

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION

FILED

2000-01-13 10:37

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
)
HEIL TRAILER INTERNATIONAL,)
A DIVISION OF HEIL COMPANY,)
)
Defendant.)

CIVIL ACTION NO.
1:99-CV-367

[Signature]
CLERK

CONSENT DECREE

This action was instituted on December 13, 1999, by the Equal Employment Opportunity Commission (hereinafter "EEOC" or the "Commission") against Heil Trailer International, A Division of The Heil Co. (hereinafter "Heil") in the Eastern District of Tennessee, Southern Division, Tennessee pursuant to 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. (hereinafter referred to as "Title VII"). The Complaint in this lawsuit claims that Heil engaged in unlawful employment practices at its headquarters facility in Athens, Tennessee, in violation of §703(a) of Title VII, as amended, 42 U.S.C. §2000e-2(a). The alleged unlawful employment practices include, but are not limited to a pattern and practice of failing to hire female applicants for operative positions because of their sex and use of a hiring procedure which has a disparate impact on female applicants.

This Court has jurisdiction over the subject matter of this action and of the parties to this action. Both parties to this action desire to avoid the additional expense and delay of litigation of this case.

[Handwritten mark]

The Court has reviewed the terms of the proposed Consent Decree (hereinafter the "Consent Decree" or the "Decree") in light of the applicable laws and regulations, the statements and representations of counsel for all parties, and hereby approves the Consent Decree.

NOW, THEREFORE, the Court, being fully advised in the premises, it is hereby ORDERED, ADJUDGED AND DECREED THAT:

I.

SCOPE OF DECREE

- A. This Consent Decree resolves all issues and claims which arose or could have arisen out of the Commission's Complaint in this cause, Civil Action No. 1-99-CV-367 alleging sexually discriminatory employment policies and practices maintained by Heil, and all issues and claims arising from EEOC charge number 253-99-1031.
- B. It is understood that this Consent Decree does not constitute an admission by Heil of the allegations of the Complaint, all such allegations being expressly denied by Heil.
- C. In the event this proposed Consent Decree is not approved or does not become final, then it or any statement made herein shall not be admissible in evidence or in any manner binding upon or used against Heil or its owners, representatives or agents in any subsequent proceeding in this action.

II.

INJUNCTIVE AND OTHER RELIEF

- A. Defendant Heil, its officers, agents, employees, successors and assignees are hereby enjoined and restrained from:
 - 1. Failing or refusing to hire any individual because of such individual's sex or;

2. Limiting, segregating or classifying its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect her status as an employee because of such individual's sex.
- B. EEOC and Heil agree that Heil shall make payments to female Class Members designated by the EEOC and in amounts determined by the EEOC. The sum of the payments made directly to Class Members pursuant to this paragraph shall not exceed \$250,000.
- C. In making payment, Heil shall issue checks made payable to the individual Class Members. The EEOC will furnish to Heil the amount of the Share to which each Class Member is entitled and, the mailing address of each such Class Member, and verification that the EEOC has obtained a signed release from the Class Member in the form attached hereto as Exhibit A.
- D. Heil shall mail the required check to each Class Member by the later of January 4, 2002, or the thirtieth (30th) day after Heil's receipt of the Class Member's name and address, the amount of the Class Member's share, and verification of the signed release. Within thirty (30) days of receipt of notice that a check has been mailed to a Class Member, the EEOC will send the applicable release form to Heil.

III.

NONDISCRIMINATORY HIRING

- A. Heil will maintain written nondiscriminatory hiring guidelines. These guidelines should specify any job related qualifications, eg., education, training, skills, experience, or other lawful qualifications required for successful performance of operative positions. It is understood that these guidelines may be subject to amendment during the life of this Consent Decree, for example, in the event that the content of a particular job changes. Heil will provide a copy of any

amendment to the Commission. This paragraph shall not be construed as giving the EEOC a right to veto Defendant's job related qualifications or changes thereto.

B. Heil will assign its Director of Human Resources to be in charge of equal employment opportunity and monitoring of this decree, overseeing the production of all reports required by this decree and implementing this decree. To fulfill its obligation to furnish equal employment opportunity to all applicants, Heil will provide formal instruction to managers in the topics set forth in section C. below.

C. The above training programs shall address the following topics:

1. Survey of State and Federal equal employment opportunity laws and regulations addressing sex discrimination;
2. Non-discrimination with respect to sex in the interviewing and evaluating of job applicants and employees;
3. The record keeping requirements of Title VII and the regulations adopted by the Commission.
4. Heil's managers and supervisors will be specifically instructed that it is Heil's policy to hire females on a non-discriminatory basis and of its policy to comply with the foregoing anti-discrimination laws.

D. Nothing in this Consent Decree shall be interpreted as requiring Heil to select unqualified individuals. Nothing shall require Heil in choosing between or among qualified applicants for employment in any position covered by this Decree to choose an applicant who is less qualified in order to meet its obligations under this Decree,

IV.

