



STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

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May 8, 1998

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Re: Unger Palmer v. Bluefield State College
Docket No. EANCNO-540-92

Dear Parties and Counsel:

Enclosed please find the Final Order of the West Virginia Human Rights Commission in the above-styled case. Pursuant to W. Va. Code § 5-11-11, amended and effective July 1, 1989, any party adversely affected by this Final Order may file a petition for review. Please refer to the attached "Notice of Right to Appeal" for more information regarding your right to petition a court for review of this Final Order.

Sincerely,


NORMAN LINDELL
ACTING EXECUTIVE DIRECTOR

NL/mst

Enclosures

Certified Mail/Return

Receipt Requested

cc: The Honorable Ken Hechler
Secretary of State

Mary Catherine Buchmelter
Deputy Attorney General
Civil Rights Division

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

MARIA T. UNGER PALMER,

Complainant,

v.

DOCKET NO. EANCNO-540-92

BLUEFIELD STATE COLLEGE,

Respondent.

FINAL ORDER

On April 16, 1998, the West Virginia Human Rights Commission reviewed the Administrative Law Judge's Final Decision in the above-styled action issued by Administrative Law Judge Gail Ferguson. After due consideration of the aforementioned, and after a thorough review of the transcript of record, arguments and briefs of counsel, and the petition for appeal and answer filed in response to the Administrative Law Judge's Final Decision, the Commission decided to, and does hereby, adopt said Administrative Law Judge's Final Decision as its own, except for such modifications and amendments as are set forth immediately hereinbelow:

On page 20, in Finding of Fact ¶ 69, the Administrative Law Judge's finding that the complainant is entitled to recover out-of-pocket expenses in the amount of \$239.00 per month for the purchase of an automobile and \$210.00 per month for child care is reversed. The damage calculation provided by counsel for the West Virginia Human Rights Commission upon which the Administrative Law Judge based her back pay award incorrectly listed these automobile and child care expenses as mitigation income, resulting in an increased award of back pay and prejudgment interest. Finding of Fact ¶ 69 is, therefore, modified to read as follows:

69. Beginning in September 1992, complainant began working as a Spanish teacher in the Giles County public schools, making \$21,000 per year, which is equivalent to \$1,750 per month. Accordingly, her mitigation beginning in September 1992 was \$1,750.00 per month.

On page 32, Conclusion of Law ¶ 11(a) is modified to read as follows:

11. As a result of the discriminatory conduct of the respondent, the complainant is entitled to the following:

(a) Back, pay, benefits and prejudgment interest at the rate of ten percent per annum, from June 1992 through the end of August 1994, for a total back pay award of \$25,527.79 as of the last day of November 1997, as more fully detailed in attachment A appended hereto;

On page 33, Relief and Order ¶ 2 is modified to read as follows:

4. Within 31 days of receipt of this decision, the respondent shall pay to the complainant \$25,527.79 as an aggregate of back pay, benefits and prejudgment interest through the last day of November 1997.

It is, therefore, the order of the Commission that the Administrative Law Judge's Final Decision be attached hereto and made a part of this Final Order, except as amended by this Final Order hereinabove.

By this Final Order, a copy of which shall be sent by certified mail to the parties and their counsel, and by first class mail to the Secretary of State of West Virginia, the parties are hereby notified that they may seek judicial review as outlined in the "Notice of Right to Appeal" attached hereto.

It is so ORDERED.

WEST VIRGINIA HUMAN RIGHTS COMMISSION

Entered for and at the direction of the West Virginia Human Rights Commission this 8th day of May 1998, in Charleston, Kanawha County, West Virginia.



NORMAN LINDELL
ACTING EXECUTIVE DIRECTOR
WEST VIRGINIA HUMAN RIGHTS COMMISSION

NOTICE OF RIGHT TO APPEAL

If you are dissatisfied with this Order, you have a right to appeal it to the West Virginia Supreme Court of Appeals. This must be done within 30 days from the day you receive this Order. If your case has been presented by an assistant attorney general, he or she will not file the appeal for you; you must either do so yourself or have an attorney do so for you. In order to appeal, you must file a petition for appeal with the Clerk of the West Virginia Supreme Court naming the West Virginia Human Rights Commission and the adverse party as respondents. The employer or the person or entity against whom a complaint was filed is the adverse party if you are the complainant; and the complainant is the adverse party if you are the employer, person or entity against whom a complaint was filed. If the appeal is granted to a nonresident of this state, the nonresident may be required to file a bond with the clerk of the supreme court.

IN SOME CASES THE APPEAL MAY BE FILED IN THE CIRCUIT COURT OF KANAWHA COUNTY, but only in: (1) cases in which the Commission awards damages other than back pay exceeding \$5,000.00; (2) cases in which the Commission awards back pay exceeding \$30,000.00; and (3) cases in which the parties agree that the appeal should be prosecuted in circuit court. Appeals to Kanawha County Circuit Court must also be filed within 30 days from the date of receipt of this Order.

For a more complete description of the appeal process see West Virginia Code § 5-11-11 and the West Virginia Rules of Appellate Procedure.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

MARIA UNGER PALMER,

Complainant,

v.

DOCKET NUMBER: EANCNO-540-92

BLUEFIELD STATE COLLEGE,

Respondent.

FINAL DECISION

A public hearing, in the above-captioned matter, was convened on November 6 and 7, 1996, in Mercer County, West Virginia, before Gail Ferguson, Administrative Law Judge. Briefs were received through March, 1997.

The complainant, Maria Unger Palmer, appeared in person. Her case was presented by Senior Assistant Attorney General Paul R. Sheridan, counsel for the West Virginia Human Rights Commission. The respondent, Bluefield State College, appeared by counsel, Senior Assistant Attorney General Brentz H. Thompson.

All proposed findings submitted by the parties have been considered and reviewed in relation to the adjudicatory record developed in this matter. All proposed conclusions of law and

argument of counsel have been considered and reviewed in relation to the aforementioned record, proposed findings of fact as well as to applicable law. To the extent that the proposed findings, conclusions and argument advanced by the parties are in accordance with the findings, conclusions and legal analysis of the administrative law judge and are supported by substantial evidence, they have been adopted in their entirety. To the extent that the proposed findings, conclusions and argument are inconsistent therewith, they have been rejected. Certain proposed findings and conclusions have been omitted as not relevant or not necessary to a proper decision. To the extent that the testimony of various witnesses is not in accord with the findings as stated herein, it is not credited.

A.

