

**FILED**

JUN 30 2004  
CCM  
LARRY W. PROPPES, CLERK  
CHARLESTON, SC

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION  
CIVIL ACTION NO.: 2:04-1373-23BG

LEE KENT HEMPFLING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF DEFENDANTS
	)	L.M. COMMUNICATIONS OF
L.M. COMMUNICATIONS, INC., A KENTUCKY	)	SOUTH CAROLINA, INC. AND
CORPORATION, L.M. COMMUNICATIONS OF	)	L.M. COMMUNICATIONS II OF
SOUTH CAROLINA, INC., A KENTUCKY	)	SOUTH CAROLINA, INC.
CORPORATION, L.M. COMMUNICATIONS II	)	
OF SOUTH CAROLINA, INC., A KENTUCKY	)	
CORPORATION	)	
	)	
Defendants.	)	
	)	

---

Defendants, L.M. Communications of South Carolina, Inc. ("LMCSC") and L.M. Communications II of South Carolina, Inc. ("LMC II SC") (collectively "Defendants"), answering the Complaint of the Plaintiff, allege and say as follows:

Defendants deny each and every allegation of the Complaint not expressly admitted herein. In response to the Plaintiff's unnumbered first paragraph alleging proper jurisdiction and venue, Defendants state that Plaintiff was employed by LMC II SC and never was employed by LMCSC. Further, LMC II SC has fewer than fifteen employees. Accordingly, the court has no subject matter jurisdiction over a claim against LMCSC or LMC II SC. Defendants further state that the court has neither subject matter jurisdiction of the claims against L.M. Communications, Inc. ("LMC") nor personal jurisdiction over LMC.

10

1. Defendants deny the allegations of the first sentence of paragraph 1. Defendants admit the allegations of the second sentence of paragraph 1.

2. Answering paragraph 2, Defendants admit that Lynn Martin (“Martin”) is a resident of Kentucky and owns 100% of the shares in all three Defendants. Except as specifically admitted, the remaining allegations of paragraph 2 are denied.

3. The Defendants admit the allegations of paragraph 3 upon information and belief.

4. Defendants admit the allegations of paragraph 4.

5. Paragraph 5 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, Defendants deny the same.

6. Paragraph 6 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, the Defendants deny the same.

7. Paragraph 7 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, the Defendants deny the same.

8. Paragraph 8 of the Complaint contains legal conclusions to which no response is required. To the extent that a response is required, the Defendants state that the Civil Rights Act of 1991 speaks for itself.

9. Answering paragraph 9 of the Complaint, Defendant LMCS C denies that it employed the Plaintiff but admits that it employs fifteen or more employees. Defendant LMC II SC denies that it employs or has ever employed 15 or more employees. Except as specifically admitted, the remaining allegations of paragraph 9 are denied.

10. Answering paragraph 10, Defendants admit that the EEOC issued a “right to sue” letter to the Plaintiff on or about March 16, 2004. Except as specifically admitted, the remaining allegations of paragraph 10 are denied.

11. Defendants admit the allegations of paragraph 11.

**ANSWERING THE PORTION OF THE PLAINTIFF’S COMPLAINT ENTITLED  
“THE PARTIES”**

1. Defendants deny the allegations of paragraph 1.

2. Defendants admit the allegations of paragraph 2, upon information and belief.

3. Defendants admit that LMC is a Kentucky corporation with its the principal executive office located in Lexington Kentucky. Except as specifically admitted, Defendants deny the remaining allegations of paragraph 3.

4. Defendants admit that LMCS is a Kentucky corporation with its the principal executive office located in Lexington Kentucky. Except as specifically admitted, Defendants deny the remaining allegations of paragraph 4..

5. Defendants admit that LMC II SC is a Kentucky corporation with its the principal executive office located in Lexington Kentucky. Except as specifically admitted, Defendants deny the remaining allegations of paragraph 5.

