

**OHIO CIVIL RIGHTS COMMISSION**

IN THE MATTER OF:

**OHIO CIVIL RIGHTS COMMISSION**

Complainant

v.

Complaint No. 9741  
(OSI) S7091803 (00517) 091803

**E-PUBLIUS, INC., ALEX R. LINDER  
AND RAY BREMER**

Respondents

**ADMINISTRATIVE LAW JUDGE'S FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND RECOMMENDATIONS**

**MARC E. DANN  
ATTORNEY GENERAL**

Duffy Jamieson, Esq.  
Deputy Attorney General  
Civil Right Section  
State Office Tower, 15<sup>th</sup> Floor  
30 East Broad Street  
Columbus, OH 43215-3428  
614 - 466 - 7900

**Counsel for the Commission**

Alex R. Linder  
1706 East Hamilton Street  
Kirksville, MO 63501

Alex R. Linder  
% E-publius, Inc.  
P. O. Box 101  
Kirksville, MO 63501

**Respondents**

**ALJ'S REPORT BY:**

Denise M. Johnson  
Chief Administrative Law Judge  
Ohio Civil Rights Commission  
1111 East Broad Street, Suite 301  
Columbus, OH 43205-1379  
614 - 466 - 6684

## **INTRODUCTION AND PROCEDURAL HISTORY**

The Ohio Civil Rights Commission (Complainant) self-initiated a charge in accordance with R.C. 4112.05(B)(2) and 4112.04(B)(2) on September 18, 2003.

The Commission investigated the charge and found probable cause that Frank Bremer, E-publius, Inc. and Alex R. Linder (Respondents) engaged in unlawful discriminatory practices in violation of Revised Code Sections (R.C.) 4112.02(F) and (J). E-publius has a registered internet domain named Vanguard News Network (VNN).

The Commission attempted, but failed to resolve this matter by informal methods of conciliation. The Commission subsequently issued a Complaint on August 12, 2004.

The Complaint alleged that Respondent Bremer, a person seeking employment in the state of Ohio, published or caused to be published an advertisement on E-publius' website, VNN, that specified his race, color and sex, and that expressed a preference as to the race, color and sex of a prospective employer in violation of R.C. 4112.02(F).

The Complaint also alleged that Respondent E-publius, Inc. and Respondent Linder aided and abetted Respondent Bremer in the doing of an act declared unlawful under R.C. 4112.02(J).

Respondent Linder filed an untimely Answer to the Complaint on February 15, 2005.

A public hearing was held on March 2, 2005 at the Ohio Civil Rights Commission's Central Office at 1111 East Broad Street in Columbus, Ohio.

The record consists of the previously described pleadings, a transcript of the hearing consisting of 6 pages, exhibits admitted into evidence during the hearing, and a post-hearing brief filed by the Commission on December 7, 2005. Respondents did not file post-hearing briefs.

## **FINDINGS OF FACT**

The following findings of fact are based, in part, upon the Administrative Law Judge's (ALJ) assessment of the credibility of the witnesses who testified before her in this matter. The ALJ has applied the tests of worthiness of belief used in current Ohio practice. For example, she considered each witness's appearance and demeanor while testifying. She considered whether a witness was evasive and whether his or her testimony appeared to consist of subjective opinion rather than factual recitation. She further considered the opportunity each witness had to observe and know the things discussed, each witness's strength of memory, frankness or lack of frankness, and the bias, prejudice, and interest of each witness. Finally, the ALJ considered the extent to which each witness's testimony was supported or contradicted by reliable documentary evidence.

1. The Commission self-initiated a charge of discrimination on September 18, 2003.

2. The Commission determined on October 9, 2003 it was probable that Respondent E-publius, Inc., Respondent Linder, and

Respondent Bremer engaged in discriminatory conduct prohibited by R.C. 4112.02(F) and (J).

3. The Commission attempted to resolve this matter by informal methods of conciliation. The Commission issued the Complaint after conciliation failed.