FINDINGS OF FACT

1. The complainant, Maria Unger Palmer, was age 35 at the time of the hearing. Complainant was born in Lima, Peru, of Peruvian parents. Her first language is Spanish, and although she speaks English fluently, she speaks it with an accent.

2. The respondent, Bluefield State College, is a state college located in Bluefield, West Virginia.

3. Respondent has a department known as the Counseling, Advising and Placement Center or CAP Center. The CAP Center had a staff of six: a director, three counselors and two secretaries. One of the counselor positions is known as the multicultural advisor. In

the fall of 1991, due to the departure of the incumbent multicultural advisor, that position became vacant.

4. On or about November 1, 1991, the complainant applied for the multicultural advisor position with the respondent, after being encouraged to apply by Personnel Director Stephen Leach.

5. Complainant testified that she reviewed a job description at her interview, and based on that she believed the multicultural advisor position was a job in the field of work which she looked upon as her vocation. The job was primarily a counseling and administrative position which involved working with ethnic minorities and international students, working with the faculty on multicultural issues, and making the campus more multicultural so that it would be easier to recruit and retain minorities.

6. The complainant was interviewed for the multicultural advisor position by Gail Catron, Director of the CAP Center, Dr. Larry Mangus, Dean of the Students, Dottie Speroni, Counselor at the CAP Center and Dr. Jamkandi, Director of the International Center at Bluefield State College. Dr. Jamkandi was involved in the interview because part of the multicultural advisor's duties involved working with international students.

7. Complainant was hired for the position and began working for the respondent on November 5, 1991, at a starting salary of \$18,756.

8. At the time complainant was hired, she received an employee handbook. Under the classifications contained in the handbook, complainant was hired as a six-month probationary employee. Under that provision, a probationary employee's supervisor may recommend

that employment be terminated if the employee's performance does not meet acceptable standards for the position. Further, the supervisor is vested with the authority to set the standards.

9. As a negotiated term of her employment, it was agreed that complainant would take a three week leave of absence in December and January, in order that she could make a previously planned trip to Peru.

10. According to the job description, the purpose and function of the multicultural advisor position was to provide services to and to increase the development and retention of, multicultural students "which includes black and international students predominantly." The multicultural advisor is to assist students in both "academic concerns and social adjustment." The job description also states that a multicultural advisor is to be "versatile, innovative, and ...able to make sound judgments based on needs of student."

11. The duties of the multicultural advisor are delineated in the written job description as follows:

1. Participate in a counseling team approach with multicultural students seeking assistance in making educational, occupational and person decisions.
2. Counsel multicultural students for adjustment to college and community.
3. Assist multicultural students in learning, skill building and problem solving skills for total life management.
4. Serve as liaison to the Center for International Understanding on campus to promote understanding for multicultural and international students.
5. Provide crisis intervention for multicultural students who are experiencing adjustment difficulties.

6. Participate as a member of the college recruitment team with the specific purpose of recruiting multicultural students.
7. Serve as advisor to the Admissions and Enrollment Management Office for the purpose of orientation and program development for multicultural students.
8. Assist multicultural students in developing good study habits and skills.
9. Administer GED and assist with other educational tests as needed.
10. Assist with other duties in counseling and recruiting as necessary.
11. Serve on Enrollment Management Council and other committees relevant to counseling and retention activities.
12. Serve as advisor to the multicultural student organization--Minorities on the Move.
13. Keep appropriate counseling and testing records.
14. Chair the Multicultural Advisory Committee.
15. Work with the director of student activities on planning and sponsoring of Black History Month activities.
16. Serve as an academic advisor to students.

12. As the multicultural advisor, complainant worked in the CAP center located on the second floor of the administration building. However, her duties were not only related to the CAP center, under the supervision of Ms. Catron, but also to the admission office, located on the first floor of the same building and under the supervision of John Cardwell.

13. Gail Catron, the director of the CAP center, was employed by respondent from January 1990 through December 1995. Ms. Catron reported to Dr. Larry Mangus, Dean of Students. Ms. Catron is white.

14. There were two other counseling positions at the CAP center in addition to the multicultural advisor position. From 1991 onward one of the counselor positions was held by Dottie Speroni. The other counseling position was held in 1991 by Tom Harrison. Both Ms. Speroni and Mr. Harrison are white. All of the counseling positions involved similar and overlapping functions.

15. There were also two secretaries at the CAP center, during complainant's tenure, Joyce Brown and Sue Ann Eaton. Both are white females. Just prior to complainant being hired, Sharon Price, an African American female, held a secretary position at the CAP center. Ms. Eaton replaced Ms. Price who left in October 1991.

16. In contrast to the other counseling positions in the CAP center, which were held by non-minorities, the multicultural advisor position has always been held by someone with status as a member of a minority group. Deidre Guyton, who is African American, held it from June 1990 until October 1991. Complainant, who is Hispanic, held it from November 1991 until May 1992, and Katrina Streets who is African American held it from July 1992 until the present.

17. Ms. Catron testified that when complainant was hired as multicultural advisor, she believed her to be the first person ever hired into that position with professional qualifications. According to Ms. Catron she approved the hiring of complainant for the position of multicultural advisor because she believed that a minority person

had to be hired for the position, and complainant therefore qualified as a minority, because of her Hispanic ancestry.

18. Ms. Catron explained to complainant that she thought the only reason the college had a multicultural advisor was because of its federal funding.

19. Complainant was well qualified for the multicultural advisor position. She has a bachelor of science degree in education from Jacksonville State University, a master's degree in education from the University of Louisville and has done post-graduate work at the Southern Baptist Theological Seminary. She had published a variety of articles related to higher education and bridging cultures and had excellent academic credentials and recommendations. The complainant also had experience working in the areas of financial aid and student development.

20. Complainant got along well with John Cardwell. She sought his advise often and found him helpful.

21. From the beginning, complainant experienced mistreatment by Ms. Catron. This took several forms, including humiliating comments and treatment around the office and the thwarting of complainant's efforts to perform her job effectively.

22. Approximately one week after complainant started working at Bluefield State College, Ms. Catron told complainant that her next big project would be to become familiar with the administration of the GED equivalency test. Complainant was given a manual, which she took home and studied. She learned from the manual that those administering the GED had to be approved and authorized. Complainant contacted the GED office and requested forms which she filled out and

submitted to Ms. Catron for approval. According to the complainant Ms. Catron was upset that complainant had directly contacted the GED Office to get the forms to become authorized.

