

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF HUMAN RIGHTS

State of Minnesota, by
Dolores Fridge, Commissioner,
Department of Human Rights,

Complainant,

**ORDER ON MOTION
TO COMPEL DISCOVERY**

v.

Green Tree Financial Corporation,
Respondent.

The above-entitled matter is before the undersigned Administrative Law Judge on Complainant's motion to compel discovery. The Respondent objected to Requests Nos. 2 and 3 of Complainant's Request for Admissions (Set 1). On August 11, 1997, the Complainant moved for an order overruling those objections and compelling the Respondent to respond. The record closed on September 5, 1997, upon receipt of Complainant's reply to the Respondent's response to the motion.

Ann Huntrods, Esq., Briggs and Morgan, P.A., 2200 First National Bank Building, St. Paul, Minnesota, 55101, appeared on behalf of Green Tree Financial Corporation ("Respondent").

Erica Jacobson, Assistant Attorney General, 445 Minnesota Street, St. Paul, Minnesota, 55101, appeared on behalf of the Department of Human Rights ("Department").

Based upon all of the files, records, and proceedings herein, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED:

1. That Respondent's objections to Requests Nos. 2 and 3 of Complainant's Requests for Admissions (Set 1) are DENIED; and
2. That Complainant's motion to compel discovery is GRANTED.

Dated this ___ day of September, 1997.

BRUCE H. JOHNSON

Administrative Law Judge

MEMORANDUM

This case involves a disability discrimination claim brought pursuant to the Minnesota Human Rights Act against Green Tree Financial Corporation (hereinafter "Respondent"). It is now before the Administrative Law Judge on the Respondent's motion to compel discovery.

Requests Nos. 2 and 3 of Complainant's Request for Admissions (Set 1) requested the following admissions:

REQUEST NO. 2:

Lawrence Coss received salary and bonus from respondent for the 1996 fiscal year in excess of One Hundred Million Dollars (\$100,000,000).

REQUEST NO. 3:

Lawrence Coss received salary and bonus from respondent for the 1995 fiscal year in excess of Fifty Million Dollars (\$50,000,000).

The Respondent objected to both of these requests on the ground that neither was likely to lead to admissible evidence. Minn. R. Civ. P. 26.02 The Complainant argues that the salary and bonus compensation of the Respondent's chief executive officer is an indicium of the Respondent's financial resources, and if the Complainant prevails on the merits, that information is therefore relevant to the issues of what civil penalty may be appropriate and punitive damages. Complainant also argues that Respondent's financial resources are relevant to the issue of whether accommodating Mr. Hunter's disability would have imposed undue hardship on the Respondent's operations.

There are many ways by which a respondent corporation's financial resources may be measured – gross revenues, net profits, book value of stock, net worth – to name just a few. The salary and other compensation provided to a corporation's chief executive officer is, at best, an uncommon way of measuring its financial resources and one of the least accurate. The Administrative Law Judge finds, however, that the salary and other compensation provided to the Respondent's chief executive officer does meet a minimal test of relevancy with regard to the potentially material issue of the Respondent's financial resources.

But relevant evidence is not always admissible. Minn. R. Evid. 403 provides:

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

There are numerous, far more accurate and enlightening measures of the Respondent's financial resources available to the Complainant than the salary and compensation of the Respondent's chief executive officer. The probative value of the admissions being sought is limited, at best. The salary and compensation provided to the Respondent's chief executive officer is not only a very uncommon measure of the

corporation's financial resources but also a potentially misleading one. For example, companies encountering serious financial difficulties might be motivated to reward a chief executive officer who seems able to extricate them from those difficulties.

The Administrative Law Judge, however, is generally reluctant to make routine rulings on the admissibility of evidence prior to the hearing because motions in limine tend to be framed in the abstract and lack the kind of factual context and foundation that make such matters as relevance, confusion, and prejudice readily apparent. It is for this reason, and this reason alone, that the Administrative Law Judge has granted this motion to compel discovery despite some substantial reservations about whether the admissions, if tendered by the Department, will be found to be admissible at the hearing. This case raises several very serious and significant questions of law and fact. The interests of justice would be better served if the parties directed their energies toward those issues and away from issues that are peripheral at best.

B. H. J.