STATE OF RHODE ISLAND
COMMISSION FOR HUMAN RIGHTS

RICHR No. 16 ERA 256 EEOC No. 16J-2016-00262

In the matter of

ARIES CRUDUP
Complainant

v. DECISION AND ORDER

YF RHODE ISLAND, LLC
d/b/a YOU FIT HEALTH CLUBS
Respondent

INTRODUCTION

On June 7, 2016, Aries Crudup (Complainant) filed a charge with the Rhode Island Commission for Human Rights (Commission) against YF Rhode Island, LLC d/b/a You Fit Health Clubs (Respondent). Complainant alleged that Respondent discriminated against him with respect to unlawful pre-employment inquiries, and with respect to terms and conditions of employment and termination of employment because of his color/race (Black/African American). On February 24, 2017, Preliminary Investigating Commissioner Iraida Williams assessed the information gathered by a staff investigator and ruled that there was probable cause to believe that the Respondent had violated the provisions of the Fair Employment Practices Act (FEPA), Title 28, Chapter 5 of the General Laws of Rhode Island as alleged by Complainant in the charge. On April 26, 2017, a Complaint and Notice of Hearing issued and on September 18, 2017, a Notice of Rescheduling of Hearing was sent out. Respondent filed a timely answer, denied violating the FEPA, and asserted affirmative defenses. A hearing on the Complaint was held on October 19, 2017, before Commissioner John B. Susa. The Complainant represented himself at the hearing. Respondent was represented by counsel.

Complainant submitted his "[w]ritten memorandum closing arguments" on November 7, 2017. Respondent submitted its Post-Hearing Memorandum of Law on December 30, 2017.

JURISDICTION

Respondent is a business that employed four or more employees within the State of Rhode Island and thus it is an employer within the definition of R.I. Gen. Laws Section 28-5-6(8)(i) and is subject to the jurisdiction of the Commission.

FINDINGS OF FACT

1. The Complainant is Black and African American. Compl. and Answer at ¶¶4(h).

2. On December 7, 2015, Complainant applied for a job with Respondent and was interviewed by Dave Scichilone (Scichilone), General Manager of Respondent's North Providence location. Ex. H.

3. On December 8, 2015, Scichilone sent an email to Jason Potts (Potts), Area Manager, stating "I interviewed [Complainant] yesterday. I feel he's worthy of an interview from you as well. Resume attached." Ex. H, J.

4. On December 14, 2015, based on Scichilone's recommendation, Potts conducted a phone interview with Complainant. Ex. G; Commission Hearing Transcript at 57:05-14, 58:01-15, Oct. 19, 2017 (Hr'g Tr.).

5. After the December 14, 2015 interview, Potts decided to hire Complainant as a Fitness Director for the North Providence branch. Hr'g Tr. at 61:22-62:21.

6. Complainant was the first African-American Fitness Director hired at Respondent's North Providence location since it had opened in the spring of 2015. Hr'g Tr. at 116:10-15.

7. As of December 18, 2015, Complainant had been interviewed twice by two different managers of Respondent. Ex. G; J; Hr'g Tr. at 61:04-08.

8. On December 18, 2015 at 3:48 p.m. Complainant received a text message from Scichilone stating "Dave from YOUFIT! Welcome aboard…". Ex. D.

9. On December 18, 2015 at 5:16 p.m., Complainant submitted a "Candidate Profile" to Respondent as part of the "on-boarding process" through its electronic record-keeping system. Ex. C; Hr'g Tr. at 32:12-33:13; 134:23-136:21.

10. Respondent's Director of Human Resources Stuart R. Smith testified that the December 18, 2015 date on the Candidate Profile signified "the actual date that the candidate or the applicant

goes into the system and puts their information in and … starts their on-boarding process." [Emphasis added.] Hr'g Tr. at 136:11-14.

11. The Candidate Profile contained a preliminary Equal Opportunity Employer statement indicating "[i]f hired, I understand my employment is at-will as permitted under applicable state law." In another section of the Candidate Profile, Complainant also agreed that "[i]f hired, my employment with [Respondent] is at-will." [Emphases added.] Ex. C.

12. Part of the Candidate Profile asked Complainant whether he had ever been convicted of a felony. Complainant checked "yes," and in response to a question asking for further explanation, Complainant indicated "[p]ossession of controlled substance." Ex. C.

