

SEP 29 2006

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

H-06 -3062

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Plaintiff,

v.

MIKE ALBERT LEASING, INC.

Defendant.

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CIVIL ACTION NO.

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

1. This is an action under the Age Discrimination in Employment Act brought by the Equal Employment Opportunity Commission ("the Commission") to correct unlawful and discriminatory employment practices on the basis of age and to provide appropriate relief to Fred Reynders. As alleged with greater particularity in paragraphs 9-16 below, in July 2005 Defendant fired Fred Reynders, because of his age, from his position as Area Manager for fleet sales.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference §§16 (c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§216(c) and 17.

3. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

PARTIES

4. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

5. Defendant Mike Albert Leasing ("MAL"), Inc., is a Delaware corporation. At all relevant times, Defendant has continuously been doing business in the State of Texas and the City of Houston, and has continuously had at least 20 employees. Defendant may be served by serving its registered agent for service of process, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

6. At all relevant times, Defendant MAL, Inc., has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

CONCILIATION

7. Prior to institution of this lawsuit, the Commission's representatives attempted in good faith to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

STATEMENT OF CLAIMS

8. Fred Reynders was born in 1945. In 1997, he began working for Defendant. Reynders worked as an Area Manager for fleet sales.

9. At a June 2004 sales meeting, Defendant's President Ms. Marty Betagole commented that Defendant's sales force was "old and aging," and that the company needed some fresh young blood.

10. Reynders's sales numbers were better than those of the majority of his peers. In his last Exempt Employee Progress Evaluation Form, signed in November 2004, he received "Exceeds Expectations" ratings for several categories, and no "Unsatisfactory" ratings.

11. Of approximately twenty (20) Area Managers for fleet sales, Reynders was Defendant's oldest in Spring 2005.

12. In April 2005, Defendant fired its second oldest Area Manager for fleet sales. After his termination, his sales territory was covered by a substantially younger person.

13. In early May 2005, Defendant imposed on Charging Party a "plan" of supposed "business goals." Defendant threatened Reynders with termination if the goals were not met by July 2005.

14. The "business goals" were intentionally unrealistic and unattainable. Reynders was set up to fail. He did not meet the sham "goals."

15. In July 2005, Defendant fired Reynders.

16. Reynders was discharged because of his age in violation of §4(a)(1) of the ADEA, 29 U.S.C. §623 (a)(1).

17. The effect of the practices complained of above have been to deprive Reynders of equal employment opportunities and otherwise adversely affect his status as an employee, because of his age.

18. The unlawful employment practices complained of above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. §626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Mike Albert Leasing, Inc., its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of age against individuals 40 years of age and older.

B. Order Defendant MAL to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring Defendant to pay appropriate back wages in an amount to be determined at trial, and an equal sum as liquidated damages, and prejudgment interest to Reynders.

D. Order Defendant MAL to make Reynders whole by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to reinstatement or, in lieu of reinstatement, front pay.

E. Grant such further relief as the Court deems necessary and proper in the public interest.

F. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

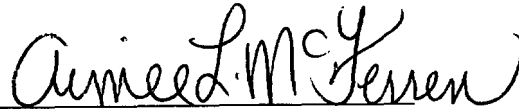
Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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