

**THE PRINCE GEORGE'S COUNTY
HUMAN RELATIONS COMMISSION
Review Before the Full Commission**

CLERK
JUN 21 2018
Prince George's County
Human Relations Commission

IN RE: STEELE, Crystal)
)
 Complainant,)
)
 By)
)
 EXECUTIVE DIRECTOR)
)
 v.)
)
 Equity Solutions, Ltd.)
)
 Respondent.)
 _____)

HRC Case No.: HRC-15-0302
EEOC Case No.: N/A

**THE OPINION AND ORDER
OF
THE PRINCE GEORGE'S COUNTY
HUMAN RELATIONS COMMISSION**

There is no question that Respondent, Equity Solutions, Ltd, through the actions of its agent, Derwin Lucas, committed quid pro quo sexual harassment and unlawful failure to hire against Complainant Crystal Steele. It is not disputed that Mr. Lucas engaged in unlawful conduct by “showing penises to recruits in order for sexual favors.” (Rehearing Tr., Jan. 22, 2018, 56:22-57:1.) As indicated in its September 18, 2017, Decision and Order issued in this matter, the Prince George’s County Human Relations Commission (the “Commission”) made clear that such conduct in Prince George’s County, under these circumstances is unacceptable. Notwithstanding, the Complainant, in a related matter that arose from the same set of facts underlying this action, executed a settlement agreement that released, among other things, all claims against Telemarketing Solutions, Inc. and its agents. Telemarketing Solutions had an agency relationship with Respondent at the time the unlawful conduct described above occurred.

After a rehearing of this matter before the full Commission, it is with great reluctance that the Commission, by a majority vote, vacates the Opinion and Order entered by this Commission on September 18, 2017, and dismisses the Complainant's complaint against Respondent Equity Solutions, Ltd. with prejudice.

I. BACKGROUND

Complainant Crystal Steele ("Ms. Steele") is an individual residing in Germantown, Maryland. Respondent is a non-stock company incorporated in the State of Maryland organized to "perform marketing solutions within [] the State of MD" and "any other legal business activity within [] the State of MD." (Executive Director Exhibit (hereafter cited as "Ex.") 4.)

Respondent allegedly contracted with Telemarketing Solutions, Inc., a corporation organized in the State of Maryland, to hire personnel to provide telemarketing services in the State of Maryland and in Prince George's County. (*See* Ex. 2.) An individual named Derwin Lucas ("Mr. Lucas") is the sole principal and resident agent of Respondent, Equity Solutions. (*Id.*)

On March 10, 2015, Ms. Steele initiated this action by filing a Charge of Discrimination against Equity Solutions. (Ex. 1.) Ms. Steele alleges that Equity Solutions, through the actions of Mr. Lucas, subjected her to quid pro quo sexual harassment and "failed to hire me for employment because of my sex (Female)." (*Id.*) Notably, that same day, Ms. Steele also filed a Charge of Discrimination against Telemarketing Solutions with similar allegations. *See* HRC15-0303.

On July 23, 2015, Ms. Steele and Telemarketing Solutions appeared for mediation. During the mediation, Ms. Steele entered into the Settlement Agreement & Release (the "Settlement Agreement") with Telemarketing Solutions. (Respondent's Ex. 3.) Ms. Steele asserts that Telemarketing Solutions was willing to offer "more money" to release all claims

asserted against it and Equity Solutions, but Ms. Steele declined because she wanted to pursue her claims against Equity Solution and Mr. Lucas. (*See* Steele Tr., Apr. 4, 2017 (hereafter cited as “Steele Tr.”), 59:3-13.) Ms. Steele acknowledged that she accepted \$3,000.00 to release Telemarketing Solutions; she “specifically stated and read and made sure that [she] was not letting him [Mr. Lucas] or the company [Equity Solutions] off the hook.” (*Id.* at 59:18-23.)

On March 15, 2016, the Commission attempted to convene a Merit Hearing in this matter. However, upon inspection of the record, the Commission found that service had not been effected on Respondent and continued the Merit Hearing to May 10, 2016. In the interim, on May 3, 2016, Respondent filed its Motion to Challenge Subject Matter Jurisdiction that asserts, *inter alia*, that Equity Solutions was a party to the Settlement Agreement that Complainant entered into with Telemarketing Solutions.

