



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

[REDACTED]  
Complainant,

v.

HOME GOODS,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission (“Commission,”) pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On November 10, 2014, [REDACTED] (“Complainant”) filed a Complaint with the Commission against Home Goods (“Respondent”) alleging discrimination on the basis of race in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Respondent subjected Complainant to an adverse employment action because of his race. In order to prevail, Complainant must show that: (1) he is a member of a protected class; (2) he suffered an employment action; (3) he was meeting his employer’s legitimate performance expectations; and (4) similarly-situated employees of another race were treated more favorably under similar circumstances. It is evident that Complainant is a member of a protected class by virtue of his race, African-American, and that he suffered an adverse employment action when Respondent terminated his employment on or about November 6, 2014. Moreover, there is sufficient evidence to show that Complainant was meeting Respondent’s legitimate business expectations and that Respondent treated similarly-situated employees of another race more favorably under similar circumstances.

By way of background, Respondent hired Complainant as an hourly production employee on or about June 30, 2014. At all times relevant to the Complaint, Respondent’s employment application required him to disclose whether he had been convicted of a crime in the past seven years. While Complainant answered no, he admits that he had several felony convictions from 2002 and 2005, outside of the requested timeframe. Nonetheless, Respondent hired Complainant



and he performed his duties without issue. Several months later, on or about November 6, 2014, Complainant's supervisor handed him a copy of his background check and said that he was terminated because of his felony convictions. Complainant asserts that a bi-racial individual named [REDACTED] and a white employee named [REDACTED] have criminal convictions but are still employed with Respondent.

Despite being given an opportunity to refute Complainant's assertions, Respondent failed to do so. Specifically, the Commission sent request for information to Respondent on or about February 11, 2015 and August 25, 2015 to no avail. Moreover, the Commission sent Respondent a subpoena requesting a response by October 5, 2015; however, Respondent failed to participate in the instant investigation. As Complainant asserts sufficient facts to believe that a discriminatory practice occurred as alleged and Respondent failed to refute Complainant's assertions, probable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910-IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

October 8, 2015

Date

*Akia A. Haynes*

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission