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172 S. Broadway St. | Suite 200 | Akron, OH 44308

In Re: *Seleke Korleh v. VanDevere Chevrolet, 23ACRC-00009*

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF REMEDY

Complainant Seleke Korleh filed a Complaint with the Akron Civil Rights Commission (the “Commission”), alleging that Respondent VanDevere Chevrolet (“VanDevere”) committed an unlawful discriminatory employment practice on the basis of race (includes hair texture and style) and that VanDevere has a pattern and practice of discriminating against its employees on the basis of race. VanDevere denies the allegations in the Complaint and has moved to strike the allegations that it has a pattern and practice of discrimination.

Following an investigation by Commissioner Ellen Lander Nischt, the ACRC determined that reasonable cause existed to believe VanDevere engaged in a discriminatory practice in violation of Akron Code of Ordinances (“A.C.O”) Chapter 38. The Akron Civil Rights Commission conducted a hearing to consider the allegations in the Complaint, wherein testimonial and documentary evidence was presented for consideration. Mr. Korleh was represented by Attorney Imokhai Okolo and VanDevere was represented by Attorneys Timothy Campbell and R. Bryan Borla.

The hearing included testimony from Seleke Korleh, Djuan Walsh, Michael VanDevere, Brian VanDevere, Sammy Clark, Robert Berger, and Edwin Taylor. The Record consists of a recording of the hearing and the following exhibits:

- Complainant’s Exhibit A – August 8, 2023, Photo of Seleke Korleh
- Complainant’s Exhibit B – August 1, 2023 Statement of Brian VanDevere
- Complainant’s Exhibit C – North Coast Mitsubishi Sales Reports
- Complainant’s Exhibit D – Recording of Brian VanDevere Voicemail
- Respondent’s Exhibit 1 – Seleke Korleh’s Application for Employment
- Respondent’s Exhibit 2 – Photograph of Seleke Korleh at time of hire
- Respondent’s Exhibit 3 – Relevant Company Policy in Place at Time of Separation
- Respondent’s Exhibit 4 – Separation Statement/Agreement
- Respondent’s Exhibit 5 – Internal Document Regarding Termination of Employment as of August 2, 2023
- Respondent’s Exhibit 6 – Revised Employee Handbook/Personal Appearance Policy
- Respondent’s Exhibit 7 – Statement (dated November 16, 2023) and Photograph of Edwin Taylor, Sr.

- Respondent's Exhibit 8 – Statement (dated November 6, 2023) and Photograph of Sammy Clark
- Respondent's Exhibit 9 – Chart Comparing Complainant's Monthly Sales for Period between November 2022 and July 2023 versus Sales Person Average
- Respondent's Exhibit 10 – 2023 Demographic Compensation Report

FINDINGS OF FACT

1. Seleke Korleh is a Black man who began employment with VanDevere Chevrolet as a Sales Consultant in October 2022. VanDevere is an automobile dealer located at 1490 Vernon Odom Boulevard, Akron, Ohio 44320.
2. During Mr. Korleh's employment with VanDevere, VanDevere had in place a written Personal Appearance Policy, which provided,

Proper dress and good grooming and hygiene contribute to the morale of all associates and affect the business image we present to our customers and the community. You are expected to maintain a high standard of grooming and to present a professional and businesslike appearance consistent with the duties and responsibilities of your position. Extremes of any style are not permissible. No unnatural hair colors are permitted.
3. At the time he was hired by VanDevere, Mr. Korleh wore his hair in short locks and was in the process of growing his locks out. When he began employment at VanDevere, Mr. Korleh regularly wore hats that covered his hair during his shifts.
4. As Mr. Korleh's hair grew longer, he stopped wearing a hat during his shifts and attached beads and shells to his locks. In July 2023, Neal, a VanDevere Sales Manager, informed Mr. Korleh that his hair was unprofessional and that he needed to continue wearing a hat during his shifts.
5. Mr. Korleh approached Brian VanDevere, General Manager, and told Mr. VanDevere that he felt that his hair was "somehow becoming an issue." Mr. VanDevere informed Mr. Korleh that his hairstyle was prohibited by VanDevere's Personal Appearance Policy and that his hair needed to be professionally conservative. Mr. VanDevere gave Mr. Korleh the option of working a position that VanDevere considered to be non-customer facing, such as a Lot Porter, Lube Technician, or Detailer. During this time, VanDevere employed at least two other Black employees, Edwin Taylor, Sr. and Sammy Clark, with braids or dreadlocks who worked in non-customer facing positions.
6. On August 1, 2023, Mr. VanDevere, Mr. Korleh, and Sales Manager Robert Berger met to discuss Mr. Korleh's hair. Mr. VanDevere informed Mr. Korleh that, in order to continue his employment at VanDevere, Mr. Korleh could either cut his hair, wear a hat during his shifts, or work in a non-customer facing position. Mr. Korleh did not accept any of those options and, as a result, was no longer employed by VanDevere. Mr. VanDevere typed up a document summarizing the conversation.