On May 10, 2016, the Commission convened the Merit Hearing. Complainant appeared, but Respondent did not. After hearing testimony from the Executive Director and Complainant, the Commission expressed concerns about the methods employed by the Executive Director to effect service, which were memorialized in the Decision and Order issued on September 22, 2016. The Commission found that service had not yet been effected upon Respondent and entered a new Scheduling Order in this case to grant the Executive Director additional time to serve Respondent. Meanwhile, Respondent submitted filings on March 6, 2017, March 9, 2017, and March 27, 2017, that assert, among other things, that service has not been effected, the Commission lacks jurisdiction in this case, and that Complainant’s allegations lack substantive merit. (*See, e.g.*, Respondent’s Notice, Mar. 27, 2017, at 2 (requesting dismissal with prejudice for lack of personal and subject matter jurisdiction and asserting Complainant has made fraudulent claims).)

On April 4, 2017, the Commission convened another Merit Hearing in this matter. Again, Complainant appeared, but the Respondent did not. The Commission received the testimony of Kyla Hanington, who serves as Clerk to the Commission. In that role Ms. Hanington was responsible for “receiving and distributing documents and mailing out documents to the parties” in this case. (*See* Steele Tr. at 7:20-23.) Ms. Hanington testified that she transmitted the documents relevant to the April 4, 2017 hearing to Derwin Lucas as resident agent for Respondent. (*See* Steele Tr. 7:25; 8:1-3.) She also testified that in addition to sending the package to Mr. Lucas, including the hearing notice and a subpoena, via certified mail, the Baltimore County Sheriff, and the Maryland State Department of Taxation and Assessment for SDAT service, she sent the package via first class mail. (*See* Steele Tr. At 8:10-17.)

Satisfied that Mr. Lucas received service of the hearing notice and subpoena, the Commission proceeded with the April 4th hearing to receive the testimony of Ms. Steele on the merits of her claims against Respondent. Subsequently, on April 12, 2017, Respondent submitted a filing asserting that Complainant had “no valid cause of action” and the Commission lacks jurisdiction in this case. (*See* Respondent’s Demand, Apr. 12, 2017, at 1.) On April 17, 2017, Respondent submitted a letter addressed to the Executive Director asserting that service was improper. (*See* Respondent’s Letter, Apr. 17, 2017, at 1.) On April 26, 2017, Respondent submitted a document styled as a “Response” that made various accusations toward the Executive Director. On May 4, 2017, Respondent submitted a Motion to Dismiss asserting defective service. While Respondent filed a number of “motions” and “responses,” Respondent did not appear at any of the merit hearings convened by the Commission to present any witness testimony in support of its assertions.

On September 18, 2017, the Commission accepted the recommendation of the Employment Panel assigned to this matter and entered the Opinion and Order holding that the Commission had personal and subject matter jurisdiction over Respondent in this case. The Commission also accepted the Employment Panel's recommendation that found Respondent liable for quid pro quo sexual harassment and unlawful failure to hire. (*See* Opinion and Order, p. 15.)

On September 26, 2017, Respondent timely filed its Motion to Appeal Judgment followed by an Amended Motion to Appeal Judgment, filed on October 2, 2017. Respondent sought appeal of the Opinion and Order entered by the Employment Panel on grounds that, *inter alia*, that Complainant's claims are "barred by the doctrine of accord and satisfaction, estoppel, release, and/or res judicata." (Respondent's Am. Mot. to Appeal, ¶ 6.) On November 8, 2017, the Commission entered an Order granting, in part, Respondent's Amended Motion to Appeal Judgment. Pursuant to Rule 13(c), the Commission granted a partial re-hearing before the full Commission solely on the basis of substantial error of law. (Order, Nov. 8, 2017, pgs. 1-2.)

On November 13, 2017, Respondent filed a Motion to Reconsider requesting that the Commission grant a full re-hearing on the merits. On November 27, 2017, the Executive Director filed an Opposition asserting, *inter alia*, that Mr. Lucas lacks standing to represent Respondent in this action because he is not an attorney licensed to practice in Maryland. On December 20, 2017, the Commission entered an Order denying Respondent's Motion to Reconsider, but also made clear that pursuant to Commission Rules of Procedure, Rule 10 and County Code § 2-205 Mr. Lucas could represent Respondent and its interest in this action.