23. According to the complainant, Ms. Catron explained that if complainant was listed as an administer of the GED, it would be an embarrassment to the respondent if anything went wrong. Believing that Ms. Catron was questioning her competency, complainant suggested that Ms. Catron contact faculty at the University of Louisville with whom she had worked, and who had given her letters of recommendation, to verify her abilities. According to complainant, Ms. Catron responded that "she knew how minorities got those letters." She explained to complainant that "people are afraid to say something when minorities are not doing their job and they'll give you a letter of recommendation to get rid of you or just so you won't get them in trouble." Although Ms. Catron testified, that she did not make these statements, the complainant's testimony is credited.

24. According to the complainant, Ms. Catron went on to explain to her that "part of the reason that she wouldn't allow me to sign anything or correspond directly with anybody outside the college is that they had always had a minority in my position and it had never worked out."

25. Complainant was told by Ms. Catron that she should try to steer minority students into two-year programs rather than four-year programs. Ms. Catron told complainant that minority students did not have the frame of reference to make decisions about college. She told her that most of them came from dysfunctional families and that they could not succeed in the more ambitious programs. Complainant

recalled a very capable African American student whom she encouraged to apply to law school and whom she had assisted in locating funding sources. When Ms. Catron found out about this, she indicated to the complainant that she shouldn't encourage him because it was futile.

26. Those who worked with Ms. Catron, including witnesses called by respondent, found Ms. Catron to be unfairly judgmental. Ms. Catron told complainant a large percentage of respondent's students were dysfunctional because of intermarriage and isolation of the region and standard theories of psychological development would not apply to them.

27. Ms. Catron commented to various members of her staff and other employees on different occasions, her inexplicable belief that even if a person did not look black, you could tell if they were black by looking at their hands. Ms. Catron's denial of these comments is not credible given corroborative testimony to the contrary.

28. Ms. Catron's regular prejudicial comments were very offending and upsetting to complainant.

29. Complainant's first language is Spanish. On one occasion when Ms. Catron overheard complainant talking with her husband in Spanish over the telephone, Ms. Catron instructed complainant that she was not to speak Spanish in the office.

30. Ms. Brown, who was called to testify for the respondent, recalled an incident where Ms. Catron made a derogatory statement about a black student who had received assistance from the CAP center, to the effect that "there's another one off the street." Although Ms. Brown testified that she was not sure whether this was

intended as a comment on the student's race or his poverty, it is an indication of the type of stereotypical thinking to which Ms. Catron was prone.

31. Katrina Street, who was called to testify by the respondent, acknowledged that she found Ms. Catron to be judgmental. She testified that she believed that Ms. Catron was careful not to outwardly exhibit racial bias in front of her, because of her race; however, she did recall hearing Ms. Catron making derogatory comments about a black student whom Ms. Street believes she would not have made about a middle class white student.

32. Non-minority whites were also aware of Ms. Catron's propensity for inappropriate racial comments about students, including Dottie Speroni and Cravor Jones, who had been called by respondent.

33. On April 21, 1992, Ms. Catron delivered to complainant a written evaluation. While the evaluation is signed by both Ms. Catron and John Cardwell, and Ms. Catron claimed that John Cardwell shared in doing the evaluation, Mr. Cardwell testified that he had no input in the evaluation, other than to sign it after it had been presented to him by Ms. Catron. He testified that he simply "yielded" to Ms. Catron with concurring in her disparaging evaluation.

34. Ms. Catron rated complainant as deficient or unacceptable in virtually every category on the evaluation form. Out of 14 separate categories, Ms. Catron rated complainant's work as "acceptable" in only one, that is, taking advantage of opportunities for personal growth. She did not designate any of the 14 areas as an

"area of strength." Five were rated as areas of weakness, and eight were rated as unacceptable.

35. Ms. Catron's evaluation suggests that complainant was performing incompetently and well below standards expected of a multicultural advisor. However, the testimony of witness after witness including Ms. Catron's counterparts and superiors establishes that the complainant was a motivated and competent employee who performed well in her position and who impressed her coworkers with her energy and her ability.

36. Mr. Cardwell, who was called to testify by the respondent, and was complainant's other supervisor, acknowledged that he disagreed with virtually all of the assessments contained in Ms. Catron's evaluations. He testified that in his dealing with complainant he found her to be competent, energetic, intelligent and creative. He testified that she worked well and got along well with others. He testified that he did not find her academic or intellectual abilities to a weakness.

37. On April 20, 1992, complainant wrote a detailed reply to the evaluation. It consists of a two page letter addressed to Stephen Leach, with copies sent to Ms. Catron and Larry Mangus, and an eight page, point-by-point response to the criticisms contained in Ms. Catron's evaluation.

38. The bias and unfairness inherent in Ms. Catron's evaluation is evidenced by the following examples. As multicultural advisor, complainant organized special events for Blake History Month. In 1992, there were more events at the college associated with Black History Month than in any year past. The events were so well

received by the college community that the Inter-fraternity Council at Bluefield State College gave complainant special recognition for her work in connection with Black History Month. Ms. Catron, however, was critical of complainant's activities in making these preparations and forbade complainant from going to the Student Union to make plans except during her half hour lunch break. Nevertheless, in her evaluation Ms. Catron criticized complainant for having too little contact with minority students and for a lack of initiative in learning to work with minority students.

39. Not only did Ms. Catron criticize complainant, and not give her credit for what she accomplished, she actively interfered with complainant's ability to effectively reach out to minority students on campus. After Deidre Guyton left the CAP center, black students stopped coming to the CAP center. Complainant met with a group entitled Minorities on the Move. She offered the CAP center meeting room. They told her they did not want to meet at the CAP center. "They did not feel welcome in the CAP center." Mr. Cardwell encouraged complainant to go over to the Student Union and become active in student activities and organizations. However, Ms. Catron instructed complainant that she was not to meet with African American students outside of the CAP center; that all work related to her job had to take place at the CAP center. Mr. Cardwell acknowledged that such interference with meeting with minority students is inconsistent with the goals multicultural advisor which was to serve as minority student group advisor.

40. Working with international students was also an explicit part of the job of multicultural advisor, a fact acknowledged by Mr.

Cardwell. Among specific duties of the multicultural advisor related to international students was serving as a liaison to the Center for International Understanding headed by Dr. Jamkandi. The job description also provides that the multicultural advisor is to serve as an advisor for multicultural student organizations, which included international students. Notwithstanding the job description, when complainant was invited by the Student's International Club to serve as their advisor, Ms. Catron directed her to turn this down.

