

JUL 09 2009

DAVID CREWS, CLERK
BY  Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

MARC SCOTT SILVERBERG

PLAINTIFF

VERSUS

NO. 2:09CV119-P-S

BOYD TUNICA, INC., D/B/A
SAM'S TOWN CASINO & GAMBLING HALL

DEFENDANT

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual and punitive damages for discrimination based upon national origin, religion and race. Additionally, the suit is based upon retaliation for complaining about discrimination. The following facts support this action:

1.

Plaintiff, MARC SCOTT SILVERBERG, is an adult resident citizen of 11295 Mingo Drive, Hernando, Mississippi 38632.

2.

Defendant, BOYD TUNICA, INC. D/B/A SAM'S TOWN CASINO & GAMBLING HALL, is a Mississippi corporation and an employer within the meaning of the Civil Rights Act of 1964. It does business as Sam's Town Casino & Gambling Hall. It may be served with process upon its registered agent, George Stadler, 1477 Casino Street Resorts Boulevard, Robinsonville, Mississippi 38664.

3.

This Court has federal question jurisdiction under 28 U.S.C. § 1331 and civil rights jurisdiction under 28 U.S.C. § 1343, for a cause of action arising under Title VII of the Civil Rights Act of 1964, as amended by Civil Rights Act of 1991, and under 42 U.S.C. § 1981.

4.

Plaintiff has extensive experience in the food and beverage business. He had a highly successful career as an executive chef and director of food and beverage and was hired by the Defendant as director of food and beverage on approximately May 10, 2006.

5.

As director of food and beverage, Plaintiff supervised approximately three hundred (300) employees. He was a valued employee until Mr. George Stadler became general manager.

6.

Stadler was prejudiced against persons not of his ethnicity. Stadler, a Catholic, despised Plaintiff because Plaintiff is Jewish.

7.

Stadler pretended to be dissatisfied with Plaintiff's job performance and put Plaintiff on a so-called job improvement plan. He ultimately terminated Plaintiff on the alleged ground Plaintiff did not meet the job requirements of the improvement plan.

8.

Additionally, before the decision was made by Stadler to terminate Plaintiff's employment, Plaintiff had made complaints to management about Stadler's ethnic bias. This opposition to discriminatory acts also proximately caused Plaintiff's termination. Plaintiff was terminated on August 22, 2008.

9.

Plaintiff has filed an EEOC charge, attached hereto as Exhibit "A" and received a Right-To-Sue letter, attached hereto as Exhibit "B."

10.

Plaintiff has suffered mental anxiety and stress. He went a lengthy time before obtaining other employment and his new employment pays far less than he made when working for Defendant.

11.

Plaintiff has made extensive mitigation efforts.

12.

Defendant is liable to Plaintiff for discrimination based on race and religion (Jewish) and because of Plaintiff's opposition to discrimination. Defendant is liable under 42 U.S.C. § 1981 and under Title VII of the Civil Rights Act of 1964.

PRAYER

Plaintiff prays for actual and punitive damages in an amount to be determined by a jury, for reinstatement and for reasonable attorneys' fees.

Respectfully Submitted,

WAIDE & ASSOCIATES, P.A.

BY: 

JIM WAIDE
MS BAR NO: 6857

WAIDE & ASSOCIATES, P.A.
ATTORNEYS AT LAW
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Attorneys for Plaintiff

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

CHARGE NUMBER

490-2008-03322

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Marc Scott Silverberg

HOME TELEPHONE (Include Area Code)

662-449-3355

STREET ADDRESS

CITY, STATE AND ZIP CODE

11295 Mingo Drive

Hernando, MS 38632

DATE OF BIRTH

4-9-1953

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Sam's Town Casino & Gambling Hall

NUMBER OF EMPLOYEES, MEMBERS

1000+

TELEPHONE (Include Area Code)

662-363-0711

STREET ADDRESS

CITY, STATE AND ZIP CODE

1477 Casino Street Resorts Blvd., Robinsonville, MS 38664

COUNTY

Tunica

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

RACE COLOR SEX RELIGION AGE
 RETALIATION NATIONAL ORIGIN DISABILITY (Other) Opposition

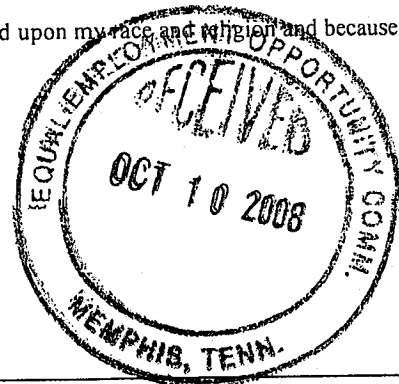
DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) LATEST (ALL)

8-22-08

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was employed by the Respondent for approximately two and one half years. At the time of my discharge, I was director of food and beverage. At the time of my discharge I reported directly to the general manager, George Stadler. Mr. Stadler entertained prejudice against me because of my Jewish religion and race. He made frequent comments about the Jewish people and other racial and ethnic types of comments. He was a very prejudiced person. I made complaints about his treatment of me to the assistant general manager working under him. On or about July 29, 2008, Stadler put me on a performance improvement plan which was totally unjustified. I wrote him back pointing out how the statements he had made about me were incorrect. He caused me to be discharged on or about August 22, 2008.

I request the EEOC to investigate to determine whether I have been the victim of discrimination based upon my race and religion and because I opposed the hostile work environment being created by Mr. Stadler's anti-Semitic remarks.



I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

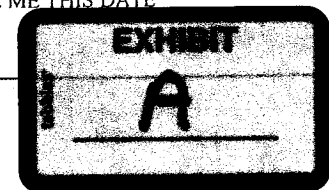
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

10/07/08 *[Signature]*
Date Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)



NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Marc M. Silverberg**
11295 Mingo Drive
Hernando, MS 38632

From: **Memphis District Office**
1407 Union Avenue
Suite 901
Memphis, TN 38104

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
490-2008-03322	Elouise Freeman, Investigator	(901) 544-0102

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in a federal or state court WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Katharine W. Kores
Katharine W. Kores,
Director

APR 14 2009
(Date Mailed)

Enclosures(s)

cc: **Angela Skinner**
Director of Human Resources
SAM'S TOWN CASINO
1477 Casino Strip Drive
Robinsonville, MS 38664

Jim Waide
Attorney at Law
Waide & Associates, P.A.
P.O. Box 1357
Tupelo, MS 38802-1357