On January 22, 2018, the Commission convened the partial re-hearing before the full Commission. All Commissioners, the Executive Director, Mr. Lucas, on behalf of Respondent,

and non-party witness David Finan appeared. Mr. Finan stated he is an agent of Telemarketing Solutions. (Rehearing Tr. at 8:4-5.) The Commission received oral argument and exhibits from the Executive Director and Respondent.

II. ANALYSIS

A. Issue Presented for Review

Pursuant to the Commission's December 20, 2017, Order granting a partial re-hearing, the sole issue before the full Commission is whether the Opinion and Order of September 18, 2017 contained a substantial error of law warranting relief from that Opinion and Order. (*See* Order, Nov. 8, 2017 at 1-2); Rule 13(a). Specifically, as stated by the Chairperson during the rehearing, the following issue was presented to the Commission and argued by the parties:

Whether the settlement agreement entered on July 23rd, 2015, between the complainant, Crystal Steele, and Telemarketing Solutions, Incorporated, HRC case 15-03, EEOC case 12H-2015-00027, is applicable to Equity Solutions Limited and thus bar[s] the relief sought by complainant in this matter.

(Rehearing Tr. at 6:11-17.)

B. The Relevant Language of the Settlement Agreement

The first paragraph of the Settlement Agreement states that “[t]he terms of this settlement agreement were voluntarily arrived at through mediation discussions conducted on Thursday, July 23, 2015 involving Crystal Steele and Telemarketing Solutions, Inc. . . . agents, and representatives (hereinafter ‘Telemarketing Solutions, Inc.’).” (Respondent’s Ex. 3, ¶ 1 (copy of the Settlement Agreement introduced by Respondent at the partial re-hearing) (emphasis added).) The sixth paragraph of the Settlement Agreement, titled “Release Statement,” states that in exchange for consideration, Complainant “hereby releases Telemarketing Solutions, Inc. of any

liability for any and all causes of action . . . arising in any way whatsoever out of her employment relationship with Telemarketing Solutions, Inc.” (*Id.* at ¶ 6.)

The Settlement Agreement is signed by Complainant and a representative of Telemarketing Solutions. (*Id.* at pg. 3.)

C. Respondent’s Assertions: Affiliate and Agent of Telemarketing Solutions

There is no dispute that Respondent Equity Solutions was not a first-party signatory to the Settlement Agreement; Mr. Lucas did not sign it. (*See id.*) During the partial re-hearing, the Commission questioned Mr. Lucas on the specific grounds for Respondent’s assertion that it is covered under the Settlement Agreement:

MR. [COMMISSIONER ERIC] JACKSON: I want to go back to the point you just made, Mr. Lucas. You said that Equity Solutions was a party to the agreement in 2015. Is that your reference to Respondent's Exhibit 3, which was the settlement release agreement between --

MR. [DERWIN] LUCAS: Yes, sir.

MR. JACKSON: -- which was between Crystal Steele and Telemarketing Solutions; right?

MR. LUCAS: And the additional language that follows that.

MR. JACKSON: Okay. Let's go through that additional language, then. Do you contend that Equity Solutions is a predecessor of Telemarketing Solutions, Inc.?

MR. LUCAS: No, sir.

MR. JACKSON: Do you contend that it is a successor, Equity Solutions is a successor to Telemarketing Solutions, Inc.?

MR. LUCAS: No, sir.

MR. JACKSON: Do you contend that Equity Solutions, Inc. is an assigned of Telemarketing Solutions, Inc.?

MR. LUCAS: No, sir.

MR. JACKSON: Do you contend that it is a parent of Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: Do you contend that Equity Solutions, Inc. is a subsidiary of Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: Do you contend that Equity Solutions is a division of Telemarketing Solutions, Inc.

MR. LUCAS: No, sir.

MR. JACKSON: Do you contend that Equity Solutions, Inc. is an affiliate of Telemarketing Solutions, Inc.?

MR. LUCAS: Yes, it was at that time.

MR. JACKSON: And what, what do you mean by the definition of affiliate as you're interpreting it to apply to this agreement to, to be, for Equity Solutions to be free of liability? You're relying upon affiliates in this contract for that purpose?

