

RECEIVED  
PDK

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

01 JUL -6 PM 12:16

U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

#See page 8

EQUAL EMPLOYMENT OPPORTUNITY )  
 COMMISSION, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 APPLIED INDUSTRIAL TECHNOLOGIES, INC. )  
 and APPLIED INDUSTRIAL TECHNOLOGIES- )  
 DIXIE, INC. f/k/a BEARINGS, INC. AND DIXIE- )  
 BEARINGS, INC., )  
 )  
 Defendants. )  
 )

CIVIL ACTION NO.: 8:01-CV-1075-T-26EAJ

**CONSENT DECREE**

1. This Consent Decree (the "Decree") is made and entered into by and between Plaintiff, the Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC"), and Defendants, Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc. f/k/a Bearings, Inc. and Dixie Bearings, Inc. ("Applied"). The Commission and Applied are collectively referred to herein as the "Parties".
2. On June 6, 2001, the Commission initiated suit against Applied in the United States District Court for the Middle District of Florida, Tampa Division, Civil Action No.: 8:01-CV-1075-T-26EAJ based upon charges filed by Raymon Harrell (EEOC Charge No.: 151 96 0613) and Jaime Rodriguez (EEOC Charge No.: 151 97 1791) (collectively the "Charging Parties"). The Complaint alleges that Applied violated The Age Discrimination in Employment Act of 1967, as amended (the "ADEA"), 29 U.S.C. Section 623(a), when it laid off or discharged

J  
↓

- the Charging Parties, and similarly situated individuals throughout the state of Florida, on the basis of their age and replaced them with, or assigned their duties to, younger individuals.
3. Applied denies that its actions were unlawful or discriminatory in any way.
  4. In the interests of resolving this matter and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by the entry of this Consent Decree. This Decree is final and binding upon the Parties, their successors and assigns.
  5. The Parties agree that this Decree resolves all claims arising out of, or based on EEOC Charge Numbers 151 96 0613 and 151 97 1791, and constitutes a complete resolution of all claims that were or could have been made by the Commission in the Complaint filed in this action.
  6. This Decree constitutes the complete agreement between the EEOC and Applied with respect to the matters referred to herein. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Decree. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this Decree and approved by the Court or ordered by the Court.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Decree, and based on the pleadings filed by the parties, it is **ORDERED, ADJUDGED AND DECREED THAT:**

7. This Court has jurisdiction of the subject matter of this action and over the parties for the purposes of entering and enforcing this Decree.

**GENERAL INJUNCTIVE PROVISIONS**

8. Defendant Applied, its officers and/or employees, are enjoined from engaging in conduct which violates the ADEA by adversely affecting the terms and conditions of any individual's employment or by discharging or laying off an employee in the state of Florida because of the age of that individual.

**AGE DISCRIMINATION POLICY AND TRAINING**

9. Defendant Applied shall maintain the Policy Against Age Discrimination attached hereto as Exhibit A and shall ensure that it is issued to: (a) all current Florida employees within thirty (30) days of the entry of this Decree and; (b) all new Florida employees within ten (10) days of employment.
10. Defendant Applied agrees that all of the Territory, Regional, and Operations Managers employed in the state of Florida shall be given training on the requirements of the ADEA, with specific emphasis on the proper procedure to be followed in the event that a layoff becomes necessary. The training shall be conducted and/or directly supervised by a qualified labor and employment law attorney with knowledge and experience in enforcement and application of equal employment opportunity laws. It shall be at least four (4) hours in duration. The initial training will be conducted by and at the direction of Applied Labor and Employment Counsel Joseph D. King and must be completed within one hundred and eighty (180) days of the entry of this Decree. Thereafter, training will be conducted once annually throughout the duration of this Decree. Applied agrees to provide the EEOC at least two weeks notice before it conducts its training sessions, with the dates and locations of the training, copies of all training materials to be used at the training session, and a list of the

names and titles of each employee who will be in attendance at the training. Additionally, Applied agrees that the EEOC shall, at the EEOC's discretion, be in attendance at the training sessions.

11. Defendant Applied agrees that the training described in Paragraph 10 shall be given to all new Territory, Regional and Operations Managers to be employed in the state of Florida within sixty (60) days of being placed in a management or supervisory position.

### **POSTING**

12. Defendant Applied agrees to post and keep posted the Notice attached hereto as Exhibit B. The Notice shall be posted at all of Defendant Companies' facilities in the state of Florida in a conspicuous location accessible to all employees.

### **MONETARY RELIEF**

13. The Parties agree that Defendant Applied will set aside a sum of six hundred thousand dollars (\$600,000.00) which will be utilized for the payment of eligible claimants in order to resolve this action. Within ten (10) days of the entry of this Consent Decree, those monies shall be placed in an interest-bearing account. ("Claimant Fund"). No portion of the six hundred thousand dollars (\$600,000.00) shall remit to Defendant Applied.
14. The Parties agree that eligible claimants shall be those individuals who were employed by Defendant Applied as Territory Managers, Branch or Service Center Managers, Operations Managers, Account Managers, Account Representatives or Customer Sales and Service Representatives ("CSSR's") in the state of Florida from January 1, 1995 to September 13, 1998 who were laid off or discharged at age forty or higher during that same period, and who

- submit credible evidence that the termination was motivated by their age.
15. Defendant Applied shall provide to the EEOC information necessary for contacting potential claimants and evaluating applications filed by them within ten (10) days of entry of the Decree, and thereafter as requested by the EEOC throughout the claims fund disbursement process.
  16. Within thirty (30) days of the entry of this Decree, the EEOC shall provide notice to all eligible claimants as described in Paragraph 14, via certified mail, that a settlement has been reached among all the Parties to this action. Eligible claimants shall be further advised that, if they wish to make application for an award from the Claimant Fund, they must do so in a writing mailed to the EEOC's Miami District Office post marked not later than thirty (30) days from the date of EEOC's notice mailing. The notice shall provide that Defendant Applied shall take no adverse action against any individual for filing such an application. Defendant Applied will bear the cost of mailing the notices described herein. A copy of such notice is attached as Exhibit C.
  17. Within sixty (60) days of the application filing deadline, the EEOC shall notify all potential claimants as to whether their applications to share in the Claimant Fund have been granted and the amount to be received by each. (A copy of such notice is attached as Exhibit D). Applications will be granted only as to claimants whose claims are supported by credible evidence of age discrimination which is not clearly refuted, and who have not signed a valid release of claims. Distribution of the settlement check to each claimant shall be conditioned on the claimant signing a Release in the form attached as Exhibit E.
  18. Potential claimants will be given thirty (30) days to submit letters to the court indicating any disagreement they may have with their claimant status/proposed award and the reasons

therefore. This procedure will be the sole means by which claimants may challenge their claimant status or the handling of their proposed monetary award.

19. Within fifteen (15) days of the court's approval of the award distribution, Defendant Applied shall mail settlement checks drawn on the Claimant Fund in accordance with the Court's Order. Within three (3) days after all such payments have been made, a copy of the checks shall be forwarded to the EEOC.
20. The remedies provided under this Consent Decree shall be the exclusive remedies available under the ADEA to any employee or former employee of Defendant Applied with a claim of age discrimination arising from the employee's layoff or discharge from his or her employment as a Territory Manager, Branch or Service Center Manager, Operations Manager, Account Representative or Customer Sales and Service Representative ("CSSR") in the state of Florida during the claims period, January 1, 1995 to September 13, 1998.

#### **REPORTING**

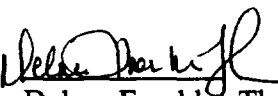
21. No later than August 6, 2001 (within six (6) months of the entry of this Consent Decree), Defendant Applied shall provide the EEOC Miami District Office with a listing of all managers and supervisors who have received the training described in Paragraph 10 since the entry of this Decree. Thereafter, on an annual basis beginning on January 31, 2002, and continuing throughout the duration of this Decree, Defendant Applied shall provide the EEOC Miami District Office with a listing of all managers and supervisors receiving the training described in Paragraph 10, the date the individual was placed in a management or supervisory position, and the date of the training.
22. Beginning July 1, 2001, and continuing annually throughout the duration of this Decree,

Defendant Applied shall provide to the EEOC the name, date of birth, address and phone number of each individual laid off/discharged from a Manager, Account Representative, or CSSR position in the state of Florida, together with the reason therefor and any supporting documentation.

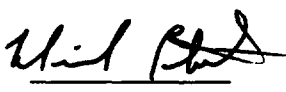
#### **DURATION AND ENFORCEMENT PROVISIONS**

23. The effective date of this Decree shall be its date of entry as an Order of the Court.
24. The Consent Decree shall continue in force and effect for a period of three (3) years from entry of the Decree.
25. No party shall contest the validity of this Decree nor the jurisdiction of the Federal District Court to enforce this Decree and its terms or the right of any party to bring an enforcement action upon breach of any term of this Decree by any party. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that Defendant Applied fails to perform the promises and representation contained herein. The EEOC shall determine whether Defendant Applied has complied with the terms of this Decree and shall be authorized to seek compliance with the Decree by civil action filed with this Court. The Court shall retain jurisdiction over any such proceeding arising from an act, or failure to act, occurring during the duration of this Decree.
26. The Parties shall pay their own costs associated with this action.

AGREED TO:  
FOR THE PLAINTIFF,  
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

by:  Date: 5/31/01  
Delner Franklin-Thomas  
Regional Attorney  
Miami District Office  
United States Equal Employment Opportunity Commission  
One Biscayne Tower, Suite 2700  
2 South Biscayne Boulevard  
Miami, Florida 33131

AGREED TO:  
FOR THE DEFENDANTS,  
APPLIED INDUSTRIAL TECHNOLOGIES, INC. AND APPLIED INDUSTRIAL  
TECHNOLOGIES-DIXIE, INC. f/k/a BEARINGS, INC. AND DIXIE-BEARINGS, INC.

by:  Date: 4/26/01  
Michael Coticchia  
Vice President Human Resources  
Applied Industrial Technologies, Inc.  
One Applied Plaza  
Cleveland, Ohio 44115-5056

SO ORDERED, ADJUDGED AND DECREED, this 5 day of June, 2001.

  
United States District Judge

CLERK OF COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

01 JUN -8 PM 1:45

  
FILED



**EXHIBIT NO.**

**A**

**APPLIED INDUSTRIAL TECHNOLOGIES, INC.  
POLICY AGAINST AGE DISCRIMINATION**

**I. Policy Statement**

Applied Industrial Technologies, Inc. is committed to providing a workplace free from age discrimination. Applied Industrial Technologies, Inc. strongly disapproves of and will not tolerate age discrimination of employees by managers, supervisors, and co-workers or non-employees and will take proactive steps to stop it.

**II Definition of Age Discrimination**

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older against employment discrimination based on age.

Under the ADEA, it is illegal to discriminate against an employee because of the employee's age in any area of employment, including hiring, firing, pay, assignment, transfer, promotion, layoff, recall, fringe benefits, retirement plans, leave, or any other terms or conditions of employment.

The ADEA also forbids harassment on the basis of age. It also is illegal to retaliate against an individual for filing a charge of discrimination, taking part in an investigation, or opposing age discriminatory practices.

**III Procedures**

An associate who believes that the Company is not adhering to this policy should notify his or her facility manager (i.e. Service Center Manager or Distribution Center Manager) or the next highest manager (i.e. Regional Manager or Area Vice President). In the event the associate feels he or she cannot discuss the matter with such managers, he or she shall notify the Manager of Associate Relations at Corporate Headquarters in Cleveland, Ohio. Complaints will be promptly investigated.

**EXHIBIT NO.**

**B**

**NOTICE TO ALL EMPLOYEES**

This Notice is being posted pursuant to a Consent Decree entered by the Court in U.S.E.E.O.C. v. Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc. f/k/a Bearings, Inc. and Dixie Bearings, Inc., Civil Action No.:

The Age Discrimination in Employment Act of 1967, as amended, ("ADEA"), protects individuals from discrimination in employment because of their age. Specifically, it protects employees from being subjected to a layoff or discharge from their employment on the basis of their age if they are forty (40) years of age or older. The law also protects such employees from retaliation for opposing any employment practice deemed unlawful by the ADEA, or for participating in any investigation, proceeding or hearing conducted pursuant to the ADEA.

Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc. ("Applied") do not condone discrimination of any kind as prohibited in the ADEA. Furthermore, Applied assures its employees that it supports the ADEA and will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, shall be taken against any employee, including management personnel, found to violate the company's policies regarding age discrimination.

Employees or applicants for employment who have questions about their rights under the ADEA or any other federal anti-discrimination law may telephone the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000 or (305) 530-7100.

This notice shall remain posted for three (3) years from the date signed.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2001.

---

**Robert Curley**  
**Vice President Southeast Area**  
**Applied Industrial Technologies, Inc.**

**EXHIBIT NO.**

**C**

**NOTICE**

**ATTENTION ALL INDIVIDUALS 40 OR OLDER  
LAID OFF OR DISCHARGED FROM APPLIED INDUSTRIES  
IN THE STATE OF FLORIDA  
BETWEEN JANUARY 1, 1995 AND SEPTEMBER 13, 1998**

Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc. f/k/a Bearings, Inc. and Dixie-Bearings, Inc. ("Applied") have entered into a consent decree with the United States Equal Employment Opportunity Commission ("EEOC"), an agency of the United States Government to resolve a lawsuit filed by the EEOC against Applied pursuant to The Age Discrimination in Employment Act of 1967, as amended, ("the ADEA"). If you were discharged or laid off from your position with Applied between January 1, 1995 and September 13, 1998, you may be qualified to participate in the settlement of this lawsuit. You must act immediately to preserve your rights by completing the enclosed claims form.

