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U.S. DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

WALTER BURNES, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO.
)	CV-99-AR-3280-S
)	
PEMCO AEROPLEX, INC., et al.,)	
)	
Defendants.)	

PLAINTIFFS' MOTION FOR INJUNCTIVE RELIEF

COME NOW certain of the Plaintiffs in the above-styled cause, by and through their attorneys, and move this Court for injunctive relief and in support thereof state:

1. This case arises out of charges of racial discrimination filed with the EEOC on February 2, 1998 and February 6, 1998, by thirty-six (36) Plaintiffs, against Defendants Pemco Aeroplex, Inc. and Precision Standard Inc. In their charges against Pemco Aeroplex, Inc. and Precision Standard, Inc., the Plaintiffs alleged that they had suffered racial harassment pervasive enough to create a hostile work environment at Defendants' Pemco Aeroplex facility and alleged discriminatory job assignments and discrimination in hiring, rehiring, job assignments, job placement, promotions and training.

2. On September 30, 1999, the EEOC issued determinations with findings of reasonable cause to believe that each of the Plaintiffs, and Blacks as a class, have been



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subjected to a racially hostile work environment in violation of Title VII but finding no reasonable cause to believe Plaintiffs had been discriminated against with regard to job assignments, job placement, promotions, hiring, rehiring, and training.

3. On December 9, 1999, Plaintiffs filed their original complaint under 42 U.S.C. §1981 alleging racial discrimination and racial harassment creating a hostile work environment. Defendants filed their answer on January 16, 2000.

4. On November 20, 2000, the original thirty-six (36) Plaintiffs were issued their right to sue letters by the EEOC. Subsequently, the Plaintiffs amended their complaint on June 27, 2001 adding their Title VII claims of racial discrimination and racial harassment creating a hostile work environment.

5. On April 12, 2002, Defendants, by and through their attorneys, made individual offers of judgment to each of the remaining thirty-two Plaintiffs in this lawsuit. In their offers of judgment, in addition to a monetary sum payable to the individual Plaintiffs, reasonable costs, expenses and attorney fees accrued as of the date of the offer, Defendants offered to have "[a]ny appropriate equitable relief to be determined by the Court in accordance with all applicable laws" as judgments to be taken against Defendants in favor of the individual Plaintiffs.

6. In light of the aforementioned offers, Plaintiffs Walter Burnes, Otis Bailey, Shirley Robinson, Gloria Cunningham, Alfred Ramsey, Alden Johnson, Johnny Payne, James Taylor, and Hilton Temple, individually accepted Defendants' offers including the

offer for this Court to grant appropriate equitable relief.

7. Despite the filing of this lawsuit, Defendants have continued to subject the Plaintiffs to a racially hostile work environment.

Wherefore Plaintiffs pray for the following injunctive relief:

1. This Court order that Defendants Pemco Aeroplex, Inc. and Precision Standard, their management, lead persons, supervisors, employees, and those in active concert and participation with them are hereby permanently enjoined from maintaining a racially hostile work environment or retaliating against or otherwise discriminating against the Plaintiffs and/or current or former black employees of Pemco Aeroplex, Inc.;

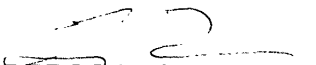
2. This Court order that the Defendants adopt the attached programmatic relief identified as Exhibit A; or

3. This Court appoint a Special Master to assess the environment at Pemco Aeroplex, Inc. and develop recommendations for comprehensive injunctive relief consistent with Title VII;

4. That the Special Master's fees be paid by the Defendants;

5. Such other relief as may be just and proper.

Respectfully submitted,


Tyrone Quarles
Attorney for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on this the 9th day of May 2002, I have served a copy of the foregoing Plaintiffs' Motion for Injunctive Relief upon counsel for all parties, by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to:

Hon. Naomi Hilton Archer
Senior Trial Attorney
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OF COUNSEL

PROGRAMMATIC/REMEDIAL RELIEF

1. Objective and Summary of Programmatic Relief

The purpose of the programmatic relief is to ensure that plaintiffs and minorities as a class at the Pemco Aeroplex, Inc. ("Pemco") facility in Birmingham, Alabama are no longer subjected to a racially hostile work environment. The programmatic relief stipulated herein (the "Program") seeks to provide relief to blacks as a class, while ensuring that all interested parties, including Pemco, receive fair representation and input. The programmatic relief calls for Pemco to modify current ineffective harassment and employment policies as well as implement new policies specifically addressing racial harassment and discrimination. The relief seeks to accomplish this objective through a system of independent consultants and a "check and balance" system between Pemco's Human Resources Department and a Task Force established as part of the programmatic relief herein. Consistent with the overall objective of the programmatic relief, the Task Force, comprising members representing the EEOC's class, the individual plaintiffs, and Pemco, seeks to ensure fair representation for each of these entities as well as to ensure fair, equitable and effective implementation of this program and to provide oversight of Pemco's diversity efforts and compliance with the objectives stated herein.

