

IN THE MATTER OF: The Nova Scotia *Human Rights Act* (the “Act”)

and

IN THE MATTER OF: Board File No. 5100-30 H10-2463

BETWEEN:

Charmaine Wynn

(“Complainant”)

- and -

Aramark Canada Limited

(“Respondent”)

- and -

The Nova Scotia Human Rights Commission

(“NSHRC”)

DECISION OF THE BOARD OF INQUIRY

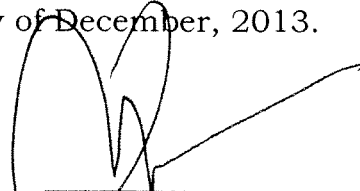
This is my decision for the Board of Inquiry concerning the above matter. This inquiry was mandated to enquire into allegation of discrimination under s. 5(1)(i)(j) of the Act on the grounds of race/colour. I have decided to conclude the inquiry after reviewing the settlement agreement presented by the parties and after considering the public interest.

The complaint was referred to me for conclusion by agreement among all parties pursuant to section 34(5) of the Act. I have reviewed the Settlement Agreement which is attached to this decision. It appears the settlement reflects the principal objectives of the *Human Rights Act* in educating persons about the fundamental importance of human rights, educating on the values and purposes of human rights, and finally, in settling complaints as the preferred means of resolving human rights

disputes that occur from time to time. I commend the parties for their success in reaching the settlement.

Finally, the public interest has been considered and served by resolving this complaint in the manner settled by the parties. I see no further reason to continue the inquiry.

Dated at Oakville, Ontario, this 11th day of December, 2013.



Cynthia L. Chewter
Board Chair

2013

RESTORATIVE AGREEMENT AND CONSENT ORDER

Between: Charmaine Wynn

-and-

Aramark Canada Limited

-and-

The Nova Scotia Human Rights Commission

Preamble

The parties to this matter have worked collaboratively to resolve the issues arising from the complaint of Ms. Charmaine Wynn, filed with the Nova Scotia Human Rights Commission ("Commission") on November 21, 2011, under the *Nova Scotia Human Rights Act*, against Aramark Canada Ltd ("Aramark"). Ms. Wynn alleged racial discrimination by a manager of the company. Ms. Wynn is African Nova Scotian. The manager in question no longer works with the company.

The parties have engaged in a restorative process to create a forward-looking plan. The components below form the Agreement and the following terms have been ordered:

Components of the Plan

Prevention

1. The parties and the NSHRC have agreed on the importance of preventing racial discrimination in the workplace.
2. The Race Relations Equity and Inclusion Unit of the NSHRC has agreed to provide Aramark with human rights education training, namely, "Train the Trainers." Managers across Aramark Nova Scotia will be provided with training and skills to inform other employees on important human rights employment issues, including cultural competency and respectful workplace training.
3. With regard to human rights education training, the Race Relations Equity and Inclusion Unit of the NSHRC agreed to provide employers, including Aramark, with feedback on employee participation in human rights education training when training is mandated by the employer.

Communication

4. The parties have discussed the kinds of communication, policy and training needs required to ensure a safe and respectful work environment.
5. The conversation between the parties provided education on the obligations for both parties to ensure a safe working environment, including the importance of providing direct and upper level management with information on issues arising in the workplace.
6. Aramark has agreed to explore ways to ensure the policies and procedures of the company are well-known and communicated to employees. Although Aramark had a number of programs in place to enable aggrieved employees to raise concerns directly with management, Aramark agreed to implement measures to ensure programs are well known to employees. For example, focusing on opening lines of communication via the hotline that's in place by improving accessibility, knowledge and credibility.

7. The NSHRC, Dispute Resolution Unit, agreed to encourage and foster open communication between Complainant and Respondents and also to encourage this communication with or without the participation of the Commission at the investigation stage and at the resolution conference of a human rights complaint.

