d) of the Pennsylvania Human Relations Act. (SF 2.)
5. The Respondent's office was, at all times relevant to the instant complaint, located in the City of Scranton, Lackawanna County. (SF 3.)
6. The Complainant was a member in good standing in Respondent's Union. (SF 4.)
7. The Respondent operates a non-exclusive hiring hall for the benefit of its members in good standing. (NT 12, 19.)

* The foregoing Stipulations of Fact are incorporated herein as if fully set forth. To the extent that the Opinion which follows recites facts in addition to those here listed, such facts shall be considered to be additional Findings of Fact. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

CE	Complainant's Exhibit
NT	Notes of Testimony
SF	Stipulations of Fact

8. At all times relevant to the instant complaint, Fred Schimelfenig was the business representative for Respondent Union. (NT 12.)

9. At the time of the public hearing, Mr. Schimelfenig had been the business representative for "roughly" thirteen years. (NT 12.)

10. Mr. Schimelfenig testified that his duties included: getting contracts signed by contractors for wages and fringe benefits; insuring that the above wages and fringe benefits were paid on time; and meeting with unorganized contractors to attempt to organize them to procure work for Respondent's members. (NT 12.)

11. Mr. Schimelfenig's duties also included placing members in work situations. (NT 12.)

12. The Respondent did not produce any written rules, regulations or policies detailing the system utilized by Mr. Schimelfenig in making work referrals. (NT 14-16.)

13. Those members who desired a work referral contacted Mr. Schimelfenig by phone or in person. (NT 13.)

14. Mr. Schimelfenig recorded the name and address of said member on a sheet of paper. (NT 21.)

15. The requests for work referrals were supposedly made in the order received. (NT 28.)

16. On or before May 14, 1992, the Complainant visited Respondent's office and told Mr. Schimelfenig he wanted a job referral. (NT 23.)

17. Mr. Schimelfenig testified that he recorded Complainant's request in the upper right-hand corner of the page used to list names of members seeking work. (NT 25.)

18. The piece of paper referenced by Mr. Schimelfenig was not produced at the public hearing. (NT 26.)

19. On or before May 14, 1992, the Complainant wrote to Sigurd Lucassen, general president of Respondent's International Brotherhood, and complained that Mr. Schimelfenig refused to refer him. (CE 3.)

20. The Complainant's allegations were investigated by Stanley Solaas, the general president's special assistant. (CE 9.)

21. Mr. Solaas sent a copy of Complainant's letter to Schimelfenig and asked for his response. (CE 9.)

22. Mr. Schimelfenig, in a letter dated August 4, 1992, replied that he told Complainant he would "put [Complainant] back to work when [Schimelfenig] helped those members who have nothing, as [Complainant] was collecting Social Security and Annuity money." (CE 4.)

23. Mr. Schimelfenig destroyed the out-of-work list before September 12, 1992. (NT 26.)

24. It is not possible to determine Complainant's rightful position on the list. (NT 39.)

25. During the period of May to August 1992, 46 members of Respondent Union changed employers. (CE 6.)

26. Due to the lack of records, it is not possible to determine whether any of the 48 members were referred for work by Schimelfenig. (NT 39-40.)

27. Mr. Schimelfenig stated that he kept a list of members who refused job referrals from May 14, 1992 through August 9, 1992. (CE 7.)

28. Mr. Schimelfenig further testified that he maintained the list to respond to complaints from members concerning referral. (NT 49.)

29. Only an alleged request from Complainant in July of 1992 was recorded by Schimelfenig. (CE 7.)

30. Complainant did not seek a job referral in July 1992. (NT 32, 36.)

31. In Mr. Schimelfenig's letter to Stanley Solaas, he did not mention that Complainant sought a referral on July 5, 1992 and refused a referral four days later. (CE 4.)

32. Mr. Schimelfenig further testified that when a member refused a job referral, he remained at the top of the out-of-work list. (NT 31.)