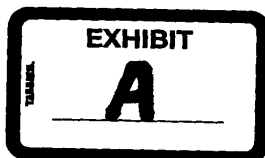
2. Task Force

A. Powers and Duties

The Program establishes a Task Force to ensure fair, equitable and effective implementation of effective Title VII policies and to provide independent oversight of the Company's efforts to eliminate racial hostility in the workplace at Pemco. The Task Force has meaningful and substantial powers to review, oversee and monitor all existing Pemco employment and human resources policies, practices, and procedures, as well as the effectiveness of the program. The Task Force has independent investigatory authority. The Task Force will evaluate and monitor the effectiveness of all of the programmatic relief implemented by Pemco.

B. Composition and Tenure

The Task Force will have three members: one appointed by the individual plaintiffs; one appointed by Pemco; and one appointed by the EEOC. The chairperson of the Task Force will be chosen from the two individuals appointed by counsel for the plaintiffs and the class. The chairperson shall be elected by majority vote of the Task Force. Any replacements will be appointed by the initial appointing authority of the member being replaced. The Task Force shall exist at least seven (7) years.



C. Accountability

1. The Task Force will issue annual written reports to Pemco's CEO and Board of Directors, the EEOC, and Counsel for individual plaintiffs. The annual reports will include:
 - i. a review and evaluation of Pemco's employment and human resources practices;
 - ii. an evaluation of Pemco's compliance with Executive Order 11246, EEOC, and other Federal employment regulations and laws;
 - iii. any reported incidents of racial harassment or disparate treatment, including the name and title of the person who caused the incident, if known;
 - iv. an evaluation of Pemco's response to reported incidents of racial harassment or disparate treatment, including the disciplinary action taken by Pemco to punish and deter such conduct in the future;
 - v. a description of any reforms implemented due to this Program;
 - vi. an assessment of Pemco's compliance with the Program; and
 - vii. if necessary, a recommendation for modification of existing policies or addition of new policies to achieve the objectives of the Program.

D. Available Resources

The Task Force shall have an office at the Pemco Aeroplex Facility in Birmingham, Alabama. The Task Force may use the resources of Pemco's Human Resources Division whenever appropriate. If necessary, the Task Force may appoint independent consultants to help the Task Force fulfill its mission. Pemco will pay for all reasonable expenses of the Task Force, including expenses associated with independent consultants, required in the Task Force fulfilling its mission.

E. Interaction With Operational Functions

Subject to its obligations under the Program, Pemco will retain full operational authority of its human resources, EEO, and legal functions. To the extent feasible, the Task Force

shall work in conjunction with the Director of Human Resources, except where such cooperation interferes with the Task Force's duty to objectively monitor, independently investigate or independently report under the Settlement Agreement.

F. Employment and Compensation

Task Force members shall receive reasonable compensation which shall be paid by Pemco.

3. **Joint Expert Review**

Counsel for the Plaintiffs, the EEOC, and Pemco must each select an independent and highly qualified expert on EEO, Title VII, and employment harassment policies to undertake a full review of the company's policies, disciplinary authorities, disciplinary actions. Counsel for each of the aforementioned may select the same expert. However, in the event that different experts are selected, each expert shall prepare a report and recommendation to the Task Force on how Pemco can modify existing policies, develop and implement new policies to ensure that Pemco's harassment policies are consistent with the objectives of the Program.

4. **Graffiti/Literature/Symbols/Nooses/Racially Offensive Objectives**

A. Removing

Any offensive graffiti or writings with regard to race, color, gender, religion, age, or national origin will be removed immediately. However, prior to removing such graffiti or writings, Pemco shall photograph such writing via digital camera.

B. Monitoring

Pemco shall retain additional security personnel which shall patrol the restrooms in the bay areas on an hourly basis. Pemco shall also install cameras in an appropriate location in bay area restrooms. Said additional security and security cameras shall remain at Pemco in the designated areas for a period of at least seven (7) years.

C. Reporting

- i. Employees may submit reports of any offensive objects and writings, including, but not limited to, nooses, KKK symbols, swastikas, racial graffiti, and literature to any Pemco supervisor or manager. The supervisor or manager must immediately take steps to ensure that the report is transmitted to the Director of Human Resources. It is not

necessary that employees report offensive incidents to their immediate supervisor. However, Pemco's Human Resources Department shall give notice of the complaint to the reporting employee's supervisor immediately.