41. Ms. Catron indicated on the evaluation that complainant's dress and grooming was an "area of weakness." Ms. Catron could only recall one time when complainant wore jeans which seemed to be her primary objection, but claimed that her dress was generally sloppy. Complainant admitted that she wore blue jeans to work on one occasion; however, she usually wore a skirt. Dottie Speroni credibly testified that she worked with complainant on a daily basis and could never recall her dressing inappropriately. Mr. Cardwell testified that he recalled seeing her in jeans, but he acknowledged that dress at the college, as at other colleges, was not terribly formal. He did not indicate that he had ever seen her dressed inappropriately.

42. On occasion, complainant needed to adjust her schedule to accommodate her responsibilities as a parent. Ms. Catron complained to complainant regarding these few occasions, and used it as a basis to criticize complainant's performance. This treatment contrasted sharply with the way Ms. Catron treated non-minority employee Sue Ann Eaton, who also had to adjust her schedule to meet the needs of her children. Elizabeth Belcher testified that Ms. Catron could have allowed complainant some flexibility regarding scheduling. But Ms.

Catron required complainant to take off an entire half day, even if her commitments only required that she be absent for an hour or two.

43. Ms. Catron rated complainant's intellectual ability, evidence of academic background and leadership as "areas of weakness." The only explanation for this which Ms. Catron offered in her testimony was that "we expected professional behavior there, and we weren't getting it," and that "it was difficult for her to take her job description and stay within it." However, the evidence reflects that it was actually complainant who sought to act in accordance with her written job description, and Ms. Catron who attempted to redefine the job in a way contrary to the job description. When confronted with the discrepancies between the multicultural advisor job description and the complainant's work performance, Ms. Catron testified that the job description was poorly written.

44. Ms. Catron criticized complainant for allegedly not following directives; however, the record does not substantiate this criticism. While it appears that complainant had ideas about how to effectively accomplish her job duties, as any competent professional would, she did willingly do as her supervisor directed. Mr. Cardwell testified that when he made expectations clear to complainant, she carried out his directives. It was clear that he had no examples to offer from his own experience of when complainant had failed to carry out a directive.

45. All of the evidence supports the conclusion that complainant was effective at helping students. Katrina Street, who

was called by the respondent, recalled that when she had been a student, complainant had been very helpful to her.

46. Despite the fact that it was included in her job description, complainant's efforts to do outreach to area high schools met with the disapproval of Ms. Catron. Complainant was told by Ms. Catron that she was not to do outreach except as directed, and following this meeting, complainant respected this directive. Ms. Catron also criticized complainant for reaching out to groups of minority high school students, a function clearly within her job description and aimed at the stated goal of increasing black enrollment at Bluefield State College.

47. While the testimony reveals that the majority of those who worked with Ms. Catron found her difficult to work with, the evidence in the record clearly reflects that the minority individuals, Hispanic and African American in particular, were treated more harshly than others.

48. Deidre Guyton, who is an African American, was the multicultural advisor from June 1990 until October 1991, immediately prior to complainant. Ms. Guyton testified that Ms. Catron never made her feel welcome and showed her no respect or trust. Ms. Guyton felt that this treatment was because of her race. Ms. Guyton reported that Ms. Catron made comments about both her and Sharon Price to the effect that they were dysfunctional.

49. In contrast, when Dottie Speroni, who is white, began working as a counselor at the CAP center in 1990, her relationship with Ms. Catron was good. Ms. Catron treated her in a friendly manner, and confided in her. Although Ms. Catron's goodwill toward

Ms. Speroni deteriorated in time, Ms. Speroni testified that she did not ever recall seeing Ms. Catron treat Ms. Guyton, who is black, or complainant, who is Hispanic, in the same friendly manner.

50. Joyce Brown, who had been a secretary at the CAP center and who is white, testified that Ms. Catron was generally disagreeable. However, Ms. Brown made it clear that Ms. Catron treated her (Ms. Brown) "very well." She acknowledged that Sharon Price, who is black and had also worked as a secretary at the CAP center was not treated as well by Ms. Catron as she herself was. Ms. Brown acknowledges that Dottie Speroni had initially been treated well by Ms. Catron, but that Deidre Guyton had never been treated well by Ms. Catron.

51. Katrina Street, who was also called to testify by the respondent, took over the position of multicultural advisor shortly after the complainant was terminated. Ms. Street, who is African American, was recruited for the position by Dean Mangus in the wake of complainant's termination, and was specifically told that if she had problems with Ms. Catron she should come to him. Ms. Street testified that at first Ms. Catron treated her well, because she seemed to want to make sure that she was comfortable in the new position, but that beginning after a month or so Ms. Catron treated her badly. Ms. Street testified that her observation was that Ms. Catron lacked leadership or supervisory skills.

52. The evidence clearly reflects that Ms. Catron interfered with the work of complainant more than she did the work of the non-minority staff. For example, Tom Harrison testified that his duties required him to be outside the CAP center, but that Ms. Catron

did not interfere with this part of the his job. Mr. Harrison successfully completed his probationary period upon Ms. Catron's recommendation.

53. In contrast to the others with whom she worked, counselors and secretaries, complainant was not given a key which would give her access to her office outside of regular work hours. When she explicitly asked for one, Ms. Catron would not approve the request.

54. According to Mr. Harrison, Ms. Catron was given a "carte blanche" by the administration to do what ever she wanted as it related to the CAP center.

55. When complainant took issue with Ms. Catron's evaluation, among other things, she went to see Director of Personnel Stephen Leach. His suggestion was to write a written reply which could be placed in her personnel file along with the evaluation. She did so, and submitted it to Mr. Leach, Dean Mangus and Ms. Catron. In her letter to Steven Leach, in response to Ms. Catron's written evaluation, complainant made known her concern that Ms. Catron's actions were discriminatorily targeted toward her and other minorities.

56. Complainant's conversation with Mr. Leach following her written evaluation for Ms. Catron was not the first time that complainant had been to see administrators about her treatment by Ms. Catron. She asked Dean Mangus to encourage Ms. Catron to contact her references in order to verify her abilities. Dean Mangus replied that he did not believe in interfering in this type of thing; that Ms. Catron was her supervisor; and that she was not to come to him about problems with Ms. Catron.

57. Complainant also went to see Stephen Leach early in her employment to discuss with him the problems she was having with Ms. Catron. Mr. Leach told complainant to document any problems she was having. Mr. Leach told her that he realized she was being treated unfairly, but that there was nothing he could do about it.

58. John Cardwell was also completely unresponsive to complainant's plight. Although he testified that he had no authority over Ms. Catron, he acknowledged that he could have gone to Dean Mangus, which the record reveals he did not do.

59. On May 4, 1992, following a meeting to discuss the performance review, Ms. Catron wrote a memo dated April 21 indicating that her probationary period had been extended until June 1, 1992.

