

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
ADESA NEW YORK, LLC,)
)
Defendant.)
)

Civil Action No. 05-CV-00692-WMS

U.S. DISTRICT COURT
W.D.N.Y. - BUFFALO

2007 MAY 31 AM 11:50

FILED

CONSENT DECREE

This action was instituted by Plaintiff, the U. S. Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant ADESA New York, LLC, ("Defendant"), alleging that Defendant violated the Age Discrimination in Employment Act of 1967, as amended ("the ADEA"), 29 U.S.C. § 623, by discharging Susan Metz, Sharon Noble, Terry Janicz and Cheryl McConnell because of their age. Defendant denies all allegations made by the Plaintiff in this proceeding. The parties agree that it is in their mutual interest to fully resolve the matter without further litigation.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and the ADEA. Therefore, upon due consideration of the record herein and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

Scope of Decree

1. This Decree resolves all issues and claims in the Complaint filed by the Commission in this ADEA action which emanated from the Charges of Discrimination filed by Sharon Noble and Susan Metz. The Commission will not pursue further litigation on any and all issues that were raised in the above referenced Charges and Complaint.

2. This Decree shall be in effect for period of three (3) years from the date it is entered by the Court. During that time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be necessary to effectuate the purposes of the Decree.

3. This Decree, being entered with the consent of the EEOC and Defendant, shall not constitute an adjudication or finding on the merits of the case.

4. By entering into this Decree, ADESA does not admit, nor has this Court made any determination with respect to these claims, that there has been any violation of the ADEA or any other statute, regulations or ordinance promulgated by any federal, state or local agency dealing with discrimination by ADESA. Nothing contained in this Decree shall be construed as an admission of liability on the part of ADESA.

Relief

5. Within ten business days of entry of this Decree, Defendant shall pay a total amount of \$200,000 as monetary relief as allocated in Exhibit A which shall be filed under seal.

6. Within ten business days of entry of this Decree, Defendant shall modify any and all personnel forms and documents in the personnel files of Ms. Noble, Ms. Metz,

Ms. McConnell, and Mr. Janicz to eliminate any reference to the fact that Defendant had any concerns about their performance at the time of their termination or at the time of the Reduction In Force. In addition, Defendant shall not inform any prospective employer either directly or indirectly that Defendant had any concerns regarding their performance.

7. Defendant agrees that consistent with its regular practice, any future requests received by Defendant for an employment reference for Ms. Noble, Ms. Metz, Ms. McConnell and/or Mr. Janicz will be responded to by providing only the following information: verification of dates of employment, position held and salary, and shall not include comments on their performance.

Injunctive Relief

8. Defendant, its officers, agents, servants, employees, successors, assigns, and all persons acting or claiming to act on their behalf are hereby enjoined from discriminating against employees on the basis of age. Such discrimination violates the ADEA, which in part, is set forth below:

(a)(1) It shall be unlawful for an employer to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, privileges of employment, because of such individual's age;

29 U.S.C. § 623(a)(1).

9. Defendant shall comply with the Older Workers Benefit Protection Act of 1990 ("OWBPA"), Pub.L.101-433, Title II, Oct.16. 1990, 104, Stat. 983 and other amendments, regarding the issuance of any future Severance Agreements.

10. Within 60 days from the date of entry of the Decree, all Defendant employees shall be required to attend a training program that may occur at different sites, dates and locations, lasting at least two hours for managers and at least one hour for non-managerial employees. The training shall cover the prevention of employment discrimination and compliance with federal anti-discrimination laws, with a particular emphasis on the prohibition against age discrimination, and shall be conducted by an outside consultant or law firm approved by the EEOC. For the duration of the Decree, Defendant shall provide this same and/or substantially similar training including updates to relevant law, on a yearly basis, to all newly hired officers, managers, supervisors, and employees of the ADESA Buffalo facility. Within ten business days of providing each such training session, Defendant will furnish EEOC with a signed attendance list, the date and duration of the training, an outline of the training conducted, and a certification of completion of the mandatory training in a format provided by the EEOC.