MR. LUCAS: Affiliate as in party to the settlement agreement, party to the affiliate of the company at the time of the alleged transgression.

MR. JACKSON: What do you mean by affiliate?

MR. LUCAS: Has a relationship.

MR. JACKSON: So it's your position that anybody who has a relationship with Telemarketing Solutions -- can I finish my question?

MR. LUCAS: Yes, sir. Okay.

MR. JACKSON: So that the record is clear. So again, I want to understand what you mean by affiliate, if that's what you're using, that's one of the terms in this agreement that you acknowledge this agreement is on its face, it's between Crystal Steele and Telemarketing Solutions, Inc., correct?

MR. LUCAS: Correct.

MR. JACKSON: Okay. So I want to make sure I understand if you believe that Equity Solutions, Inc. is coming up under the definition of affiliate, what is your basis for making that statement?

MR. LUCAS: Equity was employed by Telemarketing Solutions Group to provide marketing services at the time of the alleged transgression.

MR. JACKSON: Let's keep going through that definition. Was Equity Solutions, Inc. an officer of Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: Was Equity Solutions, Inc. a director of Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: Was Equity Solutions, Inc. an employee of Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: Was Equity Solutions, Inc. an attorney for Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: Was Equity Solutions, Inc. an agent of Telemarketing Solutions, Inc.?

MR. LUCAS: Yes.

MR. JACKSON: And what is your -- why do you believe that, that Equity Solutions, Inc. was an agent of Telemarketing Solutions, Inc.?

MR. LUCAS: Equity Solutions Group was an employee of Telemarketing Solutions providing services on behalf of Telemarketing Solutions.

MR. JACKSON: So you're saying Equity Solutions was an employee?

MR. LUCAS: I'm sorry, it was an agent of Telemarketing Solutions, Inc.

MR. JACKSON: Did Equity Solutions, Inc. have the ability to bind Telemarketing Solutions, Inc. to any contracts?

MR. LUCAS: Please elaborate.

MR. JACKSON: I can repeat the question. Did -- what authority did Equity Solutions, Inc. have to act on behalf of Telemarketing Solutions, Inc.

MR. LUCAS: For its marketing and recruiting services.

MR. JACKSON: Okay. And that's it?

MR. LUCAS: Yes.

MR. JACKSON: Okay. Could they sign contracts on, Equity Solutions, Inc., sign contracts on behalf of Telemarketing Solutions, Inc.?

MR. LUCAS: No.

MR. JACKSON: And the last point is representative, it says "was Equity Solutions, Inc. a representative of Telemarketing Solutions, Inc."

MR. LUCAS: No.

MR. JACKSON: Did you ever see a copy of exhibit, Respondent's Exhibit 3 [Settlement Agreement] before it was signed?

MR. LUCAS: No.

MR. JACKSON: When did you first know about the existence of Exhibit 3?

MR. LUCAS: Sometime shortly after.

MR. JACKSON: Shortly after when?

MR. LUCAS: July 23rd, 2015.

(Rehearing Tr. at 65:19-71:17 (emphasis added).) As evidenced by Mr. Lucas' testimony, which was not disputed by the Executive Director, Respondent specifically asserted that it was an

affiliate and an agent of Telemarketing Solutions at the time of execution of the Settlement Agreement. However, the Settlement Agreement does not define “affiliate” or “agent.” (See Respondent’s Ex. 3.) Thus, the Commission must review the Settlement Agreement consistent with current law.

1. Was Respondent an Affiliate of Telemarketing Solutions?

Under Maryland common-law, an affiliate is “a corporation that is related to another corporation by shareholdings or other means of control.” *Neal v. Monument Realty LLC*, 2016 Md. App. LEXIS 294 (2016) (citing BLACK’S LAW DICTIONARY 63 (8th Ed. 2014)). “Control” in this context is corporate control, usually exerted through stocks but also can arise from a contract such as a merger agreement, articles of incorporation, or other governing corporate document. See *Sutton v. FedFirst Fin. Corp.*, 226 Md. App. 46, 88-89 (2015) (applying Delaware precedent regarding corporate control).