60. According to Ms. Catron she extended complainant's probationary period in order to give her extra time to improve her work quality. However, Ms. Catron was admittedly absent from the CAP center during much of the time between the April 21, 1992, meeting and the June 1, 1992, deadline, and therefore had little opportunity to observe complainant that time.

61. On May 27, 1992, Ms. Catron wrote a memo to complainant indicating that she had scheduled a "pre-termination meeting" for May 29, 1992. Notwithstanding the fact that it was being referred to as a pre-termination meeting, this memorandum went on to indicate that this would be complainant's opportunity to explain how her work had improved since her evaluation and the meeting of April 21, 1992.

62. On May 29, 1992, Ms. Catron presented the complainant with a termination letter. Ms. Catron told complainant that she was to turn in her keys and make arrangements with campus security to come

back at another time to pick up her personal belongings. Ms. Catron's claim that she gave complainant a chance to tell her how she had improved, and that only then, unsatisfied with complainant's report, decided to terminate her lacks credence.

63. Tom Harrison testified that he was surprised by complainant's termination because she did "a wonderful job...an excellent job."

64. Complainant was extremely upset and devastated by her termination. The complainant convincingly testified that, despite the fact that she had made every effort to get along with Ms. Catron and to persuade her that she was an able professional who had competently performed, she could not overcome Ms. Catron's animus.

65. The insulting and demeaning comments, behavior and critical evaluation by Ms. Catron because of complainant's ancestry and national origin, were embarrassing and humiliating to complainant.

66. Complainant suffered extreme humiliation and embarrassment as a result of being discriminatorily discharged by the respondent.

67. As the result of the respondent's discriminatory discharge of complainant, she suffered the loss of an income of \$18,756 per year which is equivalent to \$1,563 per month.

68. Since she was terminated by respondent, the West Virginia Legislature has provided annual raises applicable to the multicultural advisor position for each year in amounts ranging from \$1,300 to \$2,500 per year. Averaging the high and low, the complainant would have received annual raises of \$1,900 per year (or \$158.33) per month for each year she continued to work for respondent.

69. Beginning in September 1992, complainant began working as a Spanish teacher in the Giles County public schools, making \$21,000 per year, which is equivalent to \$1,750 per month. However, because this job was 45 miles away, it took her an hour each direction to commute, and involved an early morning departure and inflexible working hours. The complainant had to purchase an automobile, costing her \$239.00 per month, and change her child care arrangements, which cost her an additional \$50.00 per week, or \$210.00 per month. Accordingly, her net mitigation beginning in September 1992 was \$1,301.00 per month.

70. In 1994, the complainant resigned her teaching position to attend school at the University of North Carolina during the academic year 1994-95. She then returned to Bluefield so her husband could resume his employment there, and then made a permanent move from West Virginia to North Carolina during the summer of 1996.

B.

DISCUSSION

The prohibitions against unlawful discrimination by an employer are set forth in the West Virginia Human Rights Act. WV Code §§ 5-11-1 to 19. Section 5-11-9(1) of the Act makes it unlawful "for any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment...." The term "discriminate" or "discrimination" as defined in WV Code §5-11-3(h) means "to exclude from, or fail or

refuse to extend to, a person equal opportunities because of...national origin [and] ancestry...."

Given this statutory framework, to recover against an employer on the basis of a violation of the Act, a person alleging to be a victim of unlawful national origin or ancestry discrimination, or the Commission acting on her behalf, must ultimately show by a preponderance of the evidence that:

(1) the employer excluded her from, or failed or refused to extend to her, an equal opportunity; and

(2) national origin or ancestry were a motivating or substantial factor causing the employer to exclude the complainant from, or fail or refuse to extend to her, an equal opportunity, Price Waterhouse v. Hopkins, 490 U.S. 228; and

(3) the equal opportunity denied a complainant is related to any one of the following employment factors: compensation, hire, promotion, tenure, terms, conditions or privileges of employment.

A discrimination case may be proved by a disparate treatment theory or by a disparate impact theory. See Barefoot v. Sundale Nursing Home, syl pt. 6, 457 S.E.2d 152 (1995); Guyan Valley Hospital, Inc. v. WV Human Rights Commission, 382 S.E.2d 88 (1989). A disparate treatment case requires proof of discriminatory intent. Disparate impact has no "intent" requirement, but rather a showing that a facially neutral employment practice has a disproportionate adverse impact on a protected class.

A complainant may show disparate treatment by the three-step inferential proof formula first articulated in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and adopted by our Supreme Court

in Shepherdstown Volunteer Fire Department v. WV Human Rights Commission, 309 S.E.2d 342 (1983). See Barefoot, 457 S.E.2d at 169, n.19. The McDonnell Douglas method requires that the complainant first establish a prima facie case of discrimination. The burden of production then shifts to the respondent to articulate a legitimate, nondiscriminatory reason for its action. Finally, the complainant or commission may show that the reason proffered by the respondent was not the true reason for the employment decision, but rather a pretext for discrimination.

The complainant may establish a prima facie case of discriminatory discharge by proving that the complainant is a member of a protected class, that she was discharged, and that non-members of the protected class were not discharged or otherwise treated less harshly. WV Human Rights Commission v. Logan-Mingo Area Mental Health Agency, Inc., 174 WV 711, 329 S.E.2d 77 (1985).

Complainant has clearly established a prima facie case of national origin and ancestry discrimination. It is undisputed that complainant, a Hispanic, born in Lima, Peru, is a member of a protected class and that she was discharged from her position by respondent. Third, other non-minority counselors at the CAP center were not discharged; nor were they treated as disparately.

While no other multicultural advisor had been discharged, this is not the most appropriate comparison. By the design of the respondent, the multicultural advisor position has always been held by a minority person, and because of this, those who held this position were consistently subjected to the supervision of Gail Catron whether they were African American or Hispanic. The

appropriate reference for purposes of comparative treatment are the other counselors at the CAP center, particularly those employees under the supervision of Ms. Catron. Against each of these people Ms. Catron's disparate treatment of complainant can be measured.

A prima facie case raises an inference that the respondent has discriminated against complainant on the basis of her protected status. Barefoot v. Sundale Nursing Home, 457 S.E.2d 152 (1995). The prima facie case "is designed to allow a plaintiff with only minimal facts to smoke out a defendant--who is in control of most of the facts--and force it to come forward with some explanation for its action." Barefoot, 457 S.E.2d at 162.

