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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEB 2 2005

MICHAEL V. DOBBINS
CLERK, U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
)
FIRST HEALTH GROUP CORPORATION,)
)
Defendant.)
_____)

CIVIL ACTION NO. 04 C 7260

FIRST AMENDED COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act (the "ADEA") to correct unlawful employment practices on the basis of retaliation, and to provide appropriate relief to John T. Saldok ("Saldok") who was adversely affected by such practices. As alleged in paragraph seven (7) below, Defendant First Health Group Corporation discriminated against Saldok by retaliating against him for filing a Charge of Discrimination under the ADEA with the United States Equal Employment Opportunity Commission (the "Commission").

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217.

2. The employment practices alleged to be unlawful were committed within the

jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the United States charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant First Health Group Corporation has continuously been doing business in the State of Illinois and has continuously had at least 20 employees.

5. At all relevant times, Defendant First Health Group Corporation has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g), and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g), and (h).

CONCILIATION

6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

STATEMENT OF CLAIMS

7. Since at least March 2003, the Defendant First Health Group Corporation has engaged in unlawful employment practices at its place of business, in Downers Grove, IL, in violation of Section 4(d) of the ADEA, 29 U.S.C. § 623(d). The practices involve retaliating

against Saldok for filing a Charge of Discrimination under the ADEA with the Commission (which Charge appeared to have been successfully resolved through the Commission's voluntary mediation program).

8. The effect of the practices complained of in paragraph 7 above has been to deprive Saldok of equal employment opportunities and otherwise adversely affect his status as an employee, because of his participation in conduct protected by the ADEA.

9. The unlawful employment practices complained of in paragraph 7 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

10. The unlawful employment practices complained of in paragraph 7 above were intentional.

11. The unlawful employment practices complained of in paragraph 7 above were done with malice or with reckless indifference to Saldok's federally protected rights.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant First Health Group Corporation, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which retaliates against employees for their participation in conduct protected by the ADEA;

B. Order Defendant First Health Group Corporation to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees who participate in conduct protected by the ADEA, and which eradicate the effects of its past and present unlawful employment practices;

C. Grant a judgment requiring Defendant First Health Group Corporation to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages with prejudgment interest to Saldok whose wages are being unlawfully withheld as a result of the acts complained of above;

D. Order Defendant First Health Group Corporation to make whole Saldok for his participation in conduct protected by the ADEA, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including, but not limited to, frontpay;

E. Order Defendant First Health Group Corporation to make whole Saldok for his participation in conduct protected by the ADEA by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including emotional pain, suffering, humiliation, inconvenience, and loss of enjoyment of life, in amounts to be determined at trial;

F. Order Defendant First Health Group Corporation to make whole Saldok for his participation in conduct protected by the ADEA by providing compensation for past and future pecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, including, but not limited to, relocation and job search expenses, in amounts to determined at trial;

G. Order Defendant First Health Group Corporation to pay punitive damages for its malicious and reckless conduct described in paragraph 7 above, in amounts to be determined at trial.

H. Grant such further relief as the Court deems necessary and proper in the public interest;

I. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

ERIC S. DREIBAND
General Counsel

JAMES LEE
Deputy General Counsel

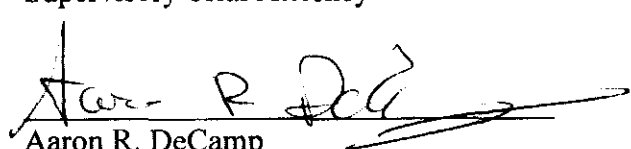
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