

Despite EGL's promises to provide information in response to the Consultant's repeated requests for regular written reports regarding the Leadership Development Program ("LDP"), it failed to provide any such information until October 26, 2004. Because of the late submission of the LDP information, the Consultant will prepare a separate report regarding EGL's compliance with the LDP provisions of the Consent Decree at a later date.

Of particular concern to the Consultant is the status of the LDP. At this juncture, which is 18 months into the 36 month term of the Consent Decree, there has still been no consensus regarding the specific programs EGL is required to implement nor the objectives each program is designed to accomplish. From the time the Consultant was initially appointed, EGL indicated it did not intend to strictly adhere to the provisions in the Consent Decree outlining the structure and implementation of the LDP. After the Consultant refused to approve modifications to the LDP absent EEOC consent, EGL's counsel wrote a letter to Ms. Kores of the EEOC dated May 4, 2004 seeking the EEOC's permission to modify the structure of the LDP and to restrict the active role assigned to the Consultant by the Consent Decree in overseeing the LDP. Even though the EEOC's permission was not forthcoming,² EGL has proceeded to make unilateral changes in the structure and operation of the LDP.³ Its failure to submit regular reports on its LDP activities has resulted in a program that has not been effectively subject to the Consultant's review or EEOC approval of its efforts.

² By letter dated October 8, 2004, Katharine W. Kores, of the EEOC, responded to EGL's letter of May 4, 2004 by denying EGL's request to approve its Leadership Development Plan in order to satisfy its obligations under the Consent Decree or to narrow the responsibilities of the Consultant for overseeing the LDP

³ The Consultant is not opposed to making any modifications to the LDP Program that the EEOC has approved. Until any changes have received EEOC approval, however, it is the Consultant's position that EGL is obligated to establish and operate the LDP programs as set forth in Ex. 2 to the Consent Decree. Therefore, among other things, the Consultant is troubled that EGL has selected the participants in the various programs without seeking the Consultant's input (or even advising the Consultant) as to either the selection criteria or the identity of those selected as participants.

I. COMPLIANCE AND COMMENTARY

A. Hiring and Promoting

EGL's 2004 EEO-1 data indicates that it is continuing to add employees, having grown from 4,246 employees in 2002 to 4,699 two years later.⁴ Since 2002, the percentage of females employed by EGL has decreased from 41.1 percent to 40.9 percent, while the percentage of minorities⁵ has dipped from 38.5 percent to 34.8 percent. Because EGL's monthly hiring and promotional data, as discussed below, reveals that EGL hires and promotes increasingly larger percentages of females and minorities, the declining percentages suggest that EGL may need to exert more effort in retaining female and minority employees.

Past analysis has revealed that the lowest proportion of females and minorities were employed by EGL in the EEO-1 (Officers and Managers) and EEO-4 (Sales Workers) job categories. EGL has shown progress in diversifying its work force in those two job categories, with its total percentage of female/ minority EEO-1 employees expanding from 33.9 percent to 37.9 percent in the 2002 to 2004 time frame. Similarly, the percentage of female/minority sales workers has increased from 33.1 percent in 2002 to 36.7 percent in 2004.

In the most recent six month reporting period, EGL hired a total of 988 new persons,⁶ of

⁴A chart comparing EGL's comprehensive EEO-1 data for 2002, 2003 and 2004 appears attached hereto as Exhibit A.

⁵ The term "minority" as used in this report includes African Americans and Hispanics, but does not include Asians or American Indians, as the later two groups are not among the groups intended to benefit from the provisions of the Consent Decree.

⁶ The data on new hires comes from EGL's monthly New Hires Report. There are some discrepancies in the information included on the reports. For example the June New Hires Report does not include the interns hired that month, although the Unposted Jobs Report for June indicates 12 interns were hired. The May New Hires Reports lists ten interns of both the New Hire Report and the Unposted Jobs Report. For purposes of this analysis, such discrepancies have been disregarded and if entries do not appear on the New Hire Report they are not included in these calculations.

which 615, or approximately 62.2 per cent, were female and/or Black or Hispanic. In this period EGL hired 43 persons who were classified under EEO Code-4 (Sales Workers), of whom 18, or 41.9 percent, were female/minority. The percentage of EEO Code-4 new hires who are female/minority exceeds the existing percentage of female/minority Sales Workers shown on EGL's 2004 EEO-1 Form as employed in EGL's workforce (36.7 %) by more than five percentage points, pointing to continuing progress in diversifying its sales workers. Unfortunately, the same pattern does not apply to the EEO Code-1 (Officers and Managers) category, in which EGL hired 64 persons, of which 21 (32.8 %) were female/minority. Thus, the percentage of new hires in EEO Code-1 is five percentage points below that percentage of females and minorities currently holding jobs classified within EEO Code-1 (37.9%), according to EGL's 2004 EEO-1 report.⁷