Here, Mr. Lucas asserted that Respondent was an affiliate of Telemarketing Solutions, but did not provide further testimony or evidence substantiating that assertion. (See Rehearing Tr. at 67:20-22.) For example, Mr. Lucas did not provide evidence that Telemarketing Solutions held stock in Respondent or shared corporate control through a governing document such as articles of incorporation. In fact, Mr. Lucas testified that Respondent was not a subsidiary, division, director, or officer of Telemarketing Solutions, which further shows the lack of a corporate relationship required to establish affiliation. (*Id.* at 67:2-9, 69:5-11.) Therefore, the Commission holds that Respondent was not an affiliate of Telemarketing Solutions at the time of execution of the Settlement Agreement. (*Id.*); see also *Neal*, 2016 Md. App. LEXIS at 294.

2. Was Respondent an Agent of Telemarketing Solutions?

Under Maryland common-law, an agency relationship is evaluated based upon the “totality of the circumstances.” *E.g., Beyond Sys. v. Realtime Gaming Holding Co., LLC*, 388 Md. 1, 27 (2005). In evaluating the totality of the circumstances, the tribunal should consider the following three factors:

- (1) The agent's power to alter the legal relations of the principal;
- (2) The agent's duty to act primarily for the benefit of the principal; and
- (3) The principal's right to control the agent.

Id. Amongst these three factors, the third factor of control is given the most weight. *See State v. Cottman Transmissions Systems, Inc.*, 86 Md. App. 714, 732 (1991) (“noting that the control element is instrumental in proving the existence of an agency relationship . . .”) (citation omitted).

Regarding the first factor, Mr. Lucas testified that Respondent could hire, recruit, and market on behalf of Telemarketing Solutions and could also make hiring and termination recommendations to Telemarketing Solutions:

MS. [COMMISSIONER MCKELIA] MITCHELL: Another quick -- Commissioner Mitchell. Just a point of clarification. So if I'm understanding correctly, Equity Solutions, Inc., could hire, recruit and market on behalf of Telemarketing Solutions?

MR. LUCAS: Correct.

MS. MITCHELL: And Equity Solutions, Incorporated could make hiring recommendations or firing, termination recommendations to Telemarketing Solutions?

MR. LUCAS: Correct.

(Rehearing Tr. at 73:9-20.) Mr. Lucas' testimony shows that Respondent had some power to alter the legal relations of its alleged principal, Telemarketing Solutions, specifically for personnel

recruitment and marketing services. Thus, Respondent has produced sufficient, and unrebutted, evidence meeting the first factor of agency - power to alter legal relations of the principal.¹ *See Beyond Sys.*, 388 Md. at 27; *Compare Brook v. Euclid Sys. Corp.*, 151 Md. 487, 512-13 (2003) (alleged agents, investment brokers, had no authority to make representations or enter into agreements on behalf of alleged principals, stock issuers for a company).

Regarding the second factor, Mr. Lucas' testimony that Respondent made recruitment and hiring decisions on behalf of Telemarketing Solutions demonstrates that Respondent had a duty to act primarily for the benefit of Telemarketing Solutions in making hiring decisions. (Rehearing Tr. at 73:9-20.)

Regarding the third factor, the right of the alleged principal, Telemarketing Solutions, to control Respondent would normally be established through testimony provided by the principal. However, due to previous rulings made by the Commission and Respondent's failure to appear for Public Hearings, Respondent was precluded from introducing new testimony from a witness from Telemarketing Solutions. (*See generally* Order, Dec. 20, 2017.) However, Respondent testified that he interviewed Complainant for a job position at the offices of Telemarketing Solutions:

MR. JACKSON: And with respect to the application that was submitted as Respondent's No. 2, this is the application by Ms. Steele, it doesn't have a date on it. Do you know when was submitted?

MR. LUCAS: December 3rd, 2014.

MR. JACKSON: Okay. How do you know that date, sir?

MR. LUCAS: That's the date that I met with her.

¹ Respondent's power was clearly limited to recruiting and marketing services. However, the underlying facts of the Settlement Agreement arose from Respondent's recruitment actions, specifically the attempted hiring of Complainant. (*See* Rehearing Tr. at 70:13-18.)

MR. JACKSON: Okay. And at what location?

MR. LUCAS: At the address of 5640-D Sunnyside Avenue, Beltsville, Maryland.

MR. JACKSON: Okay. What was at that address at the time, sir?

MR. LUCAS: That was the address of Telemarketing Solutions, Inc.

MR. JACKSON: And was that ever the address of Equity Solutions, Inc.?

MR. LUCAS: No, sir, it was never.

(Rehearing Tr. at 44:16-45:13 (emphasis added).) This suggests to Complainant and other interviewees that Respondent was acting on behalf of Telemarketing Solutions and Telemarketing Solutions prescribed some procedures to Respondent for the interview process. *See Brooks*, 151 Md. App. at 507 (stating that under the third factor of control, “control may be exercised by prescribing the agent’s obligations or duties before or after the agents acts”) (citation omitted).

More importantly, Mr. Lucas testified that Respondent only made hiring and termination “recommendations” to Telemarketing Solutions. (*Id.* at 73:9-20.) Thus, Telemarketing Solutions, not Respondent, possessed ultimate authority to act upon Respondent’s recommendations and Telemarketing Solutions retained “ultimate responsibility to control the end result of his or her agent’s actions[.]” *Brooks*, 151 Md. App. at 507 (citation omitted). This is reinforced by the employment application completed by Complainant that states that the employer’s name is “Telemarketing Solutions,” not Respondent. (Respondent’s Ex. 2.) Respondent’s relationship with Telemarketing Solutions was also confirmed by the testimony of Charles Floyd, an investigator from the Office of the Executive Director. (*See Steele Tr.* at 17:22-24, 19:7-8 (“Once I found that Mr. Lucas was a contractor working for Telemarketing Solutions as his own independent employee . . . I talked to four females that Mr. Lucas had hired for Telemarketing

Solutions[.]”.) Accordingly, Respondent is able to establish that it was an agent of Telemarketing Solutions for the hiring of Complainant and Telemarketing Solutions retained ultimate authority,² as the principal, for the hiring process.

It should be noted that Mr. Lucas testified that he “was no longer providing services in Prince George’s County as of the signing of [the] settlement agreement in July 2015.” (Rehearing Tr. at 73:4-7.) His testimony implies that Respondent’s agency relationship with Telemarketing Solutions was curtailed as a result of the execution of the Settlement Agreement. However, the fact remains that Respondent was an agent of Telemarketing Solutions through the signing of the Settlement Agreement and “for any and all causes of action . . . arising in any way whatsoever out of [Complainant’s] employment relationship with Telemarketing Solutions, Inc.” (Exhibit 3 at ¶ 6.) Therefore, the Settlement Agreement released the claims against Respondent raised by Complainant in this action. (See Respondent’s Ex. 3 at ¶ 1.)

D. Abiding by Plain Language of the Settlement Agreement

The Executive Director, presenting the case for Complainant, asserts that the Settlement Agreement does not apply to Respondent because Mr. Lucas “was acting outside of his [a]gency responsibilities[.]” (Rehearing Tr. at 59:19-60:5.) The difficulty is that the plain language of the Settlement Agreement does not establish that Telemarketing Solutions was disavowing any relationship to Respondent, or Respondent with Mr. Lucas. In fact, the Executive Director stated that Telemarketing Solutions bore responsibility for “hir[ing] and contract[ing] with Equity Solutions, they put him [Mr. Lucas] in place as a predator, they had their, the liability to Ms.

² The Maryland Court of Appeals emphasizes for analysis of control that ultimate authority is given more weight than control over day-to-day actions, otherwise known as physical control. See *Green v. H&R Block, Inc.*, 355 Md. 488 (1999) (agency found between alleged principals, the customers, and alleged agents, H&R Block representatives, where customers lacked physical control over H&R Block representatives’ daily tasks but customers retained ultimate authority to approve the submission of a loan application on their behalf by a H&R Block representative).