11. Within 30 days of entry of this Decree, Defendant shall distribute the Equal Employment Opportunity policy as approved by EEOC and shall incorporate said policy into Defendant's Employee Handbook.

12. Upon approval of this Decree, Defendant will post immediately in all places where notices are customarily posted for the employees the Notice attached hereto as Exhibit B and made a part hereof. Said Notice shall be posted and maintained for the duration of the Decree and shall be signed by a responsible official of Defendant with the date of actual posting shown thereon. Should the Notice become defaced, marred, or otherwise made unreadable, Defendant will ensure that new readable copies of the Notice are posted in the same manner as heretofore specified. Within 30 days of approval of this

Decree, Defendant shall forward to the EEOC's attorney of record a copy of the signed Notice attached hereto and written certification that the Notice referenced herein has been posted and a statement of the location(s) and date of posting.

Reporting & Monitoring

13. Every 90 days following the entry of this Consent Decree, and continuing throughout the life of the Decree, Defendant will report in writing to the Commission's counsel of record concerning the implementation of this Decree. The report will include the following information: Copies of any formal or informal complaints of age discrimination made by any employee, including but not limited to internal complaints, administrative charges, and lawsuits, and for every complaint, whether oral or written, the name of the complainant, and a detailed explanation of Defendant's actions taken in response to the complaint, including any investigative and corrective measures taken.

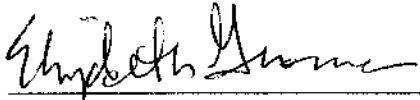
14. The Commission may monitor compliance during the duration of this Decree by inspection of Defendant's premises and records, and by interviewing its employees. Upon five business days notice, Defendant will make available any facility for inspection and make available for inspection and copying any records or witnesses.

15. The Commission and Defendant shall bear their own costs and attorneys' fees.

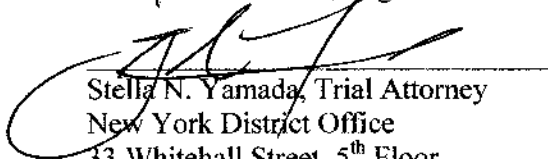
16. The undersigned counsel of record in the above-captioned action hereby consent to the entry of the foregoing Consent Decree.

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

By its attorneys,



Elizabeth Grossman, Regional Attorney



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ADESA NEW YORK, LLC


By its attorneys,



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mmolloy@nixonpeabody.com

SO ORDERED.

Signed and entered this 30th day of May, 2007.



William M. Skretny
United States District Court Judge

EXHIBIT B

NOTICE TO ALL EMPLOYEES OF
ADESA NEW YORK, LLC

This notice is posted pursuant to a consent decree entered into between ADESA New York LLC ("ADESA") and the United States Equal Employment Opportunity Commission ("EEOC"), in resolution of Case No. 05-CV-00692 filed by EEOC in the United States District Court for the Western District of New York. In that lawsuit, EEOC alleged that ADESA discriminated against four employees on the basis of age by terminating their employment.

Federal laws prohibit employers from discriminating against applicants and employees on the basis of age, national origin, religion, race, color, sex, or disability. ADESA agrees that its managers, officers, or agents will not discriminate against any individual on any prohibited basis under federal employment discrimination law, or to retaliate against any employee who engages in protected activity.

Should you have any complaints of discrimination, you may contact the

Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, 5th Floor
New York, NY 10004

or

Equal Employment Opportunity Commission
Buffalo Field Office
6 Fountain Plaza, Suite 350
Buffalo, NY 14202

Nationwide Telephone: (800) 669-4000

THIS IS AN OFFICIAL NOTICE

This is an official notice and must remain posted for three years from the date of posting and may not be altered, defaced or covered by any other material.

Dated: _____