33. Mark Durdoch, a member of Respondent Union, refused a work referral on July 11, 1992. (CE 7.)

34. Mr. Durdoch did not remain at the top of the out-of-work list. (CE 7.)

35. Ron Czyzk refused a work referral on May 17, 1992. (CE 7.)

36. Mr. Czyzk did not remain at the top of the out-of-work list either. (CE 7.)

37. Frederick Collins was laid off in January 1992 and was placed on the out-of-work list. (NT 108.)

38. William Collins was laid off in February 1992 and was immediately placed on the out-of-work list. (NT 109-111.)

39. William Collins was given a referral before Frederick Collins. (NT 109-111.)

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission (hereinafter "PHRC") has jurisdiction over the parties and the subject matter of the complaint, as amended.

2. The Respondent is a "labor organization" within the meaning of Section 4(d) of the Pennsylvania Human Relations Act (hereinafter "PHRA").

3. The Complainant has met his burden of establishing a *prima facie* case of age discrimination by showing:

- A. that he belongs to a protected class;
- B. that he was qualified for work referrals from the Union;
- C. that, despite his qualifications, the Union failed to refer him to work; and,
- D. that, following the failure of the Union to refer him to work, the Union continued to refer other members with his qualifications, not in his protected class, for work opportunities.

4. The Respondent met its burden of articulating a legitimate, non-discriminatory reason for its actions.

5. The Complainant has met his ultimate burden of showing, by a preponderance of evidence, that the Respondent has engaged in unlawful discrimination.

6. The reasons articulated by Respondent are pretextual and unworthy of credence.

7. The PHRC has broad discretion in determining an appropriate remedy under Section 9 of the PHRA.

OPINION

On or about September 1, 1992, Joseph Ponas (hereinafter "Complainant") filed a verified complaint with the PHRC alleging the United Brotherhood of Carpenters and Joiners of America, Local 261 (hereinafter "Respondent"), denied him a work referral because of his age in violation of Section 5(c) of the PHRA. On or about November 20, 1992, the Respondent answered the complaint and denied the allegations of age discrimination. The Complainant then, on or about December 19, 1992, amended the complaint to delete the International Brotherhood of Carpenters and Joiners as a named respondent. The Complainant then filed a second amended complaint to clarify the statutory basis for his claim, which the Respondent answered.

Subsequent to filing the second amended complaint, Complainant Joseph Ponas died on April 26, 1994. Thereafter, Glenn Ponas, son and executor of Joseph Ponas's estate, filed a third amended complaint which was served on or about October 12, 1994. This third amendment changed the caption to "Estate of Joseph Ponas." Respondent refiled its previous response.

After investigation by PHRC staff, the Respondent was notified on February 19, 1993 that probable cause was found. Conciliation efforts proved unsuccessful. The matter was then approved for public hearing at the June 1994 meeting of the Pennsylvania Human Relations Commission.

A public hearing was held in this matter on July 26, 1995 in Scranton, Pennsylvania. Phillip A. Ayers, Permanent Hearing Examiner, presided over the hearing. Joseph T. Bednarik, Assistant Chief Counsel, appeared on behalf of the

complaint. Robert D. Mariani, Esquire, appeared on behalf of the Respondent. Subsequent to the public hearing, both Respondent Counsel and Commission Counsel submitted post-hearing briefs.

In reviewing the Complainant's allegations, we recognize the nature of his claim presents an allegation of disparate treatment based on age discrimination, and more precisely, a violation of Section 5(c) of the PHRA. In relevant part, Section 5(c) provides that it is an unlawful discriminatory practice for any labor organization to deny full and equal membership rights to any individual, or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment, or any other matter related to employment, directly or indirectly, because of age.