13. Complainant certified that the answers he had provided on the Candidate Profile were "true and complete to the best of my knowledge" and agreed that "[a]ny falsification, misrepresentation, or omission, whenever discovered, shall be considered legitimate and sufficient grounds for dismissal." Ex. C.

14. As of December 18, 2015, Complainant had been convicted of manufacturing or delivering a Schedule I or II controlled substance on two separate occasions, larceny from a person, and being a felon in possession of a firearm, four separate felony convictions. Ex. K.

15. Part of the on-boarding process required Complainant to sign a "Background Check Authorization" which stated, in pertinent part, "[t]he information contained in this application is correct to the best of my knowledge. I hereby authorize … to conduct a comprehensive review of my background … I understand that the scope of the consumer report/investigative consumer report may include, but is not limited to the following areas: … criminal history records from any criminal justice agency in any or all federal, state, county, jurisdictions . . ." [Emphases added.] Ex. P.

16. Respondent considered Complainant's "criminal history" to include convictions, arrests, and charges. Ex. O; Hr'g Tr. at 67:03-12; 68:09-13; 69:15-70:02; 71:12-19.

17. According to Potts and Smith, the paperwork, including the Candidate Profile filled out by Complainant on December 18, 2015, was "part of the application process." Hr'g Tr. at 74:01-08; 136:11-14.

18. Part of the Fitness Director's duties included providing personal training services to customers, which included physical contact with the customers, handling money and having access to customers' credit card information. Hr'g Tr. at 70:04-23.

19. Complainant performed his job duties in a satisfactory manner and in a manner consistent with how he was trained. Complainant arrived to work on time, made sales, and acted professionally. Ex. J; Hr'g Tr. at 26:04-09; 113:01-23; 124:03-04.

20. Complainant testified that a hostile environment was created by General Manager Steve Eiland (Eiland) wherein Eiland, who was white, stated he was going to punch another white

employee in the face. Hr'g Tr. 30:04-12; 39:01-21; 109:02-15.

21. Complainant received a copy of the Respondent's Employee Handbook that contained a non-harassment policy as well as an additional stand-alone anti-discrimination and harassment policy providing direction about how to report discrimination or harassment. Exs. Q, S, T; Hr'g Tr. at 81:14-82:19.

22. The non-harassment policy provided multiple avenues for employees to report if they felt they were the victim of discrimination, including to their supervisor, an employee service number, or the Human Resources Director. Exs. Q, S, T; Hr'g Tr. at 82:11-83:05.

23. At no time during his employment did Complainant make a complaint to anyone employed by Respondent about having been harassed or the victim of discrimination. Hr'g Tr. at 82:04-10.

24. Respondent's Human Resources Director Smith testified that there was a policy in place with respect to discovering that an applicant or employee has a criminal history. Hr'g Tr. at 138:13-139:05.

25. Smith testified that the policy involved taking each case individually and determining as much information about the arrest or conviction as possible and its effect, if any, on the Respondent's business. Hr'g Tr. 139:06-20.

26. Smith testified that Respondent had terminated white employees for having felony convictions. Hr'g Tr. 140:07-09; 143:14-144:05.

27. The Personnel Action Form filled out in connection with Respondent's termination of Complainant's employment specified "[u]pon the hiring process [Complainant] did disclose he has a felony while applying for employment." [Emphases added.] Ex. O.

28. The Personnel Action Form also stated that after being hired, Complainant told his General Manager "about one offense many years ago, but failed to mention several felonies since including the one he is on bail for." [Emphasis added.] Ex. O.

29. Complainant credibly testified that on the day he was terminated, he was told by Potts that Respondent wanted to separate from him because "you put on your application that you was [sic] a felony, but you were dishonest about you being on bond." Hr'g Tr. at 27; 07-14.

30. Respondent decided to terminate the employment of Complainant based on his criminal history of dishonesty and violence, because of his dishonesty about his criminal history, and because it was concerned about the threat Complainant posed to the company's assets, customers, and their financial information. Hr'g Tr. at 27:09-24; 63:04-07; 69:09-72:03; 117:17-19; 122:19-24; 126:11-14.

31. Complainant was terminated by Potts, the same person who hired him, on February 1, 2016. Hr'g Tr. at 71:9-72:08; 117:17-21.