**ANSWERING THE PORTION OF THE PLAINTIFF’S COMPLAINT ENTITLED  
“FIRST CAUSE OF ACTION”**

1. Answering paragraph 1, Defendants admit that the Plaintiff served as program director for LMC II SC from January 2002 until July 2002. Defendants deny the remaining allegations of paragraph 1.

2. Defendants deny the allegations of paragraph 2.

3. Defendants deny the allegations of paragraph 3.
4. Defendants deny the allegations of paragraph 4.
5. Defendants deny the allegations of paragraph 5.
6. Defendants deny the allegations of paragraph 6.
7. Defendants deny the allegations of paragraph 7.
8. Defendants deny the allegations of paragraph 8.
9. Defendants deny the allegations of paragraph 9.
10. Defendants deny the allegations of paragraph 10.
11. Answering paragraph 11, Defendants admit that LMC II SC terminated the Plaintiff for unsatisfactory job performance. Except as specifically admitted, the remaining allegations of paragraph 11 are denied.
12. Defendants deny the allegations of paragraph 12.
13. Defendants deny the allegations of paragraph 13.
14. Defendants deny the allegations of paragraph 14.
15. Answering paragraph 15, Defendants state that the referenced September 4, 2002 letter speaks for itself. Defendants deny any remaining allegations of paragraph 15.
16. Defendants deny the allegations of paragraph 16.
17. Defendants deny the allegations of paragraph 17 as well as Plaintiff's request for relief, such allegations being the remaining allegations of the Plaintiff's Complaint.

### **SECOND DEFENSE**

Defendants assert that the Plaintiff has failed to state a claim upon which relief may be granted.

**THIRD DEFENSE**

Defendants assert that all decisions which affected the Plaintiff's employment were based on legitimate business reasons and were not in retaliation against the Plaintiff for participating in any protected activity.

**FOURTH DEFENSE**

Defendants assert that Plaintiff's employment relationship was for an indefinite term and was terminable at the will of either party for any or no reason.

**FIFTH DEFENSE**

Defendants assert that the Plaintiff has failed to mitigate his damages.

**SIXTH DEFENSE**

Defendants assert that the Plaintiff's claims may be barred by the applicable statute of limitations.

**SEVENTH DEFENSE**

Defendants allege that an award of punitive damages in a civil case violates the terms of the United States Constitution and the Constitution of the State of South Carolina, and that therefore, the prayer for such damages should be stricken from the Complaint.

**EIGHTH DEFENSE**

Defendant LMCSA denies that it was an "employer" of the Plaintiff as that term is defined by the Civil Rights Acts of 1964 and 1991. Accordingly, the court does not have subject matter jurisdiction over an action against LMCSA.

**NINTH DEFENSE**

Defendant LMC II SC affirmatively states that it employs, and has always employed, less than 15 employees and therefore does not meet the jurisdictional prerequisites of the Civil Rights Acts of 1964 and 1991. Accordingly, the court does not have subject matter jurisdiction over an action against LMC II SC.

#### **TENTH DEFENSE**

The Plaintiff neither participated in nor opposed any protected activity and was in no way retaliated against for any such participation or opposition.

#### **ELEVENTH DEFENSE**

Defendants give notice that they intend to rely upon any other defense that may become available or appear during the discovery proceedings in this case and hereby reserve their rights to amend their answer to assert any such defense.

#### **LMC II SC's COUNTERCLAIM AGAINST PLAINTIFF FOR DEFAMATION**

1. In a Press Release published by the Plaintiff, attached hereto as exhibit A, the Plaintiff states that LMC II SC filed a “[f]raudulent EEO Report,” “lied in federal forms” and “paid a settlement created in fraud.”

2. The Press Release is defamatory and, upon information and belief, has been published to numerous people.

3. The Plaintiff willfully, maliciously, or recklessly created and published the Press Release for the purpose of injuring LMC II SC.

4. The Plaintiff knew the information contained in the Press Release was false.

{00607097.}

5. The Press Release was created and published with actual malice, and the Press Release is not subject to any qualified or other privilege.

