


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.
06 JUN 17 PM 3:17
ROBERT R. DETRIGLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,) Civil Action No.
) 04-2159 M/P
v.)
)
THYSSENKRUPP ELEVATOR)
CORPORATION,)
)
Defendant.)

CONSENT DECREE

Plaintiff, Equal Employment Opportunity Commission (hereinafter the "Commission"), instituted this action alleging that Defendant ThyssenKrupp Elevator Corporation, (hereinafter "ThyssenKrupp") failed to promote Harold Moore, Ellis Turner, and a class of African American employees from the construction department to the service department because of their race, African American. The Commission further alleges that Defendant laid off African American employees, because of their race, while retaining similarly situated White employees, all in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e et seq. (hereinafter "Title VII").

The Defendant denies that it engaged in the unlawful employment practices alleged by the Commission and maintains that the actions of its officials were proper and lawful in all regards. This Consent Decree does not constitute an admission by the Defendant of the allegations of the Complaint. However, as all parties to this action desire to avoid the additional expense and delay

This document entered on the docket sheet in compliance with Rule 58 and/or 79(a) FRCP on 6-18-04

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in the litigation of this case, the Commission and the Defendant have agreed to settle all claims involved in this lawsuit.

In the event this proposed Consent Decree is not approved or does not become final, then it shall not be admissible in evidence in any subsequent proceeding in this action.

This Consent Decree constitutes the complete and exclusive agreement between the parties with respect to the matters referred to herein. No waiver, modification or amendment of any provision of this Consent Decree shall be effective unless made in writing. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Consent Decree.

The court has reviewed the terms of the proposed Consent Decree in light of the applicable laws and regulations, the statements and representations of counsel for all parties, and hereby approves the Consent Decree.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

I. SCOPE AND DURATION OF DECREE

A. This Consent Decree resolves all issues and claims arising out of the Complaint of the Commission in this cause, alleging unlawful employment policies and practices maintained by Defendant, and arising out of Charge Nos.250-A2-00917 and 250-A2-00920 filed with the Commission by Harold More and Ellis Turner, respectively. Notwithstanding any provisions contained in this Agreement, this Agreement shall not be considered in any manner to be dispositive of any other charges now pending before any office of the Commission, or any other

lawsuits pending against Defendant or its parent or its parent's other subsidiaries, other than the above-mentioned charge and this lawsuit.

B. The provisions of this Consent Decree shall continue to be effective and binding upon the parties to this action for two years.

C. The provisions of this Consent Decree shall apply to Defendant's Memphis, Tennessee, location and any successor location for that facility during the term of the Decree. Defendant's Memphis, Tennessee, location is currently at 1550 Shelby Oakes Drive.

II. INJUNCTIVE RELIEF

A. Defendant, its officers, agents, employees, and all persons acting in concert with Defendant are hereby enjoined from engaging in any employment practice which has the purpose or effect of discriminating against any employee or applicant for employment on the basis of race pursuant to Title VII of the Civil Rights Act of 1964, as amended.

B. Defendant, its officers, agents, employees, and all persons acting in concert with Defendant are hereby enjoined from engaging in any employment practice which has the purpose or effect of retaliating against any employee or applicant for employment for participating in any proceeding under Title VII or for opposing discriminatory employment practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

III. TRAINING

A. Defendant shall provide employment-discrimination awareness training to all supervisory and management personnel at its Memphis, Tennessee facility, as well as to any

other individuals employed by the Defendant who participate in decisions to promote, transfer or lay off employees at Defendant's Memphis, Tennessee facility, according to the following terms:

- (1) The training session will include at least two (2) hours of instruction.
- (2) The training will include the following topics: what constitutes employment discrimination in violation of Title VII; how to prevent, identify and remedy employment discrimination; what constitutes retaliation in violation of Title VII; Defendant's policy against employment discrimination and retaliation; and implementation of Defendant's policy against employment discrimination, including procedures and responsibilities for reporting, investigating and remedying conduct an employee believes may constitute employment discrimination.
- (3) Defendant may use an in-house human resources professional to conduct the training session.
- (4) Defendant has submitted to the Commission the name, address, telephone number, and vita or resume of the human resources professional or other trainer together with the date of the proposed training session and a detailed outline of the proposed training. The Commission has accepted the training proposal as satisfying the requirements of this Consent Decree.
- (5) The training session will be conducted within one hundred twenty (120) days after the date of the entry of this consent decree by the Court.

IV. RELIEF FOR AGGRIEVED PARTIES

A. Defendant agrees to continue its posting system designed to provide notice to current employees of openings in the service and construction departments.

B. Defendant agrees to make a good faith effort to consider qualified African African employees for placement into future openings in the service department.

C. Defendant represents that under its jointly-administered management/labor Apprenticeship Program, apprentices are trained in construction, repair, and service, both in classroom instruction and on-the job training.

D. Defendant agrees to make layoff decisions without regard to the race of the employee.

V. MONETARY RELIEF

A. The total amount of the settlement monies to be paid by Defendant is \$25,000.00.

B. The sum of \$15,000.00 is to be paid either by direct deposit or by cashier's check to Harold Moore. The money paid to Mr. Moore represents non-wage income in the form of compensatory damages. This amount should be reported to Mr. Moore on Internal Revenue Service Form 1099 and designated as non-wage income in the form of compensatory damages. Within 15 days of the entry of this Decree, the amount shall be direct deposited or the cashier's check hand delivered or sent to:

Harold Moore
4568 Jamerson
Memphis, TN 38122

C. The sum of \$10,000.00 is to be paid by direct deposit or by cashier's check to Ellis Turner. The money paid to Mr. Turner represents non-wage income in the form of compensatory damages. This amount should be reported to Mr. Turner on Internal Revenue Service Form 1099 and designated as non-wage income in the form of compensatory damages. Within 15 days of the entry of this Decree, the amount shall be direct deposited or the cashier's check hand delivered or sent to:

Ellis Turner
3017 Doma
Memphis, TN 38118

D. The Defendant shall forward copies of the checks or direct deposit confirmations to Katharine W. Kores, Regional Attorney, Equal Employment Opportunity Commission, Memphis District Office, 1407 Union Ave., Suite 621, Memphis, TN 38104.

