

**BEFORE THE UNITED STATES DEPARTMENT OF LABOR  
CIVIL RIGHTS CENTER**

Emily Bagby, and all similarly	)	
situated persons,	)	
	)	
Complainant,	)	COMPLAINT UNDER THE
	)	WORKFORCE INVESTMENT ACT
v.	)	OF 1998
	)	
Asheville Buncombe Community	)	
Christian Ministry,	)	
	)	
Respondent.	)	
	)	

**ADMINISTRATIVE COMPLAINT**

This is an administrative complaint filed pursuant to the nondiscrimination and equal opportunity provisions of the Workforce Investment Act of 1998. The complaint is filed on behalf of Emily Bagby, a female veteran of the United States Army, and all similarly situated persons against Asheville Buncombe Community Christian Ministry (“ABCCM”). The complainant maintains that ABCCM, which receives federal funding from the United States Department of Labor, has discriminated against her on the basis of sex by denying her and all similarly situated female veterans the same aid, benefits, and training that is provided to male veterans through ABCCM’s veterans training and restoration programs.

The complainant therefore requests the Civil Rights Center of the United States Department of Labor to: (1) Accept jurisdiction and fully investigate these claims; (2) Compel ABCCM to overhaul its current policies and practices that prohibit female veterans from participating in the job training and educational programs provided to male veterans; (3) Monitor and track the provision of job training and educational programs through the Veterans

Restoration Quarters at ABCCM to ensure that there is an equal opportunity for female veterans to participate in these programs; and (4) Grant any and all relief to complainant and similarly situated persons as appropriate to remedy the discrimination described herein and as determined by any investigation into these claims.

## **I. INTRODUCTION**

ABCCM is a cooperative ministry of churches in Asheville and Buncombe County, North Carolina that provides assistance and services to the homeless, veterans, and families in poverty.<sup>1</sup> While ABCCM's mission is to provide basic necessities, professional training, mentors, and employment opportunities for veterans, its current operation excludes female veterans from many of these opportunities in violation of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act of 1998.

Some of the programs provided by ABCCM include its Veterans Employment and Training Services ("VETS") program and its Green Jobs program which are designed to assist with skills assessment training, job placement, and coaching for those seeking new career level jobs "to break the bonds of homelessness and poverty."<sup>2</sup> Its Veterans Workforce Investment Programs offer concentrated education, job training, on-the-job training, apprenticeships, job placement, and follow-up for 18 months after placement.<sup>3</sup> These programs are provided at ABCCM's Veterans Restoration Quarters, which is the transitional housing facility for men.<sup>4</sup>

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<sup>1</sup> See Ending Homelessness Among Veterans: VA's Progress on its Five-Year Plan: Hearings Before the U.S. Senate Committee on Veterans' Affairs, 112<sup>th</sup> Cong. (2012) [hereinafter Hearings] (statement of Reverend Scott Rogers); Asheville Buncombe Community Christian Ministry, History, *available at* <http://www.abccm.org/about/history>.

<sup>2</sup> *Id.*

<sup>3</sup> Hearings, *supra* note 1 (statement of Reverend Scott Rogers).

<sup>4</sup> Asheville Buncombe Community Christian Ministry, History, *available at* <http://www.abccm.org/about/history>. The Veterans Restorations Quarters campus currently houses approximately 250 men. Hearings, *supra* note 1 (statement of Reverend Scott Rogers).

Women are housed at a separate transitional housing facility, the Steadfast House,<sup>5</sup> and are not granted access to the same educational services and training opportunities provided to men.

As described by ABCCM on its website, the men's Veterans Restoration Quarters ("VRQ") is designed to "create a Christ-centered environment and comprehensive residential program that addresses every area of restoration in the life of a homeless veteran. We work to provide each man with stability, personal skill building, educational and training opportunities leading to employment and housing and restoration of personal dignity, faith and strength."<sup>6</sup> Some of the educational and training programs offered include training in the culinary arts, truck driving, "green collar" jobs, construction, and internet technology.<sup>7</sup> Female veterans do not have access to these same opportunities. As described by ABCCM, "[w]omen at Steadfast House attend a variety of life skills classes and learn how to build esteem, manage emotions such as depression and anger, develop and maintain sobriety through recovery, and practical skills."<sup>8</sup> Women are offered classes such as knitting, art therapy, yoga, meditation, how to de-clutter your room, self-esteem, and bible study.<sup>9</sup>

As a female veteran, the complainant was entitled to receive the same aid, benefits, services and training provided to male veteran program participants at ABCCM, and she files this Complaint on behalf of herself and all similarly situated individuals.