7. On August 11, 2023, Mr. VanDevere called Mr. Korleh and left him a voicemail. In the voicemail, Mr. VanDevere stated that there was a law that he was unaware of that allows Mr. Korleh to wear his hair “in any way that he want[s].” Mr. VanDevere offered to compensate Mr. Korleh for the ten days that he was off work and to reinstate him to his job as a Sales Consultant. Mr. Korleh did not respond to Mr. VanDevere’s voicemail and did not return to his job at VanDevere.
8. Mr. Korleh filed a Complaint with the Commission on September 7, 2023.
9. VanDevere disputes the allegations in the Complaint and asserts that it did not discriminate against Mr. Korleh on the basis of race (including hair texture and style).

CONCLUSIONS OF LAW

10. The Commission has jurisdiction over this matter because the alleged discriminatory practice occurred within the City of Akron and Mr. Korleh filed his Complaint within one year of the alleged violation of A.C.O. Chapter 38. A.C.O. § 38.07(G)(1); A.C.O. § 38.08(C).
11. VanDevere Chevrolet is an employer located in the City of Akron who regularly employs four or more individuals and is subject to the jurisdiction of the Commission. A.C.O. § 38.01(A)(13).
12. A.C.O. § 38.01(A)(25) defines “Race” as “ancestry, color, ethnic group identification, and ethnic background, and is inclusive of traits historically associated with a particular race or national origin, including, but not limited to, hair texture and hairstyles such as afros, braids, cornrows, locks, and twists.” Mr. Korleh is a Black man with locks.
13. A.C.O. § 38.01(A)(10) provides,
 - (a) "Discriminate" means to engage in, take part in, create, enforce, or establish any act, policy, or practice that subjects any person to differential treatment as a result of that person's * * * race[.]
 - ***
 - (b) "Discrimination" means any act, policy, or practice that subjects any person to differential treatment as a result of that person's * * * race[.]
 - ***
 - (c) "Discriminatory" means characterized by differential treatment as a result of a person's * * * race[.]
14. VanDevere subjected Mr. Korleh to differential treatment on the basis of race when Mr. VanDevere demanded that Mr. Korleh cut his locks or cover them by wearing a hat during his shifts in order to continue employment with VanDevere as a Sales

Consultant. In doing so, VanDevere effectively discharged Mr. Korleh on the basis of race (hair texture and hairstyle) in violation of A.C.O. § 38.02(A)(1).

15. It is unlawful for an employer “to discriminate against any individual, with respect to compensation, terms, conditions, or privileges of employment, including promotion[.]” A.C.O. § 38.02(A)(2). It is also unlawful for an employer to “limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities, or would otherwise tend to adversely affect his or her status as an employee[.]” A.C.O. § 38.02(A)(3) VanDevere gave Mr. Korleh the option of keeping his locks, but working in a non-customer facing position rather than his role as a Sales Consultant. VanDevere’s conduct in only permitting Mr. Korleh to wear his locks openly in the workplace if he worked in a non-customer facing position is unlawful discrimination in violation of A.C.O. § 38.02(A)(2) & (3).
16. VanDevere has moved to strike the allegations contained in Paragraph Four of the Complaint, alleging that it has a pattern and practice of discrimination. Upon review, the Commission finds that Mr. Korleh did not establish by a preponderance of reliable, substantial, and probative evidence that VanDevere has a pattern and practice of discrimination. Accordingly, VanDevere’s Motion to Strike Paragraph Four of the Complaint is hereby granted.
17. Based on the evidence, testimony of the witnesses and exhibits presented, Complainant, Seleke Korleh, has proved by a preponderance of reliable, substantial, and probative evidence that VanDevere Chevrolet did engage in a discriminatory practice in violation of A.C.O. §§ 38.02(A)(1), (2), & (3).
18. This decision is non-precedential.

ORDER OF REMEDY

19. Upon a determination that a respondent has engaged in a discriminatory practice in violation of A.C.O. Chapter 38, the Commission may order relief enumerated in A.C.O. § 38.13. A.C.O. § 38.12(B).
20. Respondent, VanDevere Chevrolet, is hereby ordered to pay the following to Complainant, Seleke Korleh:
 - a. Back Pay in the amount of \$850.00 for the period of August 1, 2023, when Mr. Korleh’s employment with VanDevere ceased, and August 11, 2023, when Mr. VanDevere offered to reinstate Mr. Korleh to his Sales Consultant position;
 - b. Payment in the amount of \$2,550.00 for injury, including humiliation and embarrassment, caused by the discriminatory practice;
 - c. Reasonable attorney’s fees. Mr. Korleh shall, within 14 days of the date of this Order, furnish to the Commission and VanDevere an affidavit from his legal counsel stating counsel’s hourly rate, total hours worked on Complaint

23ACRC-00009, and a breakdown of the specific tasks performed by counsel. Within 14 days of receipt thereof, VanDevere may object to the fee amount and request a hearing to determine the reasonable attorney's fees to be paid to Mr. Korleh.

21. VanDevere is hereby ordered to pay a civil penalty of \$1,000.00 to the Akron Civil Rights Commission.
22. VanDevere is hereby ordered to cease and desist from the discriminatory practices described herein, in violation of A.C.O. §§ 38.02(A)(1), (2), & (3).
23. VanDevere shall comply with this Order within 30 days of the Commission's final determination of the amount of reasonable attorney's fees to be paid to Mr. Korleh. Failure to comply with this order will result in a civil penalty not to exceed \$5,000.00, as provided for in A.C.O. § 38.15.

Approved:

Hanne-Lore Gambrell

Date

Bruce Alexander

Date

Sheldon Wrice

Date