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Attorneys for Plaintiff,
Gurpreet S. Kherha

GURPREET S. KHERHA,
Plaintiff,

v.

TRI-COUNTY LEXUS, CORPORATE JOHN DOES
1-10, AND JOHN/JANE DOES 1-30.
Defendants.

SUPERIOR COURT OF NEW JERSEY
PASSAIC COUNTY, LAW DIVISION

CIVIL ACTION

DOCKET No.:

COMPLAINT & JURY DEMAND

Plaintiff, Gurpreet S. Kherha, by and through his attorneys, alleges as follows:

NATURE OF THE ACTION

1. Plaintiff, Gurpreet S. Kherha (“Plaintiff”), brings this action against Defendant, Tri-County Lexus (“Defendant”), for legal relief to redress the Defendant’s actions in subjecting him to illegal discrimination on the basis of his religion in applying for a sales position at Tri-County Lexus. This suit is brought to secure the protection of and to redress the deprivation of rights secured by the New Jersey Law Against Discrimination (“NJLAD”), codified at N.J.S.A. § 10:5-1, *et seq.*

PARTIES

2. Plaintiff Gurpreet S. Kherha is an adult male citizen of the United States of America and, at all relevant times, a resident of Bergen County, New Jersey. He is of South Asian/Punjabi ancestry. He is a member of the Sikh faith. As a Sikh, Plaintiff has a sincerely held religious belief that he must maintain uncut hair, including facial hair, and cover his head with a turban.

3. Upon information and belief, Defendant Tri-County Lexus is also known as Bob Ciasulli Auto Mall, Inc. and United Galaxy/Bob Ciasulli Lexus. Defendant Tri-County Lexus conducts or is authorized to do business in the State of New Jersey. At all times relevant to the allegations herein, Defendant maintained a place of business at 700 Route 46 West, Little Falls, Passaic County, New Jersey.

4. Upon information and belief, Defendant is an independently owned and operated automobile dealership which continuously has had at least 15 employees, maintains actual and/or constructive control over all of its operations, and has authority to direct and manage its employment practices.

5. Upon information and belief, all of the acts alleged in this Complaint were authorized, ordered, implemented, and/or ratified by Defendant's officers, agents, employees, and/or representatives while actively engaged in the management of Defendant's business.

6. Defendant is an "employer" within the definition of the NJLAD, N.J.S.A. § 10:5-5.

7. Corporate John Does 1-10 are other corporate or business entities formally or informally affiliated with Defendant and upon information and belief, participated in or hold legal liability for the conduct of Defendant as alleged herein.

8. John Does 1-10 are employees, agents or other individuals formally or informally affiliated with Defendant and upon information and belief, participated in or hold legal liability for the conduct of Defendant as alleged herein.

FACTS COMMON TO ALL COUNTS

9. Plaintiff is of South Asian/Punjabi ancestry. He is a practicing member of the Sikh religion. Consistent with the tenets of Sikhism, Plaintiff has a sincerely held religious belief that, at all times, he maintain unshorn hair, including facial hair, and wear a turban.

10. In or about February of 2008, Plaintiff applied for a sales and leasing consultant position at Tri-County Lexus. Plaintiff was at all times fully qualified for the sales and leasing consultant position at Tri-County Lexus.

11. On or about February 22, 2008, Plaintiff was contacted by Domenick Pupo (“Pupo” or “recruiter”). Upon information and belief, Pupo recruited prospective sales and leasing consultant employees for Defendant Tri-County Lexus. Pupo invited Plaintiff to be interviewed for a sales and leasing consultant position.

12. On or about February 25, 2008, Pupo interviewed Plaintiff for a sales and leasing consultant position. Plaintiff appeared for the interview wearing a turban and maintaining an unshorn beard, consistent with his Sikh religious beliefs. After the interview, Pupo invited Plaintiff to appear at Tri-County Lexus for training. Upon information and belief, Defendant Tri-County Lexus conducted the training for the purpose of hiring sales employees.

13. On or about February 27-28, 2008, Plaintiff appeared for two days of training and a group interview at Tri-County Lexus. Plaintiff appeared at Tri-County Lexus wearing a turban and maintaining an unshorn beard, consistent with his Sikh religious beliefs.

14. After the group interview, Pupo asked Plaintiff why he kept a beard and whether it was a religious requirement. Plaintiff explained that he is Sikh, that he is required to keep his beard unshorn, and that shaving his beard would violate his religious beliefs. Pupo then asked Plaintiff if he would be willing to shave his beard to obtain a position with Defendant Tri-County Lexus. The Plaintiff responded that he would not shave his beard to obtain a position with Defendant.

15. Pupo then left the room. Upon Pupo's return, he announced which individuals had been selected for sales positions. Plaintiff was not selected for a position. Upon information and belief, the individuals selected for the sales positions were not Sikh or did not maintain unshorn beards per their religious beliefs.

