

1 **BEFORE THE HUMAN RIGHTS COMMISSION**
2 **OF THE STATE OF MONTANA**

3 **Christy Williams,**

4 Charging Party,

5 versus

6 **Richard Triepke dba The Trading Post,**

7 Respondent.

) **HRC Case No. 9701008001**

)
)
) *Order Adopting Hearing*
) *Examiner's Decision*

8
9 The above-captioned matter came before the Montana Human Rights Commission
10 (Commission) on October 19, 1998. The matter was before the Commission for consideration of
11 the hearing examiner's decision and proposed order. No objections were filed contesting the
12 hearing examiner's decision. After reviewing the record, the Commission voted unanimously to
13 adopt the hearing examiner's decision as its final order. The decision and order are as follows:

14 **I. Procedure and Preliminary Matters**

15 Christy Williams ("Williams") filed a verified complaint with the Montana Human Rights
16 Commission on February 3, 1997. She alleged the respondent discriminated against her on the
17 basis of her sex when he subjected her to a hostile and offensive work environment on or about
18 August 22, 1996. On February 20, 1998, the Commission certified her complaint for a contested
19 case hearing.

20 This contested case hearing began on June 22, 1998, in Deer Lodge, Powell County,
21 Montana, in the District Court Courtroom, County Courthouse. Williams was present with her
22 attorney, Jack Morris. Respondent Richard Triepke (Triepke) was present with his attorney, John
23 McKeon. Before hearing began, the parties arrived at a consent agreement regarding the
24 contested case. Williams and Triepke each were sworn and testified. The hearing concluded on
25 June 22, 1998, and the record closed.

26 **II. Issues**

27 A full statement of issues appears in the final prehearing order, as follows:

28 1. Did Triepke sexually assault Williams at work on August 22, 1996?

1 2. If so, what harm did Williams suffer?

2 3. What effect does the guilty plea have here?

3 4. If Triepke sexually assaulted Williams at work on August 22, 1996, does that establish
4 sexual harassment, a genre of discrimination based on sex?

5 5. If Triepke illegally discriminated against Williams in employment, what order is
6 necessary to remedy her harm and eliminate the risk of further discrimination?

7 **III. Findings of Fact**

8 1. Triepke, dba The Trading Post, employed Williams as a bookkeeper starting in June
9 1994. Admitted Facts.

10 2. On August 23, 1996, Williams, who was then 16 years old, filed a criminal complaint
11 in Powell County against Triepke for sexual assault, allegedly occurring on August 22, 1996. On
12 August 28, 1996, Triepke was charged in Powell County Justice Court with Sexual Assault
13 (misdemeanor) under §45-5-502(1) MCA. On August 29, 1996, Triepke entered a guilty plea to
14 the charge. Admitted Facts.

15 3. Williams left Triepke's employment on August 22, 1996. Admitted Facts.

16 4. Williams' allegations that Triepke discriminated against her on the basis of her sex
17 when he subjected her to a hostile and offensive work environment on or about August 22, 1996
18 are true. Triepke closed and sold the business not long after the discriminatory acts. Testimony
19 of Williams and Triepke.

20 5. Williams suffered emotional distress as a result of the assault. Testimony of Williams.

21 6. The sum of \$25,000.00 will compensate Williams for her emotional distress. No
22 additional monetary award is necessary. This award does not duplicate the restitution ordered by
23 the Powell County Justice Court in Triepke's criminal case. Payment under either order will not
24 be payment under the other order.

25 7. Triepke is currently unemployed and is not involved in the operation of any business.
26 Affirmative relief is necessary, to guard against the risk of further illegal discrimination should
27 Triepke in the future become an employer again.

IV. Conclusions of Law

1
2 1. Triepke sexually assaulted Williams at work on August 22, 1996. Sexual assault by
3 an employer constitutes illegal sexual harassment.

4 2. Williams suffered emotional distress, requiring counseling. Williams did not
5 experience a compensable wage loss due to the loss of her job because Triepke closed and sold
6 the business. Counseling expenses are Triepke's responsibility according to the Powell County
7 Justice Court criminal judgment.

8 3. Triepke admitted the illegal discrimination. The effect of his prior guilty plea is
9 irrelevant.

10 4. Triepke's sexual assault of Williams at work on August 22, 1996, and the admitted
11 prior acts as alleged in the complaint, constitute sexual harassment, a genre of discrimination
12 based on sex.

13 5. Triepke illegally discriminated against Williams in employment. A monetary award
14 of \$25,000.00 for emotional distress, with affirmative relief applicable should Triepke again
15 become an employer, is necessary to remedy Williams' harm and eliminate the risk of further
16 discrimination.

V. Order

17
18 1. Judgment is found in favor of Christy Williams and against Richard Triepke, on the
19 complaint that Triepke discriminated against Williams on the basis of her sex when he subjected
20 her to a hostile and offensive work environment on or about August 22, 1996.

21 2. Triepke is ordered to pay to Williams the sum of \$25,000.00, with legal interest from
22 the date of entry of the Commission's final order until paid. Payment of this judgment is due and
23 owing on the date of entry. Payment on this judgment does not duplicate or satisfy the restitution
24 requirements imposed by Powell County regarding Triepke's misdemeanor sexual assault
25 (August 29, 1996). Payment or satisfaction of the restitution requirements likewise does not
26 duplicate or satisfy this judgment.

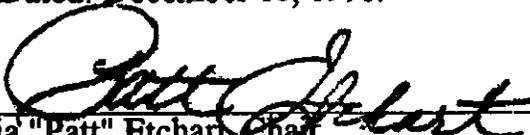
27 3. Triepke is further ordered, if anytime within three years of the date of entry of the
28 Commission's final order, he is either employed or involved in the operation of any business or

1 entity, to give immediate written notice to Williams' attorney and to the Human Rights Bureau
2 (attention: Ken Coman) P.O. Box 1728, Department of Labor and Industry, Helena, Montana
3 59624.

4 4. Triepke is further ordered, after giving the notice required by paragraph 3, to comply
5 with any requirements placed upon him by the Human Rights Bureau regarding undertaking and
6 completing any training, obtaining and completing any counseling or otherwise doing or
7 refraining from doing any acts required or prohibited by the Human Rights Bureau staff as
8 conditions of Triepke continuing in his employment or involvement in the operation of any
9 business or entity.

10 5. Triepke is further ordered not to violate any of the rights, as protected under the
11 Montana Human Rights Act, of employees he may have in the future.

12 Dated: December 10, 1998.

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14 _____
15 Gloria "Patt" Etchart, Chair
Montana Human Rights Commission

16 A party may appeal from this order by filing a petition for judicial review with the district court
17 no later than thirty (30) days from the service of this order pursuant to Section 2-4-701, et seq.,
18 MCA.

19 **Certificate of Mailing**

20 A copy of this order was served by first class mail (postage prepaid) on:

21 JACK MORRIS
22 PO BOX 488
WHITEHALL MT 59759

23 JOHN MCKEON
24 PO BOX 879
ANACONDA MT 59711

25 Signed this 11th day of December, 1998.

26 Patti Dupaxch
27 _____
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