E. Defendant has entered into separate, individual agreements with Harold Moore and Ellis Turner concerning their charges and the payment of these amounts.

VI. EXPUNGEMENT

A. The Defendant shall expunge any adverse comments from the personnel files of Harold Moore and Ellis Turner.

B. Defendant shall not include any references to the charges of discrimination filed by Harold Moore and Ellis Turner or this litigation in the personnel files of Mr. Turner or Mr. Moore.

VII. POSTING AND POLICIES

A. Defendant shall conspicuously post at its Memphis, Tennessee facility the notice (poster) required to be posted pursuant to Title VII. Furthermore, defendant shall conspicuously post the notice at Appendix A of this Agreement at its Memphis facility for a two- year period commencing within ten (10) days after entry of this Agreement by the Court.

B. At all times Defendant shall post and maintain at its Memphis, Tennessee facility, in a conspicuous location accessible to all applicants and employees, a copy of its policy and procedure for reporting or preventing discrimination in the workplace.

VIII. REPORTING, RECORD-KEEPING, AND ACCESS

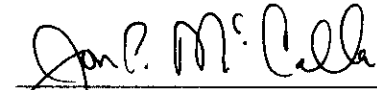
A. Within forty-five (45) days of the entry of this Decree, ThyssenKrupp shall prepare and submit to the Commission's Regional Attorney in its Memphis District Office a letter indicating that the notices have been posted as required by section VII.

B. During the term of this Decree, ThyssenKrupp shall allow representatives of the Commission to review ThyssenKrupp's compliance with this Decree by inspecting and photocopying relevant documents and records, interviewing employees and management officials on their premises, and inspecting their premises. Such review of compliance shall be initiated by written notice to ThyssenKrupp's attorney of record at least fifteen (15) business days in advance of any inspection of ThyssenKrupp's documents or premises.

VII. COSTS

A. Each party shall bear that party's own costs.

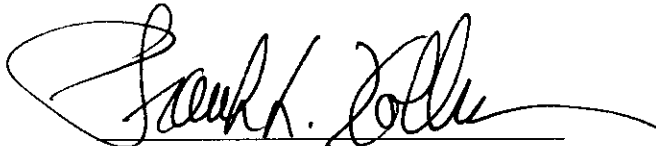
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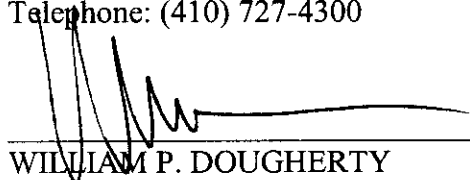
JON P. McCALLA
UNITED STATES DISTRICT JUDGE

Approved:

For Defendant ThyssenKrupp Elevator Corporation



FRANK L KOLLMAN
Kollman & Saucier, P.A.
8th Floor Sun Life Building
20 South Charles Street
Baltimore, Maryland
Telephone: (410) 727-4300



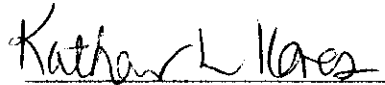
WILLIAM P. DOUGHERTY
Young & Perl, PLC
Suite 2380
One Commerce Square
Memphis, Tennessee 38103
Telephone: (901) 525.2761

For Plaintiff Equal Employment Opportunity Commission:

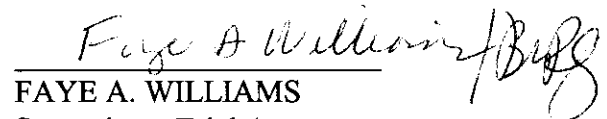
ERIC S. DREIBAND
General Counsel

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel



KATHARINE W. KORES
Regional Attorney



FAYE A. WILLIAMS
Supervisory Trial Attorney



DEIDRE SMITH
Senior Trial Attorney

Equal Employment Opportunity Commission
1407 Union Avenue, Suite 620
Memphis, Tennessee 38104
(901) 544-0140

APPENDIX A

NOTICE

1. This Notice to all employees of ThyssenKrupp Elevator Corporation, is being posted as part of the remedy agreed to between ThyssenKrupp Elevator Corporation and the Equal Employment Opportunity Commission in resolution of a complaint of employment discrimination.
2. Federal law prohibits an employer from discriminating against any employee because he has opposed any practice made an unlawful employment practice, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII of the Civil Rights Act of 1964, as amended.
3. ThyssenKrupp Elevator Corporation supports and will comply with such federal law in all respects and will not take any action against employees because they have exercised their rights under the law by filing charges with the Equal Employment Opportunity Commission and/or testified, assisted or participated in any manner in any investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964.
4. This Notice shall be posted by ThyssenKrupp Elevator Corporation, for two years.

SIGNED this ___ day of _____, 2004.



Notice of Distribution

This notice confirms a copy of the document docketed as number 9 in case 2:04-CV-02159 was distributed by fax, mail, or direct printing on June 18, 2004 to the parties listed.

William P. Dougherty
YOUNG & PERL
One Commerce Square
Ste. 2380
Memphis, TN 38103

Eric S. Dreiband
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Katharine W. Kores
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

James Lee
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Gwendolyn Young Reams
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Deidre Smith
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Faye A. Williams
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Honorable Jon McCalla
US DISTRICT COURT