An analysis of the new hire data also reveals that, of 125 persons hired into positions paying \$50,000 or more, 47 (37.6 %) were female/minority. In contrast, females/minorities were hired into 568, or 65.9 percent, of the 862 positions (excluding the 11 intern and student worker positions included in the June 2004 New Hire Report) paying less than \$50,000. As in prior reporting periods, it remains true that a female or minority is more likely to be hired into a lower paying position than is a white or Asian male.

In the third reporting period, EGL filled 26 positions in the United States, excluding interns and student workers, without posting. Nine of the 26 positions, or 34.6 percent, were awarded to females and/or minorities. As in the past, EGL's rationale for failing to post the positions appears

⁷ The percentage of females/minorities in EGL's workforce is based on the figures appearing in EGL's 2004 EEO-1 form. Pursuant to federal guidelines, the figures listed on an EEO-1 form are either the employees employed on the last day of the prior calendar year or those employed at the end of the employer's affirmative action year, even though it may not be the same as the calendar year. Accordingly, it is not known if the figures shown on EGL's 2004 EEO-1 form are current as of December 31, 2003 or a different date coinciding with its affirmative action reporting year.

valid.. The stated reason for not posting the majority of the unposted positions was that an employee of a company whose assets were acquired by EGL was transitioned into the vacancy. The 26 unposted jobs represent 1.6 percent of the total of 1,649 jobs requisitioned during the five month period. Although the unposted jobs compose a higher percentage of total jobs requisitioned than in prior reporting periods, it does not appear that EGL was previously in a position of attempting to integrate employees of an acquired company into its own workforce. What is of continued concern is that all but three of the jobs on the Unposted Jobs List do not appear on the Jobs Requisitioned Reports. Failure to follow the requisitioning process for all jobs appears to be a violation of EGL's official policy.

Of the jobs requisitioned over the six month period, 196, or 11.9 percent, were not posted externally. The percentage of jobs which were not posted externally has been significantly reduced since the second reporting period, when approximately 18 percent of jobs were not posted externally. Consistent with prior reporting periods, the reports for the current period reveal that the percentage of positions not posted externally was highest in the Corporate Division, where a total of 51 out of 251 jobs, or 20.3 percent,⁸ were posted only internally, presumably via the S.O.A.R. system. Although EGL has advised the Consultant that financial considerations are the reason certain jobs are not posted externally, the Consent Decree does not authorize an exception to the external posting requirements on financial grounds.. Moreover, EGL has failed to follow the Consultant's

⁸ The June, July and September Job Requisitions Reports show job requisitioned in regions (i.e., North and South) for which the Consultant has not seen evidence of existence. The June and September Requisitions Report is also rife with inaccuracies as to the region in which a particular terminal is located. Since an earlier reorganization, the Consultant has been informed by EGL of the existence of only three regions—East, West and Central/Mexico. If other regions have been added to EGL's organizational structure, the Consultant should be advised immediately, in accordance with past requests, because the number of regions would affect statistical comparisons among reports as well as affect EGL's obligations under the Consent Decree.

recommendation to provide EEO data on the jobs awarded without outside posting so the effect on workforce diversity can be gauged.

A total of 486 promotions were reported between April 1 and September 31, 2004. Two hundred thirty-two (232), or approximately 47.7 percent, of these promotions went to females and/or minorities, although females/minorities comprise 62.4 percent of EGL's workforce. Sixty-three (63) of the promotions were for jobs falling within EEO Code-1, of which 25 (39.7 %) went to females and/or minorities. Ten (10) persons, five (50 %) of whom were females and/or minorities, were promoted into positions falling within EEO Code-4.⁹

There continues to be a gap between the average salaries of jobs to which white males and females/minorities were promoted during all but one (May 2004) of the six months considered in this report. Using weighted averages, white and Asian males receiving promotions were paid an average annual salary of \$ 51,578, while females/minorities earned an average of \$ 38,382 per annum, amounting to a \$ 13,196 differential in annual earnings. A chart comparing the average salaries of white males receiving promotions with those of females/minorities in each of the six months here at issue is attached as Exhibit B.