CONCLUSIONS OF LAW

The Complainant failed to prove by a preponderance of the evidence that Respondent discriminated against the him because of his race or color with respect to the terms and conditions of his employment or with respect to his termination. The Complainant failed to prove by a preponderance of the evidence that Respondent discriminated against him with respect to unlawful pre-employment inquiries about convictions. The Complainant proved by a preponderance of the evidence that Respondent discriminated against him with respect to unlawful pre-employment inquiries about arrests.

DISCUSSION

STANDARDS FOR EVALUATION OF EVIDENCE OF DISCRIMINATION

The FEPA prohibits discrimination in terms and conditions of employment or termination based on race or color. R.I.G.L. Section 28-5-7(1)(i and ii) provides in relevant part that:

> "It shall be an unlawful employment practice:
> (1) For any employer:
> (i) To refuse to hire any applicant for employment because of his or her race or color, ... ;
> (ii) Because of those reasons, to discharge an employee or discriminate against him or her with respect to hire, tenure, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment . . ."

The Commission utilizes the decisions of the Rhode Island Supreme Court, the Commission's prior decisions and decisions of the federal courts interpreting federal civil rights laws in establishing its standards for evaluating evidence of discrimination. *See Newport Shipyard, Inc. v. Rhode Island Comm'n for Human Rights*, 484 A.2d 893, 896 (R.I. 1984); *Ctr. for Behavioral Health v. Barros*, 710 A.2d 680, 685 (R.I. 1998). The United States Supreme Court and the Rhode Island Supreme Court have set forth a method for analyzing evidence of discrimination. According to this burden-

shifting framework, the complainant must first establish "a prima facie case demonstrating that the employer discriminated against him or her for a proscribed reason." *Barros*, 710 A.2d at 685 (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973)); *Bucci v. Hurd Buick Pontiac GMC Truck, LLC,* 85 A.3d 1160 (R.I. 2014); *Texas Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248 (1981); *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 506 (1993). "Once a prima facie case of discrimination is established, a presumption that the employer unlawfully discriminated against the employee arises." *Barros*, 710 A.2d at 685 (citing *Burdine*, 450 U.S. at 254). The burden of production, not persuasion, then "shifts to the employer to articulate some legitimate, nondiscriminatory reason for [the complained of action]." *Id.* (citing *McDonnell Douglas Corp.*, 411 U.S. at 802). If such a justification is presented by the employer, "the presumption created by the employee's prima facie case disappears and the focus shifts back to the employee to demonstrate that the proffered reasons are a mere pretext for discrimination." *Id.*

THE COMPLAINANT DID NOT PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT DISCRIMINATED AGAINST HIM WITH RESPECT TO TERMS AND CONDITIONS OF EMPLOYMENT OR TERMINATION BECAUSE OF HIS RACE OR COLOR

A. Terms and Conditions of Employment

To have made a successful prima facie showing of a hostile work environment based on race and/or color, Complainant had to establish:

> "that [he] is a member of a protected class; (2) that [he] was subjected to unwelcome [racial] harassment; (3) that the harassment was based upon [race]; (4) that the harassment was sufficiently severe or pervasive so as to alter the conditions of [his] employment and create an abusive work environment; (5) that [racially] objectionable conduct was both objectively and subjectively offensive, such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so; and (6) that some basis for employer liability has been established."
> *Garmon v. Nat'l R.R. Passenger Corp.*, 844 F.3d 307, 317-18 (1st Cir. 2016) (citing *Douglas v. J.C. Penney Co.,* 474 F.3d 10, 15 (1st

Cir. 2007) (citing *O'Rourke v. City of Providence*, 235 F.3d 713, 728 (1st Cir. 2001)).

Complainant proved by a preponderance of the evidence that he is a member of a protected class, he is Black and African American. Complainant testified that he "had problems with Steve Eiland" who was very rude. Hr'g Tr. at 29:1-3. He testified that he overheard he was "not going to last too long because he was too quiet." Hr'g Tr. at 29:14-16. Complainant also testified that he felt he worked in a "hostile environment" because Eiland (who was white) stated he was going to punch another white employee in the face, but also testified that the comment was not directed at that other employee's race. Complainant testified he "was targeted," but he never stated on what basis he believed he was targeted or explained what that meant.

