

THOMAS F. COLEMAN
ATTORNEY AT LAW
Ahmanson Center East
Seventh Floor Law Suite
3701 Wilshire Boulevard
Los Angeles, California 90010
Telephone: (213) 386-7855

11 December 1975

Honorable Edmund G. Brown Jr.
Governor, State of California
Sacramento, California 95814

Re: Appointments for vacancies occurring on F.E.P.C.

Dear Governor Brown:

It has come to my attention that there are currently two vacancies on the Fair Employment Practice Commission and that two more vacancies will occur in October, 1976.

The F.E.P.C. has, in the past, taken a position of refusing to accept and investigate complaints about employment discrimination against persons who are homosexually oriented. Such discrimination exists at all levels of government, as well as in private employment.

Several legal experts have recently concluded that the F.E.P.C. could accept and investigate complaints of employment discrimination based on affectional or sexual preference or orientation without need for additional legislation. The F.E.P.C. has that jurisdiction under present law, if they will only vote to exercise their power.

For example, by liberally interpreting prohibitions on the basis of "sex" the F.E.P.C. could legitimately expand the scope of their duties. After all, discrimination against homosexuals is sex discrimination because the potential employee is being penalized for same sex orientation.

An additional argument can be made for accepting jurisdiction of complaints by homosexuals. On August 21, 1975, the Attorney

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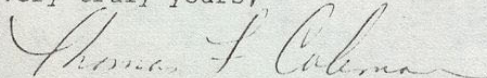
General issued a formal opinion (No. SO 75/6) in which the scope of the Unruh Civil Rights Act (Civil Code 51) was examined. The opinion states that the use of words like race, color, ancestry, national origin, or sex are merely illustrative and not restricted. The opinion states that all arbitrary discrimination in public accommodations and housing is prohibited under current law, including discrimination against homosexuals.

The F.E.P.C. could adopt a similar position and hold that its jurisdiction included investigating and remedying complaints based upon any form of arbitrary discrimination even though not specifically mentioned in the Fair Employment Practices Act.

I urge you to discuss the problem of discrimination against homosexuals with the prospective members of the commission before filling the vacancies. I further urge you to fill those positions with persons who would be inclined to adopt a liberal interpretation of their grant of jurisdiction. I hope that your appointments will be of persons who are sensitive to the special problems faced by the gay community.

I would like to meet with a member of your staff to further discuss this issue and if possible to aid you in screening prospective members of the commission in some manner. I hope to hear from you soon in this regard.

Very truly yours,



THOMAS F. COLEMAN
Coordinator,
California Committee for
Executive Implementation
of Gay Rights

TC:wa