The establishment of a prima facie case creates a "presumption that the employer unlawfully discriminated against" the complainant. Barefoot v. Sundale Nursing Home, supra; Shepherdstown V.F.D. v. WV Human Rights Commission, 309 S.E.2d 342, 352 (1983). Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248 (1981). "[T]he burden then shift[s] to the defendant...to rebut the presumption of discrimination by producing evidence that the [complainant] was rejected, or someone was preferred, for a legitimate, nondiscriminatory reason." Burdine, 450 U.S. at 254. Though the burden on respondent under this test is only one of production, not persuasion, to accomplish it a respondent "must clearly set forth through the introduction of admissible evidence the reason for the [complainant's] rejection.

If the respondent clearly articulates a legitimate, nondiscriminatory reason for rejecting the complainant, "then the complainant has the opportunity to prove by a preponderance of the

evidence that the reasons offered by the respondent were merely pretext for unlawful discrimination." Shepherdstown, 309 S.E.2d at 352. The commission "may succeed in this either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence." Burdine, 450 U.S. at 256. See also O.J. White Transfer Storage Co. v. WV Human Rights Commission, 383 S.E.2d 323, 327 (1989).

In addition, if the complainant fails to show pretext, she still may prevail if it is established that national origin or ancestry played some role in the adverse action. If there was a mixture or motives and the complainant's national origin or ancestry were at least a factor, then the respondent can avoid liability only if it carries the burden of proving that it would have taken the same adverse action even if the complainant's protected status had not been given any consideration. Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).

The respondent alleges that the reason the complainant was terminated at the end of her probationary period was the unacceptable quality of her work. Respondent also offers a second explanation for Ms. Catron's adverse treatment of complainant. Respondent asserts that the inaccuracies and unfairness in Ms. Catron's evaluation of and actions toward complainant are not manifestations of discriminatory conduct, but rather that Ms. Catron was equally unfair to all. Although this explanation strongly brings into question the strength of its explanation that complainant's performance was inadequate, respondent has satisfied its burden of articulating

legitimate nondiscriminatory reasons for its actions toward the complainant.

The complainant has convincingly established that the reasons proffered by respondent are not the true reasons for its action but rather pretext for national origin and ancestry discrimination.

Respondent claims that complainant was terminated for unacceptable performance. The respondent's explanation that complainant's termination was the result of her unacceptable performance is predicated on its complete reliance on the observations of the CAP Center Director, Gail Catron. However, even the testimony of the witnesses called at hearing by the respondent support and ultimately substantiate complainant's claim that she performed her job well.

Not only does the record contain overwhelming and credible support for the proposition that complainant was a capable employee who performed her job well, but it establishes that Ms. Catron acted in her evaluation with an illicit discriminatory motive. There was hardly an aspect of complainant's job performance which Ms. Catron did not find unacceptable, and not one for which the unacceptability could be substantiated. Ms. Catron's evaluation of the complainant makes no sense absent such a motive.

Gail Catron criticized complainant's intellectual and academic ability, her leadership and her communication skills. Ms. Catron offered no specifics other than two memos containing typographical errors, neither of which complainant typed. The universal opinion of everyone who worked with complainant other than Ms. Catron was that the complainant was bright and communicated effectively.

Ms. Catron's assessment that complainant lacked enthusiasm for her job and was completely unacceptable in her ability to adapt to new ideas and situations is without a basis in fact. All of the other evidence reveals that complainant was both enthusiastic about her job and creative and adaptable in carrying it out effectively. John Cardwell, who was called by the respondent, explicitly acknowledged that complainant was energetic. The only impediment to complainant's effective service to students which is reflected in the record is Ms. Catron's lack of support for her work with students.

Ms. Catron's criticism that complainant did not effectively reach out to minority students on campus is not believable. The evidence reveals the contrary. The complainant organized very successful Black History Month events, and pursued other initiatives for which she received recognition by a black student fraternity. Ironically, it was Ms. Catron who made complainant's work with the minority students difficult. Minority students avoided the CAP center. When complainant sought to meet with them at the student union, with the encouragement of John Cardwell, Ms. Catron thwarted this effort. Ms. Catron also discouraged complainant from endeavoring to provide any specialized services to minority students. Nevertheless, the record reflects that minority students found complainant be helpful.

Ms. Catron's criticism regarding complainant's work with international students is also a gross misstatement. The multicultural advisor job description explicitly provides that complainant was to work with international students and with their

on-campus organizations. However, she was thwarted in her attempt to do this, and then criticized for making such an attempt.

Ms. Catron criticized complainant for unacceptable dress. Ms. Catron supported this by describing one occasion on which complainant wore jeans and asserting that her dress was otherwise sloppy. John Cardwell, complainant's other supervisor, acknowledged that dress in the higher education context tends to be informal. When assessed in light of the record as a whole particularly weighing and crediting the testimony of witnesses for both complainant and respondent, it is clear that Ms. Catron's evaluation of the complainant was motivated by her racial and ethnic biases.

The respondent further claims that Ms. Catron's treatment of complainant even if unwarranted and unfair, was not discriminatory; that is to say, that other employees of the CAP center were treated as badly. While there was ample testimony that Ms. Catron gave most of her coworkers, and especially her subordinates, reasons to not like her, the evidence in the record clearly substantiates that Ms. Catron was especially unfair to minorities, and in this particular case the complainant, who is Hispanic.

While she apparently reviewed the written output of all of her subordinates, there is no evidence to suggest that she engaged in the kind of nit-picking and fault finding exhibited toward the complainant and the minor typographical errors in the memos she drafted. The record indicates that all employees of the CAP center except complainant were permitted keys to the building, while complainant's explicit request for a key so that she could perform her job more effectively was denied. Other CAP center employees who

had responsibilities in other sectors of the campus were given a certain amount of autonomy to pursue them, while complainant was not.

The evidence that other multicultural advisors were singled out for a heightened degree of mistreatment, rather than being exculpatory, supports a finding that the complainant was a victim of discrimination. The multicultural advisor position was not only created for the stated purpose of providing additional assistance to minority and multicultural students, but it was seen by the respondent's administration as a position which should be filled by a minority candidate. The record reflects that without exception the position has been filled by minority candidates, in contrast to all other counselor positions at the CAP center. And Ms. Catron not only discriminated against complainant, she apparently discriminated against the other individuals who held the minority counselor positions at other times, including Deidre Guyton and Katrina Street, both of whom are African American.

Complainant complained about the discriminatory treatment she was receiving from Ms. Catron during her employment. She complained to Dr. Larry Mangus, the Dean of Students and Ms. Catron's supervisor, to Stephen Leach, the Director of Human Resources, whose responsibility it was to address discrimination. And she complained to John Cardwell, who supervised her recruiting work. None of them followed up on her complaints or gave her any assistance or made any move to hold Ms. Catron accountable.