6. Defamatory statements in the Press Release constitute libel *per se*.

7. LMC II SC has been defamed by these false statements and has been damaged in that its reputation has been injured and they have suffered mental pain and anguish and other damages.

8. LMC II SC is entitled to actual and punitive damages to be determined by the trier of fact.

**WHEREFORE**, the Defendants pray that: the Plaintiff's Complaint be dismissed; the court enter a judgment in LMC II SC's favor for actual and punitive damages in an amount to be determined by trier of fact; the court award Defendants reasonable attorney's fees, court costs, and the expenses of this action; and grant such other and further relief as may be deemed just and appropriate.

BUIST MOORE SMYTHE MCGEE P.A.



\_\_\_\_\_  
L. Gregory C. Horton, Fed. ID No. 7103  
5 Exchange Street  
P.O. Box 999  
Charleston, SC 29402  
(843) 722-3400

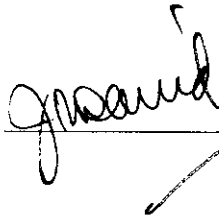
ATTORNEYS FOR DEFENDANTS

June 30, 2004  
Charleston, SC

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing Answer of Defendants L.M. Communications of South Carolina, Inc. and L.M. Communications II of South Carolina, Inc. has been served by depositing the same on the 30<sup>th</sup> day of June, 2004, via U.S. Mail addressed to:

Lee Kent Hempfling  
11329 E. Caballero  
Mesa, AZ 85207  
Plaintiff



---





PR Web (English) >  
AmbosMedios (Español) >  
WunZhang (Traditional Chinese) >

Home About Submit Release PR Firms Editors/Journalists Search Archives  
Global News & Press Release Distribution

June 29, 2004

**CUSTOM NEWS FEED FOR JOURNALISTS**

Customize your free daily PRWEB news feed

**FREE SYNDICATION**

Add these headlines to your web site

**MEMBER LOGIN (SUBMIT YOUR PRESS RELEASE)**

Register Here to Send Your Press Release

**PR Web Help Desk**

Free @PRWeb.com E-Mail

News by Category > News by Country > News by MSA > All News for Today > Browse News by Day >

All Press Releases for February 9, 2004

**Crime Determines Civil Rights in Charleston SC Radio. Justice Department Cover up.**

*Criminal Corruption and Coverup In The Administration of the NAACP Back Door Into The EEOC Controls Justice. Radio Ownership Files Fraudulent EEO Report.*

Phoenix, AZ (PRWEB) February 9, 2004--On March 7, 2002 President Bush announced a "Ten-Point Plan to Improve Corporate Responsibility and Protect America's Shareholders." While the Administration is striking out at business, it is covering up corruption within government.

Lee Kent Hempfling is the plaintiff in 21 allegations of federal and state felony counts submitted to: John Ashcroft, R. Alexander Acosta USDOJ Civil Rights Division, Henry McMaster, SC Attorney General, Robert S. Mueller, Director of FBI, Governor Mark Sanford of SC, Cari M. Dominguez, Chair of the EEOC, J. Strom Thurmond, United States Attorney for SC, Michael Powell, Chair of the FCC, Glenn A. Fine, Inspector General, and Roy Cooper NC Attorney General.

"Each of these people received the document demanding justice. But that was only after Senator Lindsey Graham's office spent five months covering up the allegations of corruption between the EEOC and the South Carolina NAACP, eventually sending them to the accused (the EEOC)."

Hempfling included Richard Perry, Senator Graham's Chief of Staff and Jean Price of Graham's Mt Pleasant SC office in charges of obstructing justice in refusal to forward allegations to the justice department.

It started after Hempfling was fired from his job as Program Director of WCOO (FM) in Charleston S.C. He had spent the previous months trying to hire an African-American female to a full time job. Patricia Thompson, before Hempfling arrived had been passed over for promotion, paid far less than other part-timers and suffered under discrimination at the station. Her complaint, filed with the EEOC stated, "In fact, a white manager tried to get them to hire me to a full time job and they refused and forced him out." She took her complaint to the South Carolina NAACP.