The analytical mode of evidence assessment in a matter such as this case is clearly set forth in several cases. In Allegheny Housing Rehabilitation Corp. v. PHRC, 516 Pa. 124, 532 A.2d 315 (1987), the Pennsylvania Supreme Court clarified the order and allocation of burdens first defined in McDonnell-Douglas v. Green, 411 US 792 (1973). The Pennsylvania Supreme Court's guidance indicates that a complainant must first establish a *prima facie* case of discrimination. If the complainant establishes a *prima facie* case, the burden of production then shifts to the respondent to "simply. . . produce evidence of a legitimate, non-discriminatory reason. . . for [its action]." If the respondent meets this production burden, in order to prevail the complainant must demonstrate by a preponderance of the evidence that the complainant was the victim of intentional discrimination. A complainant may succeed in this ultimate burden of persuasion either by direct persuasion that a discriminatory reason more likely motivated a respondent, or indirectly by showing

that a respondent's proffered explanation is unworthy of credence. Texas Department of Community Affairs v. Burdine, 450 US 248, 256 (1981).

Following its instruction on the effect of a *prima facie* showing and a successful rebuttal thereof, the Pennsylvania Supreme Court then articulated principles which are useful in the ultimate resolution of some aspects of this matter.

The court stated:

As in any other civil litigation, the issue is joined, and the entire body of evidence produced by each side stands before the tribunal to be evaluated according to the preponderance standard: Has the plaintiff proven discrimination by a preponderance of the evidence? Stated otherwise, once the defendant offers evidence from which the trier of fact could rationally conclude that the decision was not discriminatorily motivated, the trier of fact must then "decide which party's explanation of the employer's motivation it believes."

A complainant is, of course, free to present evidence and argument that the explanation offered by the employer is not worthy of belief or is otherwise inadequate in order to persuade the tribunal that the evidence does preponderate to prove discrimination. He is not, however, entitled to be aided by a presumption of discrimination against which the employer's proof must "measure up." Allegheny Housing, supra at 319.

In this court-designed burden allocation, the Complainant must first establish a *prima facie* case. Here, the proof pattern is adapted to fit the factual variance presented by the instant case. As always, the *prima facie* showing should not be an onerous burden.

In the instant case, a *prima facie* case of age discrimination is established by showing:

1. that the Complainant is a member of a protected class;

2. that the Complainant was qualified for work referrals from the Respondent;
3. that, despite his qualifications, the Respondent failed to refer him for work; and,
4. that, following the failure of Respondent to refer him to work, the Respondent continued to refer other members with his qualifications, not in his protected class, for work opportunities.

Firstly, the Complainant, at the time of the complaint, was seventy-one years of age, within the protected class of "age" as defined by the Pennsylvania Human Relations Act. Secondly, the Complainant was qualified for work referrals. Clearly, at all times relevant to the complaint, the Complainant was in good standing with the Respondent. Thirdly, the Respondent failed to refer the Complainant for work. Lastly, the record reveals that the Respondent continued to refer other members with his qualifications, not in Complainant's protected class, for work opportunities.

As aforementioned, once the Complainant establishes a *prima facie* case, the burden of production shifts to the Respondent to "simply. . . produce evidence of a legitimate non-discriminatory reason. . . for [its action]." Burdine, supra; George Clay Steam Fire Engine Co. v. PHRC, 639 A.2d 893, 399 (Pa. Cmwlth. Ct. 1994). The Respondent maintains that its business agent, Fred Schimelfenig, kept a record of those members seeking work referrals. The Respondent maintains that members received referrals on a "first in, first out" basis in response to contacts from employers. The Respondent also articulated that, when the Complainant came in, he only sought "extra work." By stating the above, the Respondent has met its burden of producing evidence of legitimate, non-discriminatory reasons for its action.

As indicated in the burden of proof analysis, once the Respondent has produced evidence of a legitimate, nondiscriminatory reason for its action, the Complainant, in order to prevail, must demonstrate by a preponderance of the evidence that he was the victim of intentional discrimination. Burdine, supra. This is the ultimate burden of persuasion that the Complainant must satisfy. The Complainant may do this by direct persuasion, or indirectly by showing that the Respondent's proffered explanation is unworthy of credence. Allegheny Housing Rehabilitation Corp. v. PHRC, 516 Pa. 124, 532 A.2d 315 (1987), remanded 125 Pa. Cmwlth. Ct. 354, 557 A.2d 1152 (1989).