"[I]t is incumbent upon [the factfinder] to make the ultimate determination whether there was intentional discrimination on the part of respondent." Shepherdstown, supra. In short, the

factfinder "must decide which party's explanation of the employer's motivation it believes," U.S. Postal Service Board of Governors v. Aikens, 460 U.S. 711 (1983), and decide whether, in the final analysis, respondent treated complainant "less favorably than others" because of her ancestry and national origin. Furnco Construction Corp. v. Waters, 438 U.S. 567, 577 (1978).

In determining which side to believe, it is up to the factfinder to assess the credibility of witnesses and the persuasiveness of the evidence. Westmoreland Coal Co. v. WV Human Rights Commission, 382 S.E.2d 562, 567 n.6 (1989).

In the case at bar it is compellingly clear that the complainant's evidence was credible, highly probative and undisputably persuasive. It is also patently clear that Ms. Catron's testimony was unbelievable and disingenuous.

The direct evidence in the record clearly establishes that Ms. Catron regularly acted upon prejudices and stereotypes with regard to racial and ethnic minorities. This discriminatory animus is revealed both through evidence regarding Ms. Catron's comments to and treatment of complainant, and through evidence of her comments about and treatment of others with whom she came in contact.

From almost the moment complainant started, she was subjected to harsh and unfair treatment by Ms. Catron, clearly revealing Ms. Catron's prejudicial attitudes about complainant as a Hispanic. In some instances, Ms. Catron's words and actions clearly expressed her distrust and contempt for someone of complainant's ancestry. For example, early in her employment Ms. Catron told complainant that she considered complainant's good employment references to have no

meaning because "she knew how minorities got those letters....[that] people are afraid to say something when minorities are not doing their job and they'll give you a letter of recommendation to get rid of you or just so you won't get them in trouble." Ms. Catron also instructed complainant that she was not to speak Spanish in the office, even in private conversations over the telephone with her husband. Ms. Catron also expressed surprise that complainant had high standards of cleanliness and regularly made prejudicial comments which were offending and upsetting to complainant.

Ms. Catron's bias was not just reserved for Hispanics or for the complainant, and the evidence of her comments about and treatment of others supports the contention that Ms. Catron's discriminatory treatment of complainant was the result of her racist and ethnic bias and animus. Ms. Catron told complainant that she should try to steer minority students into two-year programs rather than four-year programs because they came from dysfunctional families and would only be wasting their time in more ambitious programs. She also referred to Ms. Guyton and Ms. Price, two African American employees, as dysfunctional. Others testified to hearing Ms. Catron make disparaging and racist remarks about African American students, including witnesses called to testify by the respondent. It is clear from the record as a whole, that the complainant's Hispanic status placed her in the class of people discriminated against by Ms. Catron, conduct condoned and sanctioned by respondent.

The complainant has established by a preponderance of the evidence that respondent discriminated against her on the basis of

her national origin and ancestry in violation of the West Virginia Human Rights Act.

C.

CONCLUSIONS OF LAW

1. The complainant, Maria Palmer, is an individual claiming to be aggrieved by the unlawful discriminatory practices of respondent, and has properly filed and perfected this claim before the West Virginia Human Rights Commission.

2. The respondent, Bluefield State College, is, and was at all times relevant hereto, an employer and a person within the meaning of the West Virginia Human Rights Act, WV Code §§5-11-3(d) and 5-11-3(a), respectively, and is subject to the jurisdiction of the West Virginia Human Rights commission.

3. Gail Catron, the complainant's supervisor was, at all times relevant hereto, an agent of the respondent, and liability for her actions is imputed to the respondent.

4. The complaint in this action was timely and properly filed pursuant to WV Code §5-11-10.

5. The West Virginia Human Rights Commission has jurisdiction over the parties and the subject matter of this complaint.

6. The complainant is a member of a protected class in that she was born in Lima, Peru, of Peruvian parents and is Hispanic.

7. The Complainant has established a prima facie case of ancestry and national origin discrimination in that she has proven that she is a member of a protected class; that she suffered adverse

actions by the respondent, including harsh criticism and evaluation and the discharge from her employment; and that other non-Hispanic employees did not suffer such adverse actions.

8. The respondent's articulated explanations for the adverse action against the complainant; namely, (a) that the complainant's job performance was inadequate, and (b) that the complainant's supervisor treated everyone as harshly, have been shown to be pretextual.

9. The evidence in the record clearly established that the complainant's supervisor, Gail Catron, harbored prejudice and animus toward the complainant because of her ancestry and national origin, which resulted in respondent's unlawful discriminatory treatment and discharge of the complainant.

10. As a result of the discriminatory actions of the respondent, the complainant suffered lost wages and incidental injury in the form of embarrassment and humiliation.

11. As a result of the discriminatory conduct of the respondent, the complainant is entitled to the following:

(a) Back pay, benefits and prejudgment interest at the rate of ten percent per annum, from June 1992 through the end of August 1994 for a total back pay award of \$41,940.52 as of the last day of November 1997, as more fully detailed in complainant's attachment A appended hereto;

(b) Incidental damages for the humiliation and embarrassment she suffered as a result of respondent's discriminatory conduct while she was employed in the amount of \$3,277.45; and

(c) Incidental damages for the emotional distress and loss of personal dignity she suffered as a result of discriminatory discharge by respondent in the amount of \$3,277.45.

12. The West Virginia Human Rights Commission is entitled to \$1,142.50 as reimbursement of costs incurred for hearing transcript and deposition costs associated with adjudicating this claim. The Attorney General's Office, Civil Rights Division is entitled to \$59.80 as reimbursement of its travel costs associated with prosecuting this claim.

D.

RELIEF AND ORDER

Pursuant to the above findings of fact and conclusions of law, it is hereby ORDERED as follows:

1. The respondent shall cease and desist from engaging in unlawful discriminatory practices based on national origin and ancestry.

2. Within 31 days of receipt of this decision, the respondent shall pay to the complainant \$41,950.52 as an aggregate of backpay, benefits and prejudgement interest through November, 1997.

3. Within 31 days of receipt of this decision, the respondent shall pay to the commission \$1,142.50 and to the Attorney General's Office, Civil Rights Division, \$59.80, as costs associated with prosecuting this matter.

4. Within 31 days of receipt of this decision, the respondent shall pay to complainant incidental damages as follows:

(a) \$3,277.45 for the humiliation and embarrassment suffered as a result of respondent's discriminatory conduct while she was employed; and

(b) \$3,277.45 for the emotional distress and loss of personal dignity suffered as a result of respondent's discriminatory discharge.

5. The respondent shall pay ten percent per annum interest on all monetary relief.

6. In the event of failure of respondent to perform any of the obligations hereinbefore set forth, complainant is directed to immediately so advise the West Virginia Human Rights Commission, Norman Lindell, Deputy Director, Room 108A, 1321 Plaza East, Charleston, West Virginia 25301-1400, Telephone: (304) 558-2616 extension 206.

It is so ORDERED.

Entered this 1 day of December, 1997.

WV HUMAN RIGHTS COMMISSION

BY: 

GAIL FERGUSON
ADMINISTRATIVE LAW JUDGE

MARIA UNGER-PALMER DAMAGE CALCULATIONS

.10

DATE	YEAR	LOST WAGES	LOST RETIRE	LOST HEALTH	GROSS LOST PAY	MITIGATION	TOTAL BACK PAY	INTEREST EARNINGS	ENDING BALANCE
JUNE	.92	1,563.00	93.78	300.00	1,956.78	.00	1,956.78	.00	1,956.78
JULY	.92	1,563.00	93.78	300.00	1,956.78	.00	1,956.78	16.31	3,929.87
AUGUST	.92	1,563.00	93.78	300.00	1,956.78	.00	1,956.78	32.75	5,919.40
SEPT	.92	1,563.00	93.78	300.00	1,956.78	1,750.00	206.78	49.33	6,175.51
OCT	.92	1,563.00	93.78	300.00	1,956.78	1,750.00	206.78	51.46	6,433.75
NOV	.92	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	53.61	6,861.97
DEC	.92	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	57.18	7,293.76
JAN	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	60.78	7,729.15
FEB	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	64.41	8,168.17
MARCH	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	68.07	8,610.85
APRIL	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	71.76	9,057.22
MAY	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	75.48	9,507.31
JUNE	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	79.23	9,961.15
JULY	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	83.01	10,418.77
AUGUST	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	86.82	10,880.20
SEPT	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	90.67	11,345.48
OCT	.93	1,721.33	103.28	300.00	2,124.61	1,750.00	374.61	94.55	11,814.64
NOV	.93	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	98.46	12,455.54
DEC	.93	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	103.80	13,101.78
JAN	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	109.18	13,753.40
FEB	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	114.61	14,410.45
MARCH	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	120.09	15,072.98
APRIL	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	125.61	15,741.03
MAY	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	131.18	16,414.65
JUNE	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	136.79	17,093.88
JULY	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	142.45	17,778.77
AUGUST	.94	1,879.66	112.78	300.00	2,292.44	1,750.00	542.44	148.16	18,469.37
SEPT	.94	.00	.00	.00	.00	.00	.00	153.91	18,623.28
OCT	.94	.00	.00	.00	.00	.00	.00	155.19	18,778.47
NOV	.94	.00	.00	.00	.00	.00	.00	156.49	18,934.96
DEC	.94	.00	.00	.00	.00	.00	.00	157.79	19,092.75
JAN	.95	.00	.00	.00	.00	.00	.00	159.11	19,251.86
FEB	.95	.00	.00	.00	.00	.00	.00	160.43	19,412.29
MARCH	.95	.00	.00	.00	.00	.00	.00	161.77	19,574.06
APRIL	.95	.00	.00	.00	.00	.00	.00	163.12	19,737.18
MAY	.95	.00	.00	.00	.00	.00	.00	164.48	19,901.66
JUNE	.95	.00	.00	.00	.00	.00	.00	165.85	20,067.51
JULY	.95	.00	.00	.00	.00	.00	.00	167.23	20,234.74
AUGUST	.95	.00	.00	.00	.00	.00	.00	168.62	20,403.36
SEPT	.95	.00	.00	.00	.00	.00	.00	170.03	20,573.39
OCT	.95	.00	.00	.00	.00	.00	.00	171.44	20,744.83
NOV	.95	.00	.00	.00	.00	.00	.00	172.87	20,917.70
DEC	.95	.00	.00	.00	.00	.00	.00	174.31	21,092.01
JAN	.96	.00	.00	.00	.00	.00	.00	175.77	21,267.78
FEB	.96	.00	.00	.00	.00	.00	.00	177.23	21,445.01
MARCH	.96	.00	.00	.00	.00	.00	.00	178.71	21,623.72
APRIL	.96	.00	.00	.00	.00	.00	.00	180.20	21,803.92
MAY	.96	.00	.00	.00	.00	.00	.00	181.70	21,985.62
JUNE	.96	.00	.00	.00	.00	.00	.00	183.21	22,168.83
JULY	.96	.00	.00	.00	.00	.00	.00	184.74	22,353.57
AUG	.96	.00	.00	.00	.00	.00	.00	186.28	22,539.85
SEPT	.96	.00	.00	.00	.00	.00	.00	187.83	22,727.68
OCT	.96	.00	.00	.00	.00	.00	.00	189.40	22,917.08
NOV	.96	.00	.00	.00	.00	.00	.00	190.98	23,108.06
DEC	.96	.00	.00	.00	.00	.00	.00	192.57	23,300.63
JAN	.97	.00	.00	.00	.00	.00	.00	194.17	23,494.80
FEB	.97	.00	.00	.00	.00	.00	.00	195.79	23,690.59
MARCH	.97	.00	.00	.00	.00	.00	.00	197.42	23,888.01
APRIL	.97	.00	.00	.00	.00	.00	.00	199.07	24,087.08
MAY	.97	.00	.00	.00	.00	.00	.00	200.73	24,287.81

JUNE	.97	.00	.00	.00	.00	.00	.00	202.40	24,490.21
JULY	.97	.00	.00	.00	.00	.00	.00	204.09	24,694.30
AUG	.97	.00	.00	.00	.00	.00	.00	205.79	24,900.09
SEPT	.97	.00	.00	.00	.00	.00	.00	207.50	25,107.59
OCT	.97	.00	.00	.00	.00	.00	.00	209.23	25,316.82
NOV	.97	.00	.00	.00	.00	.00	.00	210.97	25,527.79
DEC	.97	.00	.00	.00	.00	.00	.00	212.73	25,740.52

TOTALS: 47,267.56 2,836.06 8,100.00 58,203.62 42,000.00 16,203.62 9,536.90 25,740.52

DAMAGES SUMMARY

LOST BACK PAY	16,203.62
INTEREST ON BACK PAY	9,536.90
PAY WITH INTEREST	25,740.52
INCIDENTALS	6,554.90
TOTAL DAMAGES	32,295.42

HRCBKV