16. Pupo subsequently informed Plaintiff that Tri-County Lexus manager, Clark Nelson, had stated that Plaintiff was "exactly what they were looking for" in a salesperson, that Plaintiff was "well qualified," "well educated," and had interviewed better than anyone else in the training group. Pupo informed Plaintiff that Defendant could not hire Plaintiff because its corporate policy prohibits salespersons from maintaining facial hair. Pupo indicated that Nelson had contacted Defendant's corporate office during the training to determine whether an exception to the grooming policy could be made. However, Nelson was informed that no exceptions are permitted.

COUNT ONE

(New Jersey Law Against Discrimination, N.J.S.A. § 10:5-1, *et seq.*)

17. Plaintiff repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.

18. By and through their course of conduct as alleged herein, Defendants and

their agents discriminated against the Plaintiff by failing or refusing to hire him for employment on the basis of his religion in violation of the NJLAD.

19. Defendant's conduct was intentional, deliberate, willful, and conducted in callous disregard of the protected rights of Plaintiff.

20. Defendant's policies and practices resulted in Plaintiff being subject to disparate treatment on the basis of his religion. Plaintiff was fully qualified for the position with Defendant for which he applied. Defendant refused to hire Plaintiff because he is a Sikh. Defendant subjected Plaintiff to an adverse employment action by refusing to hire him. Defendant had no legitimate, nondiscriminatory reason for its refusal to hire Plaintiff. Defendant instead hired non-Sikh applicants.

21. Defendant failed to reasonably accommodate Plaintiff's religious practice. Plaintiff's sincerely held religious belief that he maintain an unshorn beard conflicted with Defendant's employment requirement that salespeople not maintain facial hair. Defendant was aware of this conflict, but refused to provide Plaintiff a reasonable accommodation. Reasonable accommodation of Plaintiff's religious practice of maintaining an unshorn beard would not have placed an undue hardship on Defendant. Plaintiff was not hired as a direct and proximate result of his failure to comply with Defendant's employment requirement.

22. Defendant's policies, practices, and adverse conduct, as described herein, had an unjustified, adverse, and disparate impact on Plaintiff who, as a Sikh, maintains an unshorn beard as required by his religion.

23. As a direct and proximate result of Defendant's illegal discrimination, Plaintiff has suffered and will continue to suffer severe harm, and is entitled to all legal and equitable remedies available under the NJLAD, including, but not limited to, back pay, front pay,

reinstatement, restoration of benefits and seniority, and compensatory and punitive damages, in amounts to be determined at trial.

24. Plaintiff is further entitled to an award of reasonable attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests the Court grant the following relief:

A. Issue a declaratory judgment that the employment policies, practices, procedures, conditions, and customs of Defendant violated the rights of Plaintiff as secured by the NJLAD;

B. Grant Plaintiff a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from continuing to violate the NJLAD;

C. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities which eradicate the effects of Defendant's past and present unlawful employment practices;

D. Order Defendant to allow men whose religion requires them to maintain an unshorn beard to serve in sales positions;

E. Order Defendant to make Plaintiff whole for the unlawful employment practices described above, by providing appropriate backpay and front pay with prejudgment interest, in amounts to be determined at trial, reinstatement, restoration of benefits and seniority, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices;

F. Order Defendant to make Plaintiff whole for the unlawful employment practices described above by providing compensation for non-pecuniary losses, including pain, suffering and humiliation in amounts to be determined at trial;

G. An award of litigation costs and expenses, including reasonable attorneys' fees, to the Plaintiff; and

H. Grant such further relief as the Court deems necessary and proper.

JURY TRIAL DEMAND

40. Plaintiff demands trial by jury of all issues triable of right to a jury.

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Attorneys for Plaintiff,
Gurpreet S. Kherha

Dated: February 25, 2010

Of Counsel:

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DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Ravinder S. Bhalla, Esq. of the Law Offices of Ravinder S. Bhalla and Amardeep S. Bhalla, Esq., of the Sikh Coalition, are designated as trial counsel on behalf of Plaintiff, Gurpreet S. Kherha, in the above captioned action.

Law Offices of Bhalla & Cho, LLC

Ravinder S. Bhalla
Attorney for Plaintiff,
Gurpreet S. Kherha

Dated: February 25, 2010

CERTIFICATION PURSUANT TO RULE 4:5-1

I certify that the matter in controversy is not the subject of any other action or arbitration proceeding, now or contemplated, except for the related Charge of Discrimination currently pending before the United States Equal Employment Opportunity Commission and titled Gurpreet Singh Kherha vs. Tri-County Lexus, et al., EEOC Charge #: 524-2009-00144.

I further certify that no other parties should be joined in this action. R.4:5-1.

Law Offices of Bhalla & Cho, LLC

Ravinder S. Bhalla
Attorney for Plaintiff,
Gurpreet S. Kherha

Dated: February 25, 2010