- ii. In addition, any employee may also report any such incidents to the Task Force directly.
- iii. Pemco management shall report any of the aforementioned incidents to the Task Force immediately.
- iv. The Task Force shall report any of the aforementioned incidents to Pemco's Human Resources Department immediately.
- v. In addition, Pemco shall establish a toll free phone number or "Hotline" that is operational around the clock for the purpose of allowing employees to report complaints of discrimination, harassment and/or retaliation through this number. The Hotline shall be routed directly to the Task Force's office. The Task Force shall immediately notify Pemco's Human Resources Department of all complaints. A written report of all complaints shall be submitted to Pemco's Human Resources Department within twenty-four (24) hours of any complaints received through the Hotline.

5. **Investigative Procedures**

A. Manner of Investigation

Counsel for Pemco, the EEOC, and the individual plaintiffs shall immediately hire an independent consultant to draft written guidelines detailing the manner in which Pemco's Human Resources Department shall investigate all complaints of harassment, discrimination, or retaliation. Pemco shall compensate said independent consultant. The guidelines must be submitted to and approved by the Task Force.

Pemco's Human Resources Department shall perform an investigation of the complaint of discrimination, harassment, or retaliation by interviewing all interested parties including, but not limited to, the alleged victim, the individual(s) performing the offensive conduct, all witnesses, and all others who may have relevant information. Pemco's Human Resources may delegate investigative duties to the Security Department, Labor Relations or other departments. All final reports must be submitted by Pemco's Department of Human Resources.

B. Matters to Investigate

- (i) Pemco's Human Resources Department shall perform an independent investigation of any discovered graffiti or offensive objects by interviewing any suspects or witnesses, reviewing any available surveillance tape, and contacting state and federal authorities, if necessary; and
- (ii) Any alleged act or practice of racial discrimination.

C. Task Force's Independent Investigative Authority

The Task Force shall review all reports of investigation performed by the Human Resources Department. However, the Task Force has independent authority to investigate any complaints of discrimination, harassment, or retaliation. The Task Force has the authority to conduct its investigation by the same means as previously granted to Pemco.

6. Punishment and Deterrence.

- A. Pemco shall revise its harassment policy to include a section prohibiting racial harassment, discrimination, disparate treatment, and retaliation specifically.
- B. Pemco shall implement a "Zero Tolerance" policy. Any Pemco employee found to have committed an act of discrimination, harassment, or retaliation, after an investigation by the Human Resources Department and the Task Force, shall be terminated.

7. Sensitivity and Diversity Training

- A. Pemco shall hire independent consultants recommended by the Task Force to provide annual diversity and sensitivity training to all employees and managers.
- B. Pemco shall hire independent consultants recommended by the Task Force to provide diversity and sensitivity training to all new employees.
- C. Pemco shall require all employees and management to attend said diversity and sensitivity training.
- D. Pemco shall compensate the independent consultants hired by the Task Force to implement the aforementioned diversity and sensitivity training.

8. **Management and Supervisor Evaluation**

All management and supervisory personnel shall be evaluated on an annual basis for their compliance with EEO laws and regulations, and participation in diversity and sensitivity training.

9. **Counseling**

Pemco shall pay for counseling of all plaintiffs who have been psychologically impaired as a result of the alleged racially hostile environment. Such counseling shall be performed by plaintiffs' expert who has already conducted an evaluation of the plaintiffs in this case. Alternatively, said expert may recommend another expert to treat the plaintiffs. Plaintiffs may also chose their own counselors. In any event, the extent of such treatment shall not exceed five (5) years.

10. **Summary of Pemco's Obligations**

The Program requires and empowers the Task Force to ensure that Pemco does each of the following:

- A. Review and revise, to the extent necessary, its racial harassment and human resources policies;
- B. review and revise, to the extent necessary, its evaluation practices;
- C. ensure that effective racial harassment policies are developed and implemented;
- D. ensure that Pemco's managers and employees receive annual training on EEO and company racial harassment policies;
- E. ensure the company complies with Executive Order Number 11246 with respect to discrimination;
- F. hire independent consultants to perform annual diversity and sensitivity training for all employees and management;
- G. ensure that the company provides significant and appropriate diversity and and sensitivity training to all new employees;
- H. submit annual reports to the Task Force on reported incidents of racial harassment and Pemco's response to such incidents, including any and all disciplinary actions taken;

- I. submit annual reports to the Task Force on diversity and sensitivity training;
- J. monitor the Human Resources Department's compliance with the Program;
- K. compensate and provide the Task Force with the resources stipulated in section 2 of this Program;
- M. hire an independent consultant to draft written investigative guidelines;
- N. establish a toll free or "Hotline" number for employees to report harassment, discrimination, retaliation, or disparate treatment; and
- P. enhance security in the bay area bathrooms.