Needs of the Complainant

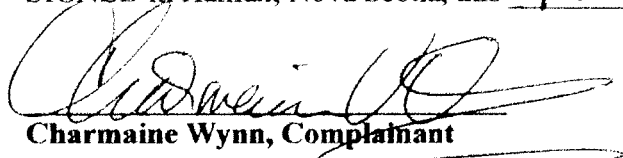
8. Aramark has agreed to provide a written apology to Ms. Wynn on behalf of the company with respect to the treatment Ms. Wynn received from the manager in question, Chef Angela Manchuk. A copy of the apology letter will be attached to the Agreement and marked as "Schedule A."
9. Manager Glenda Williams offered a verbal apology during the restorative process for the miscommunication and misunderstandings that arose between herself and Ms. Wynn during the timeframe in question. Ms. Williams confirmed that Ms. Wynn was an excellent, helpful, and hardworking employee. The Complainant, Charmaine Wynn, accepted the apology, forgave Ms. Williams and together, they restored their relationship.
10. Aramark has agreed to provide a reference letter to Ms. Wynn outlining her excellent service with the company. A copy of the reference letter will be attached to the Agreement and marked as "Schedule B."
11. Aramark further agreed to provide Ms. Wynn with a sum of \$7,500 in general damages, to be paid within 14 days of receipt of written notification of the Board Chair's approval of this Agreement.

Other Components the Plan

12. Ms. Wynn and the NSHRC understand and accept that Aramark does not, by this Restorative Agreement, admit any liability.
13. In consideration of the payment set out in paragraph 11 and the other commitments given by Aramark in this Agreement, Ms. Wynn and anyone representing Ms. Wynn or her estate hereby irrevocably release Aramark and anyone employed by or associated with Aramark from any claim, action or cause of action Ms. Wynn has or may have by reason of the facts giving rise to her complaint or with respect to her employment and its cessation. Ms. Wynn undertakes that neither she nor anyone representing her or her estate will make any further claims or take legal action against Aramark, or anyone employed or associated with Aramark in respect of the facts giving rise to her complaint.
14. Aramark understands and accepts that this release of liability does not take away from the significance of the complaint for the Complainant and acknowledges the hurt feelings of Ms. Wynn. Although there is no legal admission of liability, the parties acknowledge there are insights they have gained that they were not aware of at the time of the complaint and surrounding circumstances.
15. The parties agree that if there are any problems implementing this Agreement, the consent order will be registered with the Supreme Court of Nova Scotia.
16. The NSHRC may report publicly, the fact of the settlement, and its terms. All parties understand and agree that the terms of this Agreement may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act*, and as otherwise required by law.
17. Ms. Wynn and Aramark understand and agree that they have not received advice from staff, officers, the facilitator or legal counsel of the NSHRC, with respect to the terms of this


Agreement; including but not limited to implications regarding taxation liability under the *Income Tax Act*, employment insurance benefit repayment, or insurance policy repayments. Ms. Wynn acknowledges that neither Lisa Teryl, Commission legal counsel, or Lauren Jones, Commission Restorative Facilitator, are representing Ms. Wynn or provided her with legal advice.

SIGNED in Halifax, Nova Scotia, this 19 ^{November} day of ~~October~~ 2013



Charmaine Wynn, Complainant

SIGNED in Montreal, Quebec, this 5th ^{November} day of ~~October~~ 2013



George MacMaster, on behalf of Aramark Canada Ltd., the Respondent

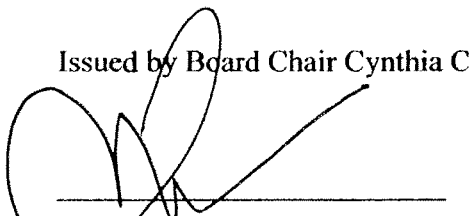
By the signature of its authorized agent under Section 32(1) of the *Act*, the NSHRC gives its approval to the terms of this Agreement.

SIGNED in Halifax, Nova Scotia, this 20th day of November 2013.



Nova Scotia Human Rights Commission

Issued by Board Chair Cynthia Chewter on 11th ^{December} day of ~~November~~, 2013.



Cynthia Chewter, Board Chair