

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington, Suite 3040
Chicago, Illinois 60602

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| IN THE MATTER OF: |) | |
| |) | |
| Terri FOSTER, Complainant |) | Case No. 2013E026 |
| |) | |
| and |) | Entered: November 22, 2013 |
| |) | |
| SYNERGY BANK CONSULTING, INC., |) | |
| Respondent |) | |

ORDER

Complainant Terri Foster (“Foster”) filed the above-captioned Complaint on August 20, 2013, alleging sexual harassment against Respondent Synergy Bank Consulting, Inc. (“Synergy”), in violation of Section 42-35(b) of the Cook County Human Rights Ordinance (“Human Rights Ordinance”). Synergy has moved to dismiss Foster’s complaint with the argument that it is not an employer for the purposes of the Human Rights Ordinance. The Commission grants Synergy’s motion.

The Human Rights Ordinance states that “No *employer* shall directly or indirectly discriminate against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.” Cook County Code of Ordinance (“County Code”), § 42-35(b)(1) (emphasis supplied). The ordinance further defines an “employer” as “[a]ny person employing one or more employees, or seeking to employ one or more employees (a) [i]f the person has its principal place of business within Cook County or (b) [d]oes business within Cook County.” *Id.* at § 42-31.

Synergy argues that it is not an employer because it has no employees and Foster was an independent contractor. Mot. ¶ 2; Exh. 3. The latter point is likely irrelevant. Section 42-35 of the Human Rights Ordinance protects “individuals,” not just “employees.” County Code, § 42-35(b)(1). Under the Commission’s longstanding precedent, the Human Rights Ordinance may extend to an individual formally labeled as an independent contractor so long as the independent contractor is in what functions as an employment relationship with the respondent. *See Collins-Freiburg v. South Cook Broadcasting, Inc.*, 1994E068 (CCHRC May 5, 1998).

Yet the prerequisite to this protection is that the respondent is a covered “employer” for the purpose of the ordinance. Practically speaking, if Synergy does business in Cook County¹

¹ Contracting with independent contractors in Cook County would be more than sufficient.

and has even one employee, then any employment relationships would be covered by the Human Rights Ordinance – including potentially those that Synergy labels as an independent contracting relationships. Synergy, however, does not appear to meet even this low bar. Synergy's Principal Ancin Cooley ("Cooley") attests under penalty of perjury that Synergy does not have any employees at all. *See* Cooley Aff., ¶ 4. Neither Foster nor the Commission's own cursory investigation using publicly available documentation rebuts this testimony. Without even one employee, Synergy is not a covered employer under the Human Rights Ordinance, and the issue of whether Foster's independent contracting relationship with Synergy was sufficiently employee-like to attain the same protections as an employee against sexual harassment is moot.

For the foregoing reasons, the Commission GRANTS Synergy's Motion to Dismiss and orders that complaint 2013E026 be DISMISSED for LACK OF SUBSTANTIAL EVIDENCE of a violation of the Human Rights Ordinance. In accordance with CCHR Pro. R. 480.100(A), either party may file a request for reconsideration with the Commission within 30 days of the date of this order.

November 22, 2013

By delegation:

A handwritten signature in black ink, appearing to read 'Ranjit Hakim', is written over a horizontal line.

Ranjit Hakim
Executive Director of the Cook County
Commission on Human Rights