As noted in previous reports, EGL has not made its goals or the availability data contained in its Affirmative Action report available to the Consultant, so it is difficult to accurately assess EGL's overall progress in creating greater work place diversity.

B. Maintaining Records

There has been no change from that related in the Consultant's Second Report in which it

⁹ Although the September 2004 Promotions Report indicates one person, Lisa M. Wilson, was promoted into an EEO Code-4 (Sales Workers) category job, the classification appears incorrect as she was promoted to the position of "HR Generalist" in the Corporate Human Resources Department, apparently unrelated to Sales.

was noted that EGL had neither responded to the Consultant's request to identify its policy with respect to retaining applications of unsuccessful job applications nor identified successful job applicants on its Applicant Tracking Information Report as required by Paragraph 70 of the Consent Decree. Also, as previously noted, the accuracy of EGL's Applicant Tracking Information Report is suspect. For example, of the seven freight handlers hired in the Columbus, Ohio terminal in June 2004, according to the June 2004 New Hire Report, the names of three of the seven do not appear on the Applicant Tracking Information Reports for February 1, 2004 forward.¹⁰ This is particularly troubling because six of the seven newly hired freight handlers are white males which could indicate that the white male freight handlers in Columbus were not required to adhere to the same application requirements as other employees.

In addition, a random check of the first six names listed on the third page of the New Hire Report for July 2004 revealed that two of the six (both of whom were hired in Minneapolis) could not be located on the Applicant Tracking Information Report, although in this instance, one of the new hires whose name does not appear on the Applicant Log is a white male and the other is a Hispanic male.¹¹ Thus, at the very least, it is the Consultant's conclusion that the applicant tracking system employed by EGL is insufficiently reliable.

As discussed in previous reports, EGL has failed to comply with the requirements of Paragraph 70 of the Consent Decree wherein it is obligated to identify the applicants to which it made offers and whether the offer was accepted. In as much as EGL has been made aware of this

¹⁰ The names of the three persons hired as Freight Handlers in Columbus who are not listed in the Applicant Tracking Information Report are Benjamin R. Miller, Brett Boylan Schrunner and Steven M. Finley.

¹¹ Omar Sandoval Acosta and Bryan M. Hamilton are the two individuals hired in Minneapolis whose names do not appear on the Applications Log.

deficiency since it first began to furnish data to the Consultant, its disregard of its reporting requirements is disconcerting.

C. Anti-Discrimination Policies and Handling Complaints

The Consultant has not been apprized of any revisions to EGL's anti-discrimination policies enacted during this reporting period. Thus it appears that no action has been taken by EGL in regard to the recommendation contained in the Consultant's Initial Report that EGL expand its anti-retaliation policy to state that employees are encouraged to fully participate in the investigation of an employment charge or complaint and that employees involved in an investigation will not be subject to discipline or otherwise disadvantaged as a result.

Between April 1 and September 30, 2004, EGL reports that 46 new internal complaints were received. Although ten more internal complaints were reported in this reporting period than in the prior six month reporting period, when a total of 36 complaints were recorded, there does not appear to be a significant increase in the number of complaints raising questions of racial or gender discrimination. With the exception of three, or arguably four, matters in which allegations of sexual harassment were made, the complaints involve incidents of purportedly unacceptable behavior unrelated to allegations of sexual or racial discrimination. Moreover, according to EGL's reports, prompt and sufficient action was taken in response to each complaint received.

As of October 18, 2004, the EEOC Charge Log lists 21 matters (excluding one charge filed in Puerto Rico). All the charges are currently pending with the exception of an age discrimination charge filed in New York in which a no-cause finding was issued on July 14, 2004 and a dismissal and notice of rights letter issued to the charging party on September 22, 2004. In the EEOC Charge Log dated September 20, 2004, there was an entry involving a charge of race discrimination filed

in San Antonio, noting that a dismissal and notice of right to sue was issued on January 29, 2004. Since the time for filing suit had expired on the San Antonio charge before September 2004, it is not known why it remained on the EEOC Charge Log. It is possible that the charging party filed suit. If suit has been filed in this or any other matter, the Consultant should be advised and a copy of the Petition or Complaint forwarded to the Consultant for review.

According to the EEOC Charge Log, four charges alleging national origin discrimination were filed by persons with Hispanic surnames in Chicago on May 17, 2004. In addition, one of the four persons complaining of national origin discrimination as well as another individual with a Hispanic surname filed charges of retaliation in Chicago on that