Steele.” (*Id.* at 60:6-9.) Thus, it seems that the Executive Director is asserting that there was a legal relationship between Respondent and Telemarketing Solutions arising from hiring and contracting activities, and through that connection Mr. Lucas’ conduct made both entities liable for his actions. (*See id.*)

The Commission is constrained under Maryland law to give effect “to the clear terms of a contract” and give “legal effect to the unambiguous provisions of a contract.” *Calomiris v. Woods*, 353 Md. 425, 432 (1999). The Settlement Agreement could have explicitly excluded Respondent or otherwise contained an acknowledgement that it did not release claims against Mr. Lucas or Equity Solutions, Ltd. However, the Settlement Agreement contained no such provision and the Commission cannot rewrite this contract based upon speculation on what the parties intended. *See id.*; (Respondent’s Ex. 3.) While Complainant previously testified that she informed the Executive Director and Telemarketing Solutions that “in no way, shape, or form was I interested in dropping the charges against Mr. Lucas.”³ (Tr., May 10, 2016, 49:18-23.) Maryland law prevents the Commission from setting aside a valid contract on the basis of Complainant’s unilateral testimony. *E.g., Creamer v. Helferstay*, 294 Md. 107, 131 (1982). The narrow exceptions for a “clerical, mechanical, or technical” unilateral mistake do not apply. *Id.* In addition, the Charge filed in this case did not name Mr. Lucas in his individual capacity; the Charge only names Equity Solutions as Respondent. (*See Ex. 1.*)

Complainant’s testimony suggests that there might have been a substantive mistake in the drafting of the Settlement Agreement, but it was her responsibility to address that issue prior to

³ The Commission does not find that the Settlement Agreement is applicable to Mr. Lucas in his personal capacity. Despite such a finding, the Complainant’s Charge in this matter only alleged sexual harassment and unlawful failure to hire against Equity Solutions, Ltd, not Mr. Lucas. (Ex. 1.) Thus, even though the Complainant may desire a different result, the Commission cannot lawfully fashion a decision or remedy that would condemn Mr. Lucas’ discriminatory actions.

signing the Settlement Agreement; the Commission cannot now rewrite the Agreement. *See id.* (“absent intentional, culpable conduct such as fraud, duress, or undue influence, a contract ordinarily will not be rescinded for unilateral mistake.”).

III. CONCLUSION

The Commission wholeheartedly agrees with the Executive Director’s factual summation of this action: Mr. Lucas “put himself out there to violate a recruit, a young lady who all she wanted was a job, and he decided to take advantage of his position to curry sexual favors by these recruits[.]” (Rehearing Tr. at 58:1-6.) Therefore, the Commission is not reversing its entire Opinion and Order dated September 18, 2017. The Commission concurs with the findings recommended to the full Commission by the Employment Panel on the merits. However, Complainant testified that she read and signed the Settlement Agreement. Further, she did not claim fraud or duress, or undue influence related to her executing the Settlement Agreement. Thus, due to the clear and unambiguous language of the Settlement Agreement and applicable law, which makes the Settlement Agreement applicable to Respondent as agent for Telemarketing Solutions, the Commission is precluded from ruling upon the merits of Complainant’s claims against Respondent and must vacate its Opinion and Order dated September 18, 2017.

**THE PRINCE GEORGE'S COUNTY
HUMAN RELATIONS COMMISSION**

IN RE: STEELE, Crystal)
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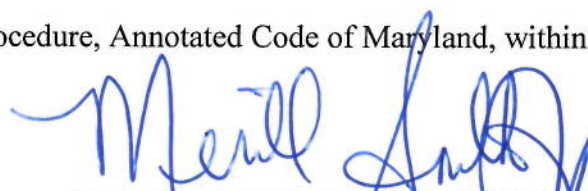
HRC Case No.: HRC-15-0302
EEOC Case No.: N/A

ORDER

Pursuant to the authority conferred on this Commission by Section 2-195, Division 12, Prince George's County Code, 1991, as amended, for the reasons stated above, the Commission issues this Opinion and Order vacating the Opinion and Order entered in this matter on September 18, 2017. Further, the complaint initiating this action, HRC-15-0302, is dismissed with prejudice.

On the 18th day of June 2018, **It is so Ordered.**

Under Section 2-197-C of the Prince George's County Code, any party aggrieved by a final decision of the Commission in a contested case is entitled to file an appeal pursuant to Subtitle B of the Maryland Rules of Procedure, Annotated Code of Maryland, within 30 days from the date last entered above.



Merrill Smith, Jr., Chairperson
Prince George's County
Human Relations Commission

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Nora Eidelman, Commissioner
Merrill Smith, Jr., Commissioner

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