4. Respondent Linder is the editor-in-chief of the VNN website.  
(Tr. 2)

5. He directs all website activities, including receipt and placement of classified advertisements. (Tr. 2, Ex. 11)

6. On April 9, 2003, Respondent Bremer placed a classified advertisement on the VNN website, which read as follows:

**Sales/Management/HR Position Sought**

Racially Conscious, Master-Degreed White male with Human Resource Director experience seeks position where he can think non-P.C. thoughts. Also hold ordination papers. Cleveland, Ohio area, but will highly consider relocation. Contact Frank here. (Comm. Exs. 3-4)

## **CONCLUSIONS OF LAW AND DISCUSSION**

All proposed findings, conclusions, and supporting arguments of the parties have been considered. To the extent that the proposed findings and conclusions submitted by the parties and the arguments made by them are in accordance with the findings, conclusions, and views stated herein, they have been accepted; to the extent they are inconsistent therewith, they have been rejected. Certain proposed findings and conclusions have been omitted as not relevant or as not necessary to a proper determination of the material issues presented. To the extent that the testimony of various witnesses is not in accord with the findings therein, it is not credited.<sup>1</sup>

1. The Commission alleged in the Complaint that Respondent Bremer placed a classified advertisement for employment specifying his race and sex with the VNN and that Respondent E-publius, Inc. and Respondent Linder published the advertisement on the VNN.

---

<sup>1</sup> Any Finding of Fact may be deemed a Conclusion of Law, and any Conclusion of Law may be deemed a Finding of Fact.

2. This allegation, if proven, would constitute a violation of R.C. 4112.02, which provides, in pertinent part, that:

It shall be an unlawful discriminatory practice:

- (F) For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's *race*, color, religion, *sex*, national origin, disability, age or ancestry, or expresses a limitation or preference as to *race*, color, religion, *sex*, national origin, disability, age or ancestry of any prospective employer. [Emphasis added.]
- (J) For any person to *aid, abet*, incite, compel, or coerce *the doing of any act declared by this section to be an unlawful discriminatory practice*, to obstruct or prevent any person from complying with this chapter any order issued under it, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice. [Emphasis added.]

3. The Commission has the burden of proof in cases brought under R.C. Chapter 4112. The Commission must prove a violation of R.C. 4112.02(F) and (J) by a preponderance of reliable, probative, and substantial evidence. R.C. 4112.05(G) and 4112.06(E).

4. R.C. 4112.02(F) prohibits persons seeking employment to publish or cause to be published an advertisement that specifies race and sex. A person engaged in such conduct has committed an overt act of discrimination.

5. Respondent Bremer's placement of the ad with Respondent E-publius' website, VNN, on April 9, 2003 is an overt act of discrimination in violation of Ohio law.

6. Respondent Linder, in his capacity as editor of the VNN, has discretion and control on what gets published on the website. (Comm. Exs. 7, 9-11).

7. There is no requirement under R.C. 4112.02(J) that the Commission prove that there was an intent to discriminate by the aider or abettor.

Publisher found liable for aiding and abetting in violation of *city antidiscrimination ordinance* by placing wants ads for employment in sex-designated columns.

*Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations*, 413 U.S. 376. (Emphasis added.)

Publisher found liable for aiding and abetting in violation of *state antidiscrimination statute* by placing wants ads for employment designating sex preference.

*Evening Sentinel v. National Org. for Women*, (N.J.) (1975), 357 A. 2d 498. (Emphasis added.)

8. By publishing the tag-line “white-male”, Respondents Linder and E-publius, Inc. were aiding and abetting Respondent Bremer in the doing of an act prohibited by R.C. 4112.02(F).

## **RECOMMENDATIONS**

For all of the foregoing reasons, it is recommended in Complaint No. 9741 that:

1. The Commission order Respondent Bremer, Respondent E-publius, Inc. and Respondent Alex R. Linder to cease and desist from all discriminatory practices in violation of R.C. Chapter 4112;

2. The Commission order Respondent E-publius, Inc. and Respondent Alex R. Linder to post on the VNN website a statement that it is a discriminatory employment practice under Ohio law to publish job advertisements/help wanted advertisements that state a preference for individuals based on race, sex, national origin, or age; and

3. The Commission order Respondent Alex R. Linder to receive training regarding a person’s rights and responsibilities under Ohio law

to post and publish advertisements for employment under R.C. 4112, *et seq.* As proof of participation in such training, Respondent Alex R. Linder shall submit certification or an affidavit from the trainer or provider of services that he has successfully completed training. The letter of certification/affidavit shall be submitted to the Commission's Office of Special Investigations within seven (7) months from the date of the Commission's Final Order.

---

DENISE M. JOHNSON  
CHIEF ADMINISTRATIVE LAW JUDGE

March 12, 2007