Complainant introduced testimony from Rosario Alaniz (Alaniz), a former employee of Respondent, to demonstrate the existence of discrimination at Respondent's club. Alaniz testified that he overheard Scichilone, Eiland, and another employee Shannon Murphy, make discriminatory remarks with respect to Complainant's race. Mr. Alaniz's testimony included contradictory statements. He testified on direct examination that he was Respondent's "number one salesman" but later admitted on cross-examination that he was terminated not once, but twice by Respondent. He was first terminated for absenteeism and then, after he received a second chance to work for Respondent, he was again terminated for violating several company policies. However, even taking Alaniz's testimony at face value, there was no evidence produced relating to discriminatory remarks made to the Complainant, or that Complainant's race or color were factors in his treatment by the Respondent. In addition, the supervisor who terminated the Complainant was Potts, the same person that hired him.

Respondent produced an Employee Handbook that had been provided to Complainant containing a Non-Harassment Policy prohibiting harassment on the basis of race and color, among

other protected categories. The Policy described harassment and how to report harassment if an employee believed he had been subject to any conduct that could be considered harassment. Complainant also received a stand-alone "Discriminatory Sexual or Racial Harassment Policy" which outlined prohibited conduct and how to report it. Respondent had an adequate antidiscrimination policy in effect while Complainant was an employee. The Policy provided employees multiple avenues to report if they believed they had been the victim of harassment.

Neither Eiland nor Scichilone took any adverse employment action against the Complainant, as the testimony established it was Potts who made the decision to terminate him. Evidence established that the Respondent exercised reasonable care to prevent harassment, as demonstrated in its handbooks, policies, and multiple avenues of reporting discrimination. Finally, the unrebutted testimony is that Complainant never reported to any supervisor or member of the Human Resources team that he had been harassed by anyone employed by Respondent. Therefore, the Respondent cannot be held vicariously liable for any alleged harassment of either Eiland or Scichilone. *See Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton,* 524 U.S. 775 (1998).

Complainant failed to prove by a preponderance of the evidence that he was subject to any harassment based on his race or color. Therefore, Complainant failed to prove his prima facie case of discrimination with respect to terms and conditions of employment based upon race or color.

B. Termination

To establish a prima facie case of race or color discrimination with respect to termination of employment, a Complainant must prove: (1) he or she belongs to a protected class, (2) he or she was qualified for the position, (3) despite the requisite qualifications, he or she was discharged from the position, and (4) the position remained open and was ultimately filled by someone with

roughly equivalent qualifications to perform substantially the same work. *Barros*, 710 A.2d at 685.

Complainant proved he was Black and African American, and therefore he was a member of a protected class. Complainant proved by a preponderance of the evidence that his job performance met the employer's legitimate expectations. Complainant provided his own unrebutted testimony that he arrived to work on time, made sales, and acted professionally. Email threads also demonstrated that the supervisors were happy with his performance. Complainant was terminated on February 1, 2016 by Respondent. Evidence also demonstrated that there was a continuing need for a Fitness Director at Respondent's North Providence location, as that position was vacant for only thirty days before Complainant was hired. Hr'g Tr. at 125:22-126:02. At that point, a presumption arose that Respondent engaged in unlawful discrimination. *Barros*, 710 A.2d at 685 (citing *Burdine*, 450 U.S. at 254).

Respondent then provided legitimate, nondiscriminatory reasons it decided to terminate Complainant as follows: (1) Complainant was dishonest in his application about the nature and sum of his felony convictions after certifying the answer was true and complete to the best of his knowledge; (2) Complainant had been convicted of serious offenses, including being a felon in possession of a firearm and of larceny from a person, which led Respondent to be concerned about the threat Complainant posed to the company's assets, customers, and their financial information.

To support these assertions, Respondent provided documentary evidence of felony convictions which Complainant had failed to disclose, alongside a copy of his application on which he only disclosed one felony, and then signed his name attesting to the truth and accuracy of the information provided. Respondent also presented testimony from its Human Resources Director that the company weighs charges of dishonesty and violence when deciding to hire and fire. Moreover,

the Director testified about the termination of a similarly-situated white employee for alleged drug distribution and provided illustration that the company reviews each case individually before deciding whether to terminate an employee. Respondent clearly set forth legitimate, nondiscriminatory reasons for its actions supporting a finding that unlawful discrimination was not the cause of Complainant's termination. *See Hicks*, 509 U.S. at 506-07 (quoting *Burdine*, 450 U.S. at 254-55, and n.8). Respondent successfully eliminated "the presumption of discrimination created by the prima facie case." *See Bucci*, 85 A.3d at 1171.