The claims form must be returned to EEOC, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, FL 33131. All claims will be thoroughly reviewed by the EEOC to determine eligibility for participation of the settlement.

Applied agrees that it will take no adverse action against any current or former employee for filing the claim form.

The enclosed claim form must be completed and returned to the EEOC by \_\_\_\_\_  
U.S.E.E.O.C. V. APPLIED INDUSTRIAL TECHNOLOGIES, INC.

**CLAIM FORM**

1. Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_
3. Mailing Address: \_\_\_\_\_
4. Daytime phone or contact: \_\_\_\_\_  
(Failure to provide a daytime phone or the number of a person who can take a message for you during the day will result in our inability to process your claim).
5. Date employed by Applied: \_\_\_\_\_
6. Position held with Applied: \_\_\_\_\_
7. Date of discharge/layoff: \_\_\_\_\_
8. Reasoning given by Applied for discharge or layoff (Please provide any and all documentation that substantiates this reasoning). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Yearly compensation and last position held with Applied: \_\_\_\_\_
10. Employment benefits received in last position held with Applied: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. Positions held after discharge or layoff from Applied.(Give the Company name, time period worked (i.e. starting and ending month and year), salary and benefits) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Do you believe that age was a factor in Applied's decision to discharge or lay you off from employment? Yes \_\_\_\_\_ No \_\_\_\_\_





**EXHIBIT NO.**

**D**

**U.S.E.E.O.C. v. Applied Industrial Technologies, Inc.**

**Notification of Claimant Status**

We are in receipt of, and have carefully reviewed your claim form, documentation and interview notes, if applicable, for the above matter. The following constitutes the EEOC's determination;

1. claimant status

1. Meets all criteria for claimants: Yes \_\_\_\_\_ No \_\_\_\_\_

Comment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Eligible for monetary awards: No \_\_\_\_\_ Yes \_\_\_\_\_ Amount \_\_\_\_\_

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you disagree with the EEOC's determination; you have until \_\_\_\_\_ to submit a letter to the court indicating any disagreement you may have with your claimant status/proposed monetary award, and the reasons therefore. **If you have no disagreement, please do not send a letter to the court.** Letters should be addressed as follows and both on the outside of the envelope and in the text of the letter make reference to U.S.E.E.O.C. v. Applied Industrial Technologies, Inc.

You must also send a copy to Michael Farrell, Supervisory Trial Attorney, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, FL 33131. Please make reference on the outside of the envelope to U.S.E.E.O.C. v. Applied Industrial Technologies, Inc.

**EXHIBIT NO.**

**E**

**WAIVER AND RELEASE**

I, \_\_\_\_\_, for and in consideration of the sum of \$ \_\_\_\_\_, less all legally required deductions, representing all amounts payable to me under the terms of the Consent Decree entered on \_\_\_\_\_, 2001, in the action brought by the U.S. Equal Employment Opportunity Commission (“EEOC”) against Applied Industrial Technologies, Inc. and Applied Industrial Technologies-Dixie, Inc. f/k/a Bearings, Inc. and Dixie-Bearings, Inc. (“Applied”) in the United States District Court, Middle District of Florida, Tampa Division, Case No. \_\_\_\_\_. do hereby fully and finally release Applied, its subsidiaries, divisions, insurers, predecessors, successors, parent companies, and affiliates, and their present and former owners, officers, representatives, attorneys, directors, partners, agents managers, supervisors, employees, assigns and any and all related or affiliated entities and all persons acting by, through under or in concert with such party, or any of them, (separately and collectively referred to herein as Applied) from any and all claims, charges, complaints, causes of action or liabilities of any nature, which were or could have been brought against Applied under the Age Discrimination in Employment Act of 1967, as amended, (“ADEA”) prior to the date of this release or which were raised in or are based on EEOC Charge numbers 151 96 0613 and 151 97 1791.

I warrant that the only consideration for signing this release is the terms stated herein and in the Consent Decree, and that no other promise or agreements of any kind have been made by any person or entity whatsoever to cause me to sign this Release.

I have had the opportunity to consult with the EEOC regarding this Release and have had sufficient time to review it.