Therefore, the Complainant in this matter must show that the proffered explanations are pretextual or unworthy of credence. It is essential to recognize that it is the Complainant's ultimate burden, not the Respondent's.

Generally one must take into account each witness's motive, state of mind, strength of memory, demeanor and manner while testifying. Consideration is also given to whether a witness's testimony was contradicted, and the bias, prejudice and interest, if any, of each witness. In addition, consideration is also given to the relationship of each witness to either side of the case, the manner in which each witness might be affected by a decision in the case, and the extent to which, if at all, each witness was either supported or contradicted by other evidence.

Fundamentally, the knowledge and recollection of a witness is basic to assessing credibility. Witnesses who clearly appear to feign forgetfulness, either of circumstances which would be remembered if the witness had any memory at all, or of matters to which the witness would be open to contradiction if the testimony

were untrue, were considered unworthy of belief. Consideration can be given to a witness's general bearing, conduct on the witness stand, demeanor and candor.

Bearing all of the above factors in mind, we now move to the Complainant's response to the Respondent's proffered explanation. The principal witness in this case was Fred Schimelfenig, business agent for Respondent. Mr. Schimelfenig's testimony is important because the Respondent destroyed all records pertaining to the referral system for the time period of May through August 1992. As Commission Counsel notes, four specific issues cannot be determined because of lack of records:

1. What was the disposition of Complainant's request for a referral?
2. Which members were on the list before Complainant?
3. Which members were added to the list before August 9, 1992? and
4. Which members received work before August 9, 1992?

Therefore, we must accept or reject Mr. Schimelfenig's testimony on any number of issues. Much of Mr. Schimelfenig's testimony is based on documents that were not to be found.

Firstly, Mr. Schimelfenig testified that he made a notation of the Complainant's request in the upper right-hand corner of a sheet of paper. The Complainant showed that this testimony contradicted his earlier testimony that he recorded members' names chronologically when they requested referral. For Complainant, he merely made a notation in the upper right-hand corner. Consequently, even if that list were produced, it would not show the Complainant's true position on the list.

The Complainant then presented Exhibit 7, which purported to be a list of members who had rejected opportunities. Mr. Schimelfenig said that the list was kept for the purpose of responding to complaints from members who believed they were treated unfairly. Ironically, that is the scenario before the Commission.

The first entry represents the Complainant's request for a work referral. Several things make this entry very suspect. First, even though Respondent received numerous requests, only the Complainant's request appears on a list of members who rejected work. Secondly, the Complainant showed that the date of the entry, July 5, 1992, conflicts with Schimelfenig's sworn testimony that the Complainant sought a referral in May of that year. At the public hearing, Mr. Schimelfenig testified that he had no memory of any visits to his office by Complainant, or any phone calls from Complainant after May and before July 1992. Thirdly, the alleged entry is clearly out of chronological sequence. All of the other entries appear in sequence.

The next entry made by Mr. Schimelfenig is also false. The testimony showed that the Complainant did not refuse a work referral on July 9, 1992, even though it was on the list. (NT 36, 39.) Mr. Schimelfenig finally admitted at public hearing that the Complainant did not refuse a job referral on July 9, 1992. Certainly, when Mr. Schimelfenig received an inquiry from the International in August, Mr. Schimelfenig would have stated that the Complainant had refused a work referral on July 9, 1992, if it had occurred.

Next, we move to Mr. Schimelfenig's response to the inquiry from the International regarding the Complainant's concerns about work referrals. At the public hearing, Mr. Schimelfenig stated that Complainant was looking for "extra work."

Extra work is a term that is never clearly defined by Mr. Schimelfenig. The Complainant established that Mr. Schimelfenig, in his response to Stanley Solaas at the International, does not mention that the Complainant was seeking "extra work," as opposed to a work referral. Furthermore, he does not tell Mr. Solaas that the Complainant sought work on a particular day, that any number of members were out of work, and whether any members had received a work referral before or after the Complainant. As Commission Counsel notes, he did not provide any documentation as to how he was managing the process.

In Mr. Schimelfenig's response, we are able to discern his thinking on this issue. Mr. Schimelfenig stated that a number of members were out of work and "had nothing," whereas the Complainant received Social Security and pension income. More precisely, Mr. Schimelfenig assumed that, as a Social Security and pension recipient, the Complainant essentially did not need a job because he had income. It is obvious that Mr. Schimelfenig felt that since younger members were not eligible for such benefits, then they were in need of work referrals and income.

It is clear that Mr. Schimelfenig's motive was not that the Complainant merely sought "extra work," but that his true motivation was age discrimination. Also, Respondent clearly did not process referrals on a "first in, first out" basis. The Respondent submitted lists to show that other members were on the list before Complainant. However, these records have numerous discrepancies and contradictions, and said discrepancies only support the position that the process was run in an arbitrary manner. The records that exist are only two contemporaneous documents (Complainant's Exhibits 4 and 7) that bear on this matter, and the

Complainant has met its burden of showing that the Respondent's explanations for its actions are pretextual and unworthy of credence.

Having found that the Complainant has met his ultimate burden of showing, by a preponderance of the evidence, that he was a victim of unlawful discrimination and that the Respondent's proffered reasons were pretextual and unworthy of credence, we now move to the issue of remedy.

Under Section 9 of the Pennsylvania Human Relations Act, the Commission has the authority to rectify unlawful discrimination by ordering relief which would make the victim whole. Consolidated Rail Corp. v. PHRC, 136 Pa. Cmwlth. 147, 582 A.2d 702 (1990). In Murphy v. Commonwealth of Pennsylvania, Pennsylvania Human Relations Commission, 506 Pa. 549, 486 A.2d 388 (1985), the Pennsylvania Supreme Court said, "We have consistently held that the Commissioners, when fashioning an award, have broad discretion and their actions are entitled to deference by a reviewing court." Furthermore, the Commission, in awarding any remedy, has several purposes. The first purpose is to insure that the unlawful discriminatory practice is completely eradicated. The second purpose is to restore the injured party to his pre-injury status and make him whole. Williamsburg Community School District v. PHRC, 99 Pa. Cmwlth. 206, 512 A.2d 1339 (1986). In the instant case, the Respondent's recordkeeping (or lack thereof) makes it extremely difficult to precisely calculate damages. However, case law has established that (1) unreasonable exactitude in damage calculation is not required, and (2) uncertainty in determining what an employee would have earned but for the discrimination should be resolved against the employer. Pettway v. American Cast Iron Pipe, 494 F.2d 211, 7 FEP Cases 1115, 1154 (5th Cir. 1974). As aforementioned in this

opinion and stipulated to by the parties at hearing, the relevant time period in this case is May 14, 1992 through August 9, 1992. There are sixty-two workdays during that period, which results in a maximum of four hundred ninety-six (496) hours.

The following table reflects the gross wages, fringe benefits, and contributions which Complainant would have earned as per the collective bargaining agreement in effect, as stipulated by the parties.

	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Hourly Wages	496	\$ 17.21	\$ 8,536.16
Health & Welfare	496	2.40	1,190.40
Annuity Fund	496	2.50	1,240.00
Education Fund	496	0.15	74.40
TOTAL			\$11,040.96

The record does not reflect that the Complainant had any other income. His widow testified that there was no other income in the relevant time period. However, the above amount is subject to a reduction for the member's contribution to the Organization Fund (\$0.21 per hour), which totals \$100.16 for a net amount of \$10,940.80.

Under Section 9, the Commission is empowered to issue a cease and desist order and "take such affirmative action which will effectuate the purposes of this act," and including a requirement for report of the manner of compliance. In the

instant case, the manner of compliance shall ensure that Respondent's referral system will be operated without regard to age, race sex, or any other protected class.

An appropriate order follows.

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

ESTATE OF JOSEPH PONAS,
Complainant

v.

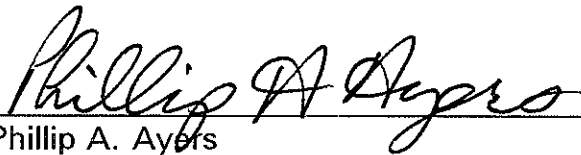
DOCKET NO. E-61335-A

UNITED BROTHERHOOD OF
CARPENTERS & JOINERS OF
AMERICA, LOCAL 261,
Respondent

RECOMMENDATION OF THE PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned case, it is the Permanent Hearing Examiner's recommendation that the Complainant has proven unlawful discrimination in violation of the Pennsylvania Human Relations Act. It is, therefore, the Permanent Hearing Examiner's recommendation that the attached Stipulations of Fact, Findings of Fact, Conclusions of Law, Opinion, and Order be approved and adopted by the full Pennsylvania Human Relations Commission. If so approved and adopted, the Permanent Hearing Examiner recommends issuance of the attached Final Order.

By:


Phillip A. Ayers

Permanent Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

**ESTATE OF JOSEPH PONAS,
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v.

**UNITED BROTHERHOOD OF
CARPENTERS & JOINERS OF
AMERICA, LOCAL 261,
Respondent**

DOCKET NO. E-61335-A

FINAL ORDER

AND NOW, this Twenty-fifth day of June, 1996, following review of the entire record in this case, including the transcript of testimony, exhibits, briefs and pleadings, the Pennsylvania Human Relations Commission hereby adopts the foregoing Stipulations of Fact, Findings of Fact, Conclusions of Law, and Opinion, and in accordance with the Recommendation of the Permanent Hearing Examiner, pursuant to Section 9 of the Pennsylvania Human Relations Act, therefore

ORDERS

1. That the Respondent cease and desist from discriminating on the basis of age.
2. That the Respondent shall award to the Complainant's estate the lump sum of \$10,940.80 which is the amount Complainant would have earned during the relevant time period.
3. The amount of six percent interest per annum on the lump sum amount shall be paid by Respondent to Complainant's estate.

4. In operating its hiring hall, Respondent shall maintain records which reflect:

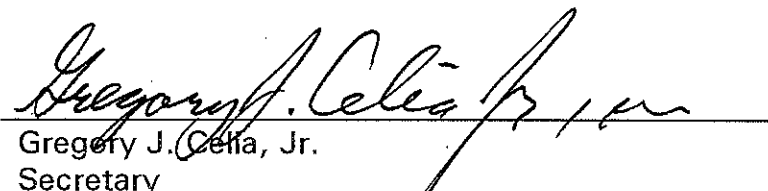
A. each request for work by a member, all work offered to said member, and the disposition of the offer;

B. each request for referral by an employer, each offer made to fill the request, the reason for the offer to the member, and the disposition.

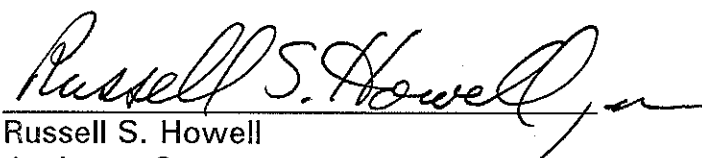
5. Should an issue arise concerning any of the above remedies contained in 4.A and 4.B, said issue shall not delay the implementation of any other remedy required under this Order.

6. Within thirty days of the date of this Order, Respondent shall report on the manner of compliance with its terms by letter addressed to Joseph T. Bednarik, Esquire, at the Commission's Harrisburg Regional Office located at Uptown Shopping Plaza, 2971-E North Seventh Street, Harrisburg, PA 17110.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: 
Gregory J. Cella, Jr.
Secretary

Attest:


Russell S. Howell
Assistant Secretary