Under the burden-shifting paradigm, at this point the Complainant was required to demonstrate that Respondent's "proffered reasons were a mere pretext for discrimination." *Barros*, 710 A.2d at 685 (citing *McDonnell Douglas Corp.*, 411 U.S. at 802). However, Complainant did not provide sufficient evidence to establish pretext by demonstrating the reasons were untrue or that a discriminatory reason motivated the Respondent. *See Burdine*, 450 U.S. at 256. The evidence that Respondent treated Complainant consistently with similarly-situated white employees and that race/color was not a consideration during his termination was unrebutted. Moreover, while Complainant did accuse other employees of making discriminatory statements, the evidence demonstrated that Potts both hired and fired Complainant which allowed for a "strong inference that discrimination was not a motivating factor." *See Drumm v. CVS Pharmacy, Inc.*, 701 F. Supp. 2d 200, 209 (D.R.I. 2010) (quoting *LeBlanc v. Great Am. Ins. Co.*, 6 F.3d 836, 847 (1st Cir. 1993)). Therefore, Complainant failed to prove by a preponderance of the evidence that he was unlawfully discriminated against based on his race or color when he was terminated by Respondent.

THE COMPLAINANT FAILED TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT DISCRIMINATED AGAINST HIM WITH RESPECT TO UNLAWFUL INQUIRES ABOUT CONVICTIONS AND PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT DISCRIMINATED AGAINST HIM WITH RESPECT TO UNLAWFUL PRE-EMPLOYMENT INQUIRIES ABOUT ARRESTS

R.I.G.L. Section 28-5-7(7) provides in relevant part that:

"It shall be an unlawful employment practice:

> (7) For any employer to include on any application for employment, except applications for law enforcement agency positions or positions related to law enforcement agencies, a question inquiring or to otherwise inquire either orally or in writing whether the applicant has ever been arrested, charged with, or convicted of any crime; provided, that:
>
> ...
>
> (iii) Notwithstanding, any employer may ask an applicant for information about his or her criminal convictions at the first interview or thereafter, in accordance with all applicable state and federal laws." [Emphases added.]

A. Preemployment Inquiries about Convictions

Complainant alleged that Respondent violated § 28-5-7(7) when it asked him "[h]ave you ever been convicted of a felony?" However, the undisputed testimony demonstrated that Complainant had been interviewed on two separate occasions by two different employees of Respondent prior to being asked to complete the Candidate Profile. Complainant had his first interview with Scichilone in person on December 7, 2015. Complainant was also interviewed over the telephone by Potts on December 14, 2015; Potts then decided to hire him. Complainant was not asked to complete the Candidate Profile until December 18, 2015. Therefore, because Respondent asked about Complainant's felony convictions after two interviews, that question on the Candidate Profile did not violate the FEPA.

B. Preemployment Inquiries about Arrests

Complainant also alleged that Respondent violated § 28-5-7(7) because it relied, in part, on his failure to disclose all his criminal history, including arrests, during the hiring process when it decided to terminate him.

The Policy Guidance on arrests of the U.S. Equal Opportunity Commission (EEOC) provides:

> "The fact of an arrest does not establish that criminal conduct has occurred. Arrests are not proof of criminal conduct. Many arrests do not result in criminal charges, or the charges are dismissed. Even if an individual is charged and subsequently prosecuted, he is presumed innocent until proven guilty. ... Another reason for employers not to rely on arrest records is that they may not report the final disposition of the arrest."

EEOC's Policy Guidance on the Consideration of Arrest Records in Employment Decisions under Title VII of the Civil Rights Act of 1964 (1990).

Respondent relied on a text message from Scichilone that stated "[w]elcome aboard..." for the proposition that Complainant transformed from an applicant into an employee at 3:48 p.m. on December 18, 2015. However, the preponderance of the evidence produced during the hearing established that Respondent viewed filling out the Candidate Profile as part of the application process. The very name of the form, "Candidate[1] Profile" demonstrates that Respondent did not yet consider the person filling out the form to be an employee. Two statements within the Candidate Profile require the person filling out the form to agree that "if hired ...," certain conditions applied. Most significantly, Respondent's Human Resources Director testified that December 18, 2015 was "the actual date that the candidate or the applicant goes into the system and puts their information in and . . . starts their on-boarding process." Therefore, at the time Complainant was asked to fill out the Candidate Profile, he was still considered an applicant and asking him to disclose or penalizing him for failing to disclose his criminal history with respect to any charges or arrests was a violation of the FEPA.

