

804 CMR 10.00: ENFORCEMENT OF COMMISSION DECISIONS

Section

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10.01: Scope

804 CMR 10.00 prescribes the procedures for enforcement of Commission decisions. The objectives of enforcement of a Commission decision are to assure that the complainant is afforded the relief he or she is entitled to as a matter of law and to assure that the respondent is complying with the provisions of a final Commission or judicial decision affixing liability and providing a remedy.

10.02: General Provisions

In instances where the Commission has rendered a final agency action finding a respondent liable under M.G.L. c. 151B, the Commission may commence any or all of the enforcement actions specified by 804 CMR 10.00 in order to enforce said final agency action, provided however, that the respondent against whom such finding has been made has exhausted all judicial remedies which may be available to him/her. Enforcement actions include the following:

- (a) Public Notice Actions;
- (b) On-site Inspection;
- (c) Commission Initiated Judicial Action;
- (d) Designation of Counsel for Party Initiated Judicial Action;
- (e) Attorney General Referral.

10.03: Prerequisites to all Enforcement Actions

The following are preconditions to the Commission commencing enforcement action under 804 CMR 10.00:

- (1) the Commission shall determine that the respondent has no further judicial remedies;
- (2) the Commission shall determine the final order affixing liability. The final order shall be either:
  - (a) the final unappealed Commission decision; or
  - (b) the decision of the Superior Court affirming or modifying the final Commission decision; or
  - (c) the decision of the Appeals Court or the Supreme Judicial Court affirming or modifying the final Commission decision.
- (3) In instances where the respondent has been ordered to make a monetary payment to the complainant, to reinstate to employment, to promote, to provide complainant with housing or to otherwise provide complainant with an employment, real estate, or public accommodations benefit, the Commission shall inquire with the complainant to ascertain whether the final order has been complied with. Such inquiry shall be made no less than 30 days prior to the commencement of an enforcement action.
- (4) Where the final order has not been complied with, the Commission shall issue to the respondent a demand letter no less than thirty days prior to commencement of any or all of the enforcement actions specified herein. The demand letter shall outline the final order of liability and specify that unless the final order is complied with by a date certain, the Commission will commence enforcement action. Respondent shall be appraised of all enforcement actions specified by this sub-part.

804 CMR: MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

10.04: Public Notice Actions

The Commission may commence to enforce a final order by undertaking any or all of the following actions:

- (1) Issuing press releases which specify the name and the business address of the respondent, the nature of the complainant's claim, the finding of liability, the order of relief, and the fact that respondent has not complied with such order. Press releases may be issued at press conferences convened by the Commission.
- (2) Placing legal notices in the newspaper whose circulation encompasses the geographic area in which the respondent's business or real estate is located. Such notice shall contain the information set forth in 804 CMR 10.04(1).
- (3) Posting a notice of non-compliance upon the business premises of the respondent or upon the real estate in question. Such notice shall recite the fact that the respondent has been found liable by the Commission and that the respondent has failed to comply with the order(s) issued by the Commission. All notices shall contain a statement informing the general public of the Commission's finding that the respondent committed an act of discrimination in violation of M.G.L. c.151B. The notice shall also contain a statement that willful removal of the notice constitutes a violation of M.G.L. c. 151B, § 8 may result in a Commission initiated complaint and assessment of monetary damages and/or civil penalties. The specific content of said notice may be varied but shall conform to the principles stated in this subsection and to the following format:

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

Notice of Non-Compliance

The MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION has found that the owner of these premises committed an act of discrimination in violation of M.G.L. c. 151B. As a result, the Commission ordered said owner to pay monetary damages to the victim as compensation for this violation of the civil rights laws of Massachusetts. Said owner is delinquent in paying such damages, or in cooperating in the payment thereof.

NOTE: Willful removal of this notice constitutes a violation of M.G.L. c. 151B, § 8 and may result in the issuance of a Commission initiated complaint and assessment of monetary damages and/or civil penalties.

THIS NOTICE IS PLACED BY ORDER OF THE COMMISSION THIS \_\_\_\_ DAY OF \_\_\_, 199

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Chairman, Massachusetts Commission Against Discrimination

10.05: On-Site Inspections

The Commission may commence to enforce a final order by undertaking an on-site inspection.

- (1) The purpose of such inspection will be to review the respondent's progress in complying with the final order.
- (2) Following an on-site inspection, the Commission shall issue a report to the respondent and complainant which defines any noted deficiencies. Furthermore, the Commission may reopen the case, issue requirements for periodic reports from the respondent on steps taken to ameliorate the deficiency, issue Commission initiated complaints, and take whatever other steps are necessary to correct the deficiencies.

REGULATORY AUTHORITY