Hempfling filed a complaint directly with the EEOC.

The most recent email from EEOC Program Manager Billy Sanders of the Charlotte Regional Office explained the setup, "...the documents in her file don't mention you in a positive way because she feels you were part of her problem and did not go to bat for her for a full time job so you will need a statement from her to support some of your case."

Sanders went on to turn Hempfling's case around, "RE: Harassment you need to know that if they took some type of discipline against the harasser and it ended we might not find a violation of the law despite having the graphic info. But we will cross them bridges when we get to them."

After sending private secure usernames and passwords to each recipient of the demand for prosecution, an AT&T access account from Charlotte logged in to the secure location (where prosecutors were given the opportunity to view the extensive

> Email this story to a colleague

> Printer Friendly Version

**CONTACT INFORMATION**

**Lee Kent Hempfling**

Visit Our Site  
480-332-1535  
Email us Here

**ATTACHED FILES**

There are no multimedia files attached to this release. If this is your release you may add images or other multimedia files through your login.

**ABOUT PR WEB™ & these News Releases**

If you have any questions regarding information in these press releases please contact the company listed in the press release. Please do not contact PRWeb. We will be unable to assist you with your inquiry. PRWeb disclaims any content contained in these release. Our complete disclaimer appears here.



evidence in the case) using the private credentials of Cari Dominguez, Chair of the EEOC. The access came from Fayetteville NC, obviously not Dominguez.

The intruder, who could only have received those credentials from inside the Office of the Chair of EEOC did not make it inside the secure server as Dominguez's name was misspelled in the server. EEOC was banned from access after that incident.

Thompson, mother of University of South Carolina Defensive End (#91) Moe Thompson settled her case with WCOO, L.M. Communications Inc., (Lynn Martin of Lexington, KY) in May 2003, after Sanders had canceled Hempfling's fact-finding meeting.

L.M. Communications Inc. filed FCC 396, The Broadcast Equal Employment Opportunity Report with the FCC on July 28, 2003. Sanders and the EEOC had never processed, never ruled and never held a fact-finding meeting in Hempfling's EEOC case and as of his letter of August 20, 2003 was presenting a continuation to Hempfling. Sanders wrote, "I am waiting to hear from their attorney re the Fact Finding Conference. I will be leaving the office shortly and will not be back until next Wednesday so if you need me you can call me on my cell @ (704) 564-xxxx. C U Later "

L.M. Communications' FCC 396 listed Hempfling's case as "IN LATE 2002, A FORMER EMPLOYEE, LEE HEMPFLING, FILED A COMPLAINT BEFORE THE EEOC (FILE NO. 140A20187) AGAINST WCOO ALLEGING WRONGFUL TERMINATION BECAUSE OF HIS JEWISH HERITAGE. THE LICENSEE DISPUTES THIS CLAIM. THERE HAS BEEN NO FURTHER ACTION TAKEN BY THE EEOC ON THIS MATTER."

The case number is not Hempfling's case number. The accusation was retaliation, not heritage and the EEOC was obviously talking about contacting the broadcaster's lawyers about a 'fact-finding' meeting months after that illegal and fraudulent form was filed. Hempfling had suffered 42 different acts of harrassment including receiving a threatening email containing the photo of Yassar Arafat and Palestinian gunmen and an illegal reduction in station power during a rating period.

If the USDOJ had bothered to look at any of the evidence they were given access to they would have found copies of all original documents submitted by Patricia Thompson to the NAACP; a copy of Thompson's signed and dated original EEOC Form 5 submission; documents and emails written by Thompson, Darby and others showing Sanders' claims to be fraudulent and the documents contained in the settled case to be tampered with; Thompson's complaint letters to L.M. Communications showing the truth of her original claims and many other documents proving beyond any doubt that numerous civil rights were violated in this case.