The preponderance of the evidence also demonstrated Respondent considered its question about felony convictions to encompass any arrests or charges then pending against Complainant.

[1] Merriam-Webster Dictionary defines "candidate" as: "one likely or suited to undergo or be chosen for something specified." Synonyms for candidate include: applicant, applier, aspirant, contender, expectant, hopeful, prospect, seeker. [Emphasis added.] MERRIAM-WEBSTER DICTIONARY, https://www.merriamwebster.com/dictionary/candidate, (last visited March 6, 2019).

Respondent relied on the fact that Complainant failed to disclose his criminal history to Potts during his interview, including that he was out on bail for an assault charge while being interviewed, as part of its decision to terminate his employment. Furthermore, Complainant was required to sign a "Background Check Authorization" on the same day he filled out the Candidate Profile. The Authorization allowed Respondent to conduct a background investigation into, among other things, Complainant's criminal history records, not limited to convictions. Respondent's termination of Complainant was done, in part,[2] due to Complainant's purported failure to disclose an arrest-which Respondent was expressly prohibited from asking about by statute-and was in violation of the FEPA.

DAMAGES

R.I. Gen. Laws Section 28-5-24 sets forth the remedies that the Commission can award after finding that the respondent has committed an unlawful employment practice. R.I.G.L. Subsections 28-5-24(a)(1) and 28-5-24(b) provide as follows:

> **"Injunctive and other remedies – Compliance.** – (a) If upon all the testimony taken the commission determines that the respondent has engaged in or is engaging in unlawful employment practices, the commission shall state its findings of fact and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful employment practices, and to take any further affirmative or other action that will effectuate the purposes of this chapter, including, but not limited to, hiring, reinstatement, or upgrading of employees with or without back pay, or admission or restoration to union membership, including a requirement for reports of the manner of compliance. Back pay shall include the economic value of all benefits and raises to which an employee would have been entitled had an unfair employment practice not been committed, plus interest on those amounts.
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> ...
>
> (b) If the commission finds that the respondent has engaged in intentional discrimination in violation of this chapter, the commission

[2] The Commission found sufficient evidence that the Respondent would have terminated the Complainant for legitimate, nondiscriminatory business reasons even if it had not taken into account his failure to list his arrest. *See* discussion *supra* Part B. Termination, pp.9-10.

> in addition may award compensatory damages. The complainant shall not be required to prove that he or she has suffered physical harm or physical manifestation of injury in order to be awarded compensatory damages. As used in this section, the term "compensatory damages" does not include back pay or interest on back pay, and the term "intentional discrimination in violation of this chapter" means any unlawful employment practice except one that is solely based on a demonstration of disparate impact."

The Commission finds that the Respondent engaged in intentional discrimination through its unlawful pre-employment inquiries about Complainant's arrests when he was still considered an applicant. The Commission considered and credited Complainant's testimony that he suffered from depression and loss of enjoyment of life because of Respondent's unlawful conduct. Therefore, the Commission awards $2,000 to Complainant pursuant to R.I. Gen. Laws § 28-5-24(b). The Commission also orders the Respondent to take steps to avoid discrimination in the future.

ORDER

I. Violations of R.I.G.L. Section 28-5-7 having been found, the Commission hereby orders that the Respondent:

A. Cease and desist from all unlawful employment practices under R.I.G.L. Section 28-5-7;

B. Revise the "Background Check Authorization" used by Respondent in the State of Rhode Island to limit information requested to criminal convictions and provide a copy of the revised "Background Check Authorization" to the Commission within sixty (60) days of this Order;

C. Post the Commission anti-discrimination poster prominently in all of their Rhode Island facilities;

D. Pay to Complainant the sum of $2,000.00 plus 12% interest from the date of December 18, 2015.

Entered this 1st day of April, 2019.

Dr. John B. Susa
Hearing Officer

I have read the record and concur in the judgment.

Cynthia Hiatt, Esq.
Commissioner

Rochelle Bates Lee
Commissioner