RECORDS AND REPORTING

A. Heil will maintain such records as are necessary to demonstrate its compliance with the provisions of this Consent Decree and to verify the reports submitted. These records, and any other information relevant to the provisions of this Decree, will be made available to the Commission at the main offices of Heil upon request and upon reasonable notice by appointment.

B. Heil will report in writing to the Commission concerning the implementation of this Agreement. The first report shall be due within sixty days after the entry of this Decree. The report shall include the following information:

1. A breakout of all persons currently employed in operational positions as of 60 days prior to the date of the report by full name, sex, title, social security number, and date of hire.
2. A copy of the hiring guidelines set out in Section III.

C. Heil hereby agrees to provide to the Commission within 4 months of the date of entry of this Decree and every 6 months thereafter for the duration of this decree a detailed report as to all persons hired into operational positions during that time period. The report will set out the following:

1. The full name, sex, date of hire and current status (i.e. whether still employed or if no longer employed: date of separation and reason for separation) of each person hired into an operative position.
2. A detailed report summarizing the formal training sessions as required by Section III Nondiscriminatory Hiring, paragraphs B and C.

V.

DURATION OF AGREEMENT

A. This Agreement shall be in full force and effect for a period of twenty-four (24) months starting from the date the Court approves this Decree; provided, however, that Heil's obligation to make the reports and provide the information required under Article IV hereof shall survive the expiration of this Agreement, for the period of time necessary to comply with Section III, Paragraphs B and C.

B. The Commission shall have the right to initiate proceedings for noncompliance with any provision of this Decree as follows:

1. If the Commission has reason to believe that Heil has not complied with any term of this Consent Decree, it shall give notice, in writing, to Heil regarding:

- a. the specific provision hereof with which the Commission believes Heil has not complied;
- b. a concise statement of the facts supporting the Commission's position.

2. Heil and the Commission shall undertake, through meetings, investigation, correspondence or other appropriate means, to resolve the area of alleged noncompliance.

3. Should either party determine that the efforts to resolve the matter have failed, written notice of such failure shall be sent, by certified mail, to the other party.

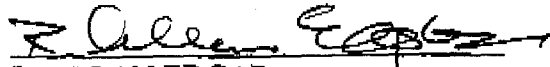
4. After notice of failure has been sent, the Commission or Heil may request a hearing before the United States District Court for the Eastern District of Tennessee, Southern Division, to determine compliance with, to enforce, or to take such other action consistent with this Decree.

VI.

COSTS


Each of the parties shall bear its own costs, including attorneys' fees.

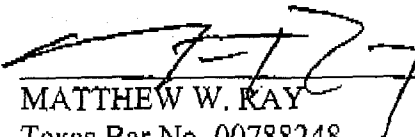
SO ORDERED THIS _____ DAY OF _____ 2001.


R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE

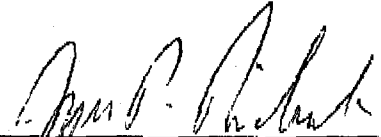
ATTORNEYS FOR DEFENDANT
HEIL TRAILER INTERNATIONAL,

A DIVISION OF THE HEIL CO.:


STANLEY WEINER
Texas State Bar No. 21091020


MATTHEW W. KAY
Texas Bar No. 00788248

JONES, DAY, REAVIS & POGUE
2727 North Harwood Street
Dallas, Texas 75201-1515



FRANK P. PINCHAK
BPRN 002094

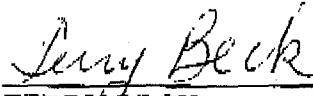
WITT, GAITHER & WHITAKER, P.C.
1100 SunTrust Bank Building
Chattanooga, Tennessee 37402-2606


FOR THE COMMISSION:


NICHOLAS INZEO
Acting Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


KATHARINE W. KORES
Regional Attorney


TERRY BECK
Supervisory Trial Attorney


DRAGA G. ANTHONY
Trial Attorney


THOMAS J. BOREK
Trial Attorney

Equal Employment Opportunity Commission
1407 Union Avenue, Suite 621
Memphis, Tennessee 38104
(901) 544-0102

Exhibit A

Release Form

In consideration of the payment to me by Heil Trailer International, pursuant to the Consent Decree agreed to by the Equal Employment Opportunity Commission and Heil Trailer International, in civil action No. 1:99-CV-367 on file with the Federal District Court for the Eastern District of Tennessee, of which this release is part, I hereby fully and forever release and discharge Heil Trailer International and Heil Company, and their affiliates, successors and assigns, including their present and former shareholders, directors, officers, employees and agents, from any and all claims or obligations of any nature based on employment discrimination which were or which could have been raised in such civil action.

I have read this release and I execute it voluntarily, without coercion or threat of reprisal.

Printed name of Aggrieved Party

Date

Signature of Aggrieved Party