Patricia Thompson had submitted her EEOC complaint to the South Carolina NAACP through The Reverend Joseph Darby and then SCNAACP First V.P. Dwight James. Hempfling had submitted his EEOC complaint directly to EEOC in the mail. It took repeated demands and two months for a confirmation to be sent to Hempfling and then it was dated on a date documents show it was not received on.

Hempfling had submitted a valid complaint of seven FCC rule and law violations to the FCC, three times. Each one was lost and ignored. The EEOC complaint contained a copy of it.

A radio station facing license renewal (filed July 28, 2003) settled a case claiming unequal pay and discriminatory terms and conditions of employment in order to get rid of the much larger case facing them from Hempfling and Billy Sanders of the EEOC claimed in his final correspondence with Hempfling to have taken care of the details.

Civil rights were violated by EEOC, FCC, SCNAACP, L.M. Communications and individuals.

On 2, February 2004 The Justice Department's Civil Rights Division wrote Hempfling to inform him "We have carefully reviewed the information you furnished." (The USDOJ never accessed the extensive evidence provided for the case). "However, we have determined that your complaint does not involve a prosecutable violation of federal criminal civil rights statutes."

In a further insult the USDOJ recommended, "You may wish to contact the nearest legal aid program..."

Hempfling and his wife Suesie, who's marriage was in a radio station, on the air in Fort Smith Arkansas and covered by CNN over a decade ago, lost everything they had attempting to stay in South Carolina for the 'fact-finding' conference. The USDOJ was not advised of that fact.

"We put country above self," Said Hempfling, " as we stuck it out as long as we could after we learned Sanders was working for the South Carolina NAACP and was killing my case to get the African-American's case preferential treatment. It was something my President had asked citizens to do and we felt it was right. It meant we stayed too long. It meant we ran out of money and sold everything we owned in a cheap garage sale, just to have money to drive to a place where a roof might be."

Hempfling continued, "Of all of the Presidents I have lived with in my life, George Bush has been the only one I actually felt love for, but if this is what his Administration does to people who suffer at the hands of a Republican Senator, bureaucrats, a Republican Justice Department and special racially discriminating interests, my wife Suesie and I are two conservative Republicans who insist this Administration either puts a stop to covering up corruption inside this government or is replaced by one that will."

L.M. Communications lied in federal forms and paid a settlement created in fraud after firing a white person for attempting to uphold the rights of a black person. FCC lost and covered up a valid detailed complaint, sent repeatedly, involving regulations and laws. EEOC refused to hear the white person's case and used it to receive a settlement for the African -American's case in order to give preferential treatment to a minority and protect a radio station's license. A United States Senator's office refuses to advise Justice of their knowledge of federal offenses for five months. The Justice Department refuses to look at the evidence and rules it is not a valid civil rights case.

If this is not a violation of civil rights: Americans do not have any.

Not one federal or state prosecutor has acquired the evidence. The only response has been from the Civil Rights Criminal Division (they were sent a copy as well, but it was returned with their public box closed) and US Attorney J. Strom Thurmond will not return Hempfling's telephone call.

Access to the secure site for prosecutors is available to the media by request and agreement to confidentiality.

"Our government has blown us off." Says Hempfling (known as Lee Kent in radio), "My wife and I are STILL wholly against bigotry of any nature. I did the right thing at the station."

###

Press access to evidence in the reporter's notebook is:

username: press  
password: access

[www.rollovermartin.com](http://www.rollovermartin.com)  
Access is for Press Only.

**Disclaimer:** If you have any questions regarding information in these press releases please contact the company listed in the press release. Please do not contact PR Web™. We will be unable to assist you with your inquiry. PR Web™ disclaims any content contained in these release. Our complete disclaimer appears here.

© Copyright 1997-2004, PR Web™. All Rights Reserved

[Terms of Service](#) | [Privacy Policy](#)