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LAWYERS' COMMITTEE
FOR CIVIL RIGHTS UNDER LAW

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PRESS RELEASE

In an important decision the New York City Human Rights Commission today upheld a complaint brought by the American Committee on Africa, African Heritage Studies Association, One Hundred Black Men, Inc., and Judge William H. Booth, and ordered The New York Times to cease and desist from the publication of commercial advertisements for employment positions in South Africa. In an eight-page decision the Commission ruled that ads for South African employment express discrimination and are, therefore, unlawful under New York law because South Africa's racially-repressive system of apartheid compels discrimination against blacks in many endeavors of life, especially including employment.

The New York Human Rights Law provides in Section B1-7.1(d) that it is an unlawful discriminatory practice for an employer or employment agency to print or circulate advertisements for employment which express, directly or indirectly, any limitation, specification, or discrimination as to race or color; and Section B1-7.6 also makes it unlawful to aid or abet such printing or circulation.

The ruling resulted from a complaint filed with the Commission on October 12, 1972, which cited the continuing publication in The New York Times of ads for jobs in South Africa even after letters from the American

Committee on Africa had advised the newspaper of the unlawfulness of the publication of such ads. The matter was argued at a hearing before the Commission on January 14 and 30, 1974 by Douglas Wachholz of the Lawyers' Committee for Civil Rights Under Law (Washington, D.C.) and Peter Weiss of the Center for Constitutional Rights (New York), lawyers for the complainants. Prior to that time the Times had twice sought to have the case dismissed for lack of the Commission's jurisdiction. The Times unsuccessfully argued before both the Commission and the New York Supreme Court that the complainants' action infringed upon the federal government's foreign affairs prerogatives and violated the Times' First Amendment rights.

The Commission's decision again rejected the Times' jurisdictional contentions, in holding that the First Amendment issue was conclusively decided by the 1973 U.S. Supreme Court case, Pittsburgh Press v. Pittsburgh Commission on Human Relations. In that case the Court declared that employment ads were not subject to the First Amendment protections accorded political and other non-commercial speech. The Commission also found that no foreign policy considerations were involved where a domestic New York corporation is sought to be enjoined from violating the New York Human Rights Law, and all necessary relief can be obtained in New York.

The decision recognizes that the term "South Africa" is a code word for "whites only" or "no blacks need apply" in the context of employment ads. The Commission found the complainants' evidence convincing that New York residents perceived the term as such, and that this was in part due to news concerning South Africa printed in The New York Times itself. The holding cited South African laws which mandate employment discrimination and segregation directed against blacks.

This case has wide-ranging implications for the South African white-minority regime's attempts to encourage immigration of whites to that racially-divided country, where whites consitute less than 17% of the population. This immigration policy allows the South African economy to flourish while maintaining blacks in low-paid menial positions. The influx of foreign whites is crucial to obviating the need for promotion of blacks to higher paying and more responsible jobs, which phenomenon would conflict with South Africa's legally-supported policy of not permitting blacks to attain supervisory positions over whites.