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<sup>5</sup> Asheville Buncombe Community Christian Ministry, History, *available at* <http://www.abccm.org/about/history>. The Steadfast House currently houses approximately 45 women and children. Hearings, *supra* note 1 (statement of Reverend Scott Rogers).

<sup>6</sup> Asheville Buncombe Community Christian Ministry, Veterans, *available at* <http://www.abccm.org/ministries/veterans?id=11>.

<sup>7</sup> Hearings, *supra* note 1 (statement of Reverend Scott Rogers).

<sup>8</sup> Asheville Buncombe Community Christian Ministry, Women and Children, *available at* <http://www.abccm.org/ministries/women>.

<sup>9</sup> See Decl. of Emily Bagby, at Exhibit 1.

## **II. JURISDICTION**

This complaint is authorized by the Workforce Investment Act of 1998 (“WIA”). The U.S. Department of Labor, Civil Rights Center, has jurisdiction over a claim involving discrimination on the basis of sex. The WIA mandates that “[n]o individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of . . . sex.”<sup>10</sup> The Civil Rights Center (“CRC”), in the Office of the Assistant Secretary for Administration and Management, of the U.S. Department of Labor “is responsible for administering and enforcing the nondiscrimination and equal opportunity provisions of WIA.”<sup>11</sup>

Respondent ABCCM is the recipient of federal financial assistance through WIA Title I and is therefore subject to the nondiscrimination and equal opportunity provisions of the WIA. The discrimination detailed in this complaint is both ongoing and has occurred within the last 180 days.

## **III. COMPLAINANT**

The complainant is a female veteran who, at all relevant times, was excluded from or denied the opportunity to participate in ABCCM’s job training and educational programs provided to male veterans at the VRQ. She brings this complaint on behalf of herself and all other similarly situated female veterans.

Emily Bagby<sup>12</sup> is a 28-year-old female veteran of the United States Armed Forces. She served in the United States Army from September 2006 through September 2009 as a supply

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<sup>10</sup> 29 U.S.C. § 2938 (a)(2).

<sup>11</sup> 29 C.F.R. § 37.12.

<sup>12</sup> See Decl. of Emily Bagby, at Exhibit 1.

clerk in Fort Gordon, Georgia, where she inventoried weapons, computers, and other property for the battalions underneath 15<sup>th</sup> Signal Brigade. She received an honorable discharge.

Ms. Bagby lived at ABCCM's Steadfast House from July 2011 through February 2012. She exited the Steadfast House on or about February 11, 2012. During her time at the Steadfast House, Ms. Bagby was interested in receiving job training and educational programming, but she was not offered the opportunity to participate in the programs provided to men at the VRQ, such as culinary arts, truck driving, green collar job training, registered nurse training, construction, and computer technology. Instead, Ms. Bagby was offered classes at the Steadfast House consisting of knitting, art therapy, yoga, meditation, how to de-clutter your room, self-esteem, and bible study. These classes were offered on a master calendar in the hallway of the Steadfast House.

Ms. Bagby desired the same job training and educational opportunities provided to male veterans by ABCCM, but these opportunities were not provided to female veterans at the Steadfast House, and female veterans were not permitted to visit the VRQ without permission. Moreover, while residing at the Steadfast House, Ms. Bagby was not provided help accessing or obtaining social services, applying to school or obtaining financial aid, or obtaining employment or permanent housing. The opportunities offered at the Steadfast House did not prepare her for future employment and self-sufficiency.

#### **IV. RESPONDENT**

Respondent ABCCM is a cooperative ministry supported by approximately 300 congregations in the Ashville and Buncombe County, North Carolina area.<sup>13</sup> As a result of the governmental efforts to increase public/private partnerships with faith-based organizations, ABCCM is currently the recipient of federal financial assistance through multiple grants and

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<sup>13</sup> Hearings, *supra* note 1 (statement of Reverend Scott Rogers).

contracts. Specifically, ABCCM is the recipient of federal financial assistance through a U.S. Department of Labor Veterans Workforce Investment Program (“VWIP”) grant, and a Homeless Veterans Reintegration Program (“HVRP”) grant to provide education and training for veterans.<sup>14</sup> Recently, ABCCM received \$200,000 through the HVRP for the year 2012.<sup>15</sup> ABCCM has also received federal financial assistance through the U.S. Department of Veterans Affairs (“VA”) Grant and Per Diem (“GPD”) contract since 2003, and they currently have four GPD programs which encompass 148 homeless men and 10 homeless women for a total of 158 beds.<sup>16</sup> As a result, they are the third-largest contractor of GPD services in the country.

## **V. DISCRIMINATION PROHIBITED UNDER THE WIA**

### **A. The WIA Prohibits Recipients of Federal Financial Assistance from Discriminating on the Basis of Sex**

The WIA explicitly prohibits individuals from being “excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity” on the basis of sex.<sup>17</sup> The WIA’s implementing regulations provide, in relevant part, that a recipient of federal financial assistance under the WIA must not discriminate on the basis of sex by:

- (1) Deny[ing] an individual any aid, benefits, services or training provided under a WIA Title I – funded program or activity;
- (2) Provid[ing] to an individual any aid, benefits, services, or training that is different, or is provided in a different manner, from that provided to others under a WIA Title I – funded program or activity;
- (3) Subject[ing] an individual to segregation or separate treatment in any matter related to his or her receipt of any aid, benefits, services, or training under a WIA Title I – funded program or activity;

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<sup>14</sup> *Id.*

<sup>15</sup> <http://www.dol.gov/opa/media/press/vets/VETS20121351.htm>

<sup>16</sup> *Id.*

<sup>17</sup> 29 U.S.C. § 2938 (a)(2).

- (4) Restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, benefit, services, or training under a WIA Title I – funded program or activity;
- (5) Treat[ing] an individual differently from others in determining whether he or she satisfies any admission, enrollment, eligibility, membership, or other requirement or condition for any aid, benefits, services, or training provided under a WIA Title I – funded program or activity;
- (6) Deny[ing] or limit[ing] an individual with respect to any opportunity to participate in a WIA Title I – funded program or activity, or afford him or her an opportunity to do so that is different from the opportunity afforded others under a WIA Title I – funded program or activity.<sup>18</sup>

In addition to prohibiting discrimination, the WIA requires recipients to take affirmative action to ensure the inclusion of members of both sexes in the programs and activities funded through WIA Title I. Specifically, the implementing regulations require that recipients “take appropriate steps to ensure that they are providing universal access to their WIA Title I – financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes.”<sup>19</sup>

**B. ABCCM Excludes Female Veterans from Participating in Job Training and Educational Programming in Violation of the WIA**

ABCCM excludes female veterans from participating in the job training and educational programming opportunities provided to male veterans residing at the VRQ, and by doing so has denied them the aid, benefits, services, and training provided under a WIA Title I – funded program or activity. Specifically, Reverend Scott Rogers, Executive Director of ABCCM, acknowledged at the U.S. Senate Committee on Veteran’s Affairs that male veterans are provided 24 different job training programs at the VRQ while female veterans are offered 16 different personal skill-building programs at Steadfast House.<sup>20</sup> According to Rev. Rogers’

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<sup>18</sup> 29 C.F.R. § 37.6 (b).

<sup>19</sup> 29 C.F.R. § 37.42.

<sup>20</sup> Hearings, *supra* note 1 (statement of Reverend Scott Rogers).

testimony, the job training programs that male veterans have available to them include a 14-month registered nursing program, a six-month internet technology certification program, a five-week truck driver's training program, green collar job training in solar technology, LEED building design, and bio-fuel technology, and culinary arts and hospitality management programs.<sup>21</sup> Female veterans do not have access to these programs. Instead, they are provided personal skill-building programs related to keeping a home and maintaining emotional well-being. The 16 personal skill-building programs include knitting, de-cluttering your room, self-esteem, art therapy, yoga, and bible study.

Upon information and belief, in January or February 2012, ABCCM Program Director Michael Reich came to the Steadfast House to speak with the female veterans. Mr. Reich discussed the job training and educational programs available to male veterans at the VRQ. When asked by a participant if female veterans could join in the VRQ job training and educational programs, Mr. Reich said no, and explained that allowing females in the program with males would change the dynamics of the group.

By excluding female veterans from participating in the job training and educational programs available to male veterans and by providing them with programs or services that are fundamentally different and inferior than those offered to male veterans, ABCCM is engaging in discrimination on the basis of sex. ABCCM has denied female veterans from participating in federally financed programs and activities, and instead ABCCM has offered female veterans "skill-building" programs that are fundamentally different from the opportunities afforded to male veterans. Furthermore, ABCCM has restricted female veterans from enjoying the privileges and advantages enjoyed by male residents of the VRQ, and has fundamentally denied female veterans from accessing the professional development, training, and educational

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<sup>21</sup> *Id.*

programming necessary for them to seek permanent employment and permanent housing. As a result, ABCCM has violated the nondiscrimination and equal opportunity provisions of the WIA.

By denying women access to the job training and educational programming opportunities, ABCCM is exacerbating existing barriers for female veterans. Female veterans are already four times more likely than their civilian counterparts to experience homelessness.<sup>22</sup> According to the United States Interagency Council on Homelessness, this is occurring because female veterans are unable to achieve access into the labor market. Female veterans often experience a lack of job training and skills assessments, and difficulty transferring the skills obtained while in the military to the civilian economy.<sup>23</sup> Moreover, in a study conducted by the U.S. Department of Labor, Women's Bureau, one common reason identified for the increasing number of homeless female veterans was the exclusion of female veterans from programming.<sup>24</sup> In the experience of the female veterans in the study, they reported that existing programs and services for veterans often favor men and fail to ensure equality in the level and types of assistance provided to women, as is unfortunately the case with ABCCM.

## **VI. CONCLUSION**

Based on the foregoing, the complainant by and through the undersigned counsel respectfully requests the Civil Rights Center of the United States Department of Labor to: (1) Accept jurisdiction and fully investigate these claims; (2) Compel ABCCM to overhaul its current policies and practices that prohibit female veterans from participating in the job training and educational programs provided to male veterans; (3) Monitor and track the provision of job

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<sup>22</sup> United States Interagency Council on Homelessness, Female Veterans: With Increased Risk, Specific Needs to Overcome Homelessness, *available at* [http://www.usich.gov/population/veterans/veterans\\_homelessness\\_in\\_focus/female\\_veterans\\_have\\_an\\_increased\\_risk\\_of\\_homelessness\\_and\\_specific\\_needs\\_t/](http://www.usich.gov/population/veterans/veterans_homelessness_in_focus/female_veterans_have_an_increased_risk_of_homelessness_and_specific_needs_t/).

<sup>23</sup> *Id.*

<sup>24</sup> United States Department of Labor, Women's Bureau, Homeless Women Veterans Listening Sessions, *available at* <http://www.dol.gov/wb/programs/listeningsessions.htm>.

training and educational programs through the Veterans Restoration Quarters at ABCCM to ensure that there is an equal opportunity for female veterans to participate in these programs; and

(4) Grant any and all relief to complainant and similarly situated persons as appropriate to remedy the discrimination described herein and as determined by any investigation into these claims.

Dated this 25th day of July 2012.

Respectfully submitted,



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DECLARATION

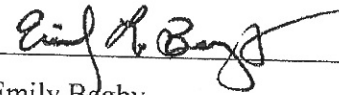
I, Emily Bagby, declare the following is true to the best of my knowledge.

1. I am 28 years of age and competent to testify to the matter set forth in this declaration.
2. I am a veteran of the United States Armed Forces. I served in the United States Army from September 2006 to September 2009 as a supply clerk in Fort Gordon, Georgia. I inventoried all of the weapons, computers, and other property owned by my commander, who was responsible for the battalions underneath 15<sup>th</sup> Signal Brigade. I received an honorable discharge from the Army.
3. I lived at Steadfast House from July 2011 to February 2012 through a program that helps homeless female veterans. I left Steadfast on or about February 11, 2012.
4. During all of my time at Steadfast House, I was not offered the opportunity to participate in job training or education programs such as culinary arts, truck driving, "green collar" job training, RN training, construction, or internet technology. To my knowledge, none of the women at Steadfast House, including the veterans, were offered such training or educational services.
5. Instead, the women at Steadfast were offered classes such as knitting, art therapy, yoga, meditation, how to unclutter your room, self-esteem, and Bible study. These classes were offered on a master calendar in the hallway. We were also required to volunteer at the ABCCM thrift store if we did not otherwise have employment or schooling.
6. It is my understanding that male veterans at the ABCCM Veterans Restoration Quarters (VRQ) are offered a number of job training programs and educational opportunities. The VRQ is a men-only campus, and women are not permitted without an invitation.
7. I would have liked the opportunity to participate in those programs and education programs, but I was not offered those opportunities at Steadfast.
8. While I was at Steadfast, it was my understanding that women were not allowed to participate in the VRQ programs. I didn't even know that the VRQ training programs existed until a male friend of mine who lived at the VRQ told me about them.
9. In addition, during my time at Steadfast, my "case management" consisted of a once a week "check in" meeting – often 15 minutes or so – with my case manager. I was not

offered help accessing or obtaining social services, or help applying to school or obtaining financial aid, or help obtaining employment or permanent housing.

10. I am participating in this complaint process because I want the female veterans at Steadfast House to receive the same treatment as the male veterans. Women veterans should have the same opportunities to better themselves and their futures as the men. Women had a hard enough time in the military fighting for equality and we shouldn't have to fight for it as civilians.
11. I am currently a full-time student at Asheville-Buncombe Technical Community College. I would like to have the opportunity to participate in the job training programs available at VRQ, specifically the culinary arts program, internet technology training, and the green collar job training.

On this, the 9 day of July 2012 in Asheville, North Carolina, I declare under penalty of perjury under state and federal law that the foregoing is true and correct.

  
Emily Bagby

## CONSENT FORM

I have read the Civil Rights Center's notice entitled "How We Use Personal Information." I understand that the following conditions apply to personal information I disclose to CRC in connection with my complaint:

CRC may need to disclose my identity to staff of the agency, organization, or business I named in my complaint, in order to gather evidence or verify facts related to the complaint, or to complete enforcement proceedings against the agency, organization, or business;

I do not have to reveal any personal information to CRC, but CRC may close my case if it cannot get the information it needs to process or fully investigate my complaint;

I may request a copy of any of my personal information that CRC keeps in my complaint file; and

Under certain conditions, CRC may be required by the Freedom of Information Act or other laws to disclose my personal information to others.

### SECTION A

☒ YES, CRC MAY DISCLOSE MY IDENTITY IF NECESSARY TO FULLY INVESTIGATE MY COMPLAINT. I have read and understand the notice "How We Use Personal Information," and I give consent for CRC to disclose my identity to the respondent, if necessary to fully investigate my complaint.

Quil D. Bayot  
(Signature)

5-23-12  
(Date)

### SECTION B

☐ NO, CRC MAY NOT DISCLOSE MY IDENTITY TO THE RESPONDENT, EVEN IF NECESSARY TO FULLY INVESTIGATE MY COMPLAINT. I have read and understand the notice "How We Use Personal Information," and I understand that **CRC may close my case** if it cannot get the information it needs to fully investigate my complaint without disclosing my identity to the respondent. Nonetheless, I do not give consent for CRC to disclose my identity to the respondent during the investigation of my complaint.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

### FOR DOL USE ONLY

CIF received by the CRC      ☐ Accepted      ☐ Not Accepted      Case Number \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_