

The U.S. Equal Employment Opportunity Commission

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FINAL JUDGMENT IN EEOC SEXUAL HARASSMENT CASE AGAINST CUSTOM COMPANIES TOPS \$1.1 MILLION

Federal Judge Cites Involvement of Top Management in Permitting Harassment and in Retaliating Against Victims

CHICAGO – A federal district judge this morning entered final judgment in an amount exceeding \$1.1 million in favor of the U.S. Equal Employment Opportunity Commission (EEOC) and against Custom Companies, a Northlake, Ill., trucking company in a sexual harassment case brought by the agency under Title VII of the Civil Rights Act of 1964.

In a 50-page Memorandum Opinion and Order explaining the judgment, U.S. District Judge Harry D. Leinenweber was sharply critical of the founder and chief executive of the company and other top managers and granted broad injunctive relief affecting the companies' business practices, including its use of "adult entertainment" (EEOC v. Custom Companies, Inc., et al, N.D. Ill. Nos. 02-C-3768 and 03-C2293, Mem. Op. & Order 3/8/2007).

"Defendants' actions were reprehensible," Judge Leinenweber wrote. "There was evidence of repeated touching . . . sexually explicit comments and jokes, sexual advances, and a sexually charged atmosphere. . . The harassment came from employees in positions of power."

In determining that it was necessary for the court to enjoin the future conduct of Custom Companies, the judge wrote, "Circumstances indicate that Defendants might engage in sexual harassment in the future. The sexual harassment was carried out by several individuals still employed by Defendants . . . The president and owner of the company, [Perry] Mander, was even involved in the retaliation."

Today's final judgment follows a Nov. 17, 2006, jury verdict in the case in favor of the EEOC in which \$2.36 million in the aggregate was awarded to the three former Custom Companies employees upon whose behalf the EEOC had sought relief. EEOC Trial Attorney Richard Mrizek, who led the government litigation team with Trial Attorney Deborah Hamilton, said that the judge was required to lower the amounts originally awarded by the jury because of dollar amount limitations imposed by the Civil Rights Act of 1991. That act amended Title VII of the Civil Rights Act of 1964, under which the EEOC's lawsuit was brought.

EEOC had charged that the three female sales representatives were subjected to unwelcome groping, lewd sexual language, sexual propositions, and pornography, and that one was sued by Custom Companies in Illinois state court because she complained to the EEOC. In addition, EEOC maintained that female sales representatives were expected to entertain Custom Companies customers and potential clients at the "Thee Doll House" and its successor "Crazy Horse Too," so-called "gentlemen's" or "strip" clubs on Kingsbury Street in Chicago, now known as "VIP's: A Gentlemen's Club." EEOC's evidence at trial indicated that the chief executive of Custom Companies also had an ownership interest in and was the chief executive of "Thee Doll House" and "Crazy Horse Too."

The EEOC's case at trial, supported by photographs, included evidence that strippers in revealing attire were positioned around the course at Custom Companies-sponsored golf outings for customers.

Judge Leinenweber's injunction, described at length in his order, will last for a period of four years. It

requires, among other things, that Custom Companies not sponsor company events at "a place of adult entertainment or which includes adult entertainers" and that Custom Companies distribute a notice to its customers "advising them of the jury verdict [and] the court's judgment." The company is required to post a notice advising all employees of the outcome of the EEOC lawsuit and their "right to contact the EEOC without fear of retaliation," and to provide sexual harassment training for all employees, including top executives and supervisors.

EEOC Regional Attorney John Hendrickson said, "Judge Leinenweber's final judgment will surely be a milestone in Title VII law, especially on sexual harassment. It addresses and resolves in a thoughtful and scholarly way a host of important issues, including the calculation of employer size for purposes of the statutory damage caps, the nature of the caps themselves, the availability of all types compensatory and punitive damages and other forms of monetary relief, and the utilization of counter-strike lawsuits as a form of retaliation. Make no mistake about it, this is a big decision--it's really important."

"But beyond all that," Hendrickson added, "we think it is especially significant that the court was willing to follow the evidence heard by the jury right into the executive suite and to the desk of the chief executive in assessing the need for injunctive relief and designing that relief to fit the way this company has done business. That is critically important, and it is what is going to make a practical difference to women who work at Custom Companies now and who will work there in the future."

The EEOC's lawsuit was filed May 28, 2002, in the U.S. District Court for the Northern District of Illinois in Chicago. The case was assigned to District Judge Leinenweber throughout the litigation. Chicago attorneys Marty Denis and Michael D. Robbins represented two of the women who intervened in the case.

Sexual harassment violates Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex (including sexual harassment or pregnancy) or national origin and protects employees who complain about such offenses from retaliation. The EEOC is responsible for enforcing the nation's laws prohibiting discrimination in employment based on race, color, sex (including sexual harassment and pregnancy), religion, national origin, age, disability, and retaliation. Further information about the Commission is available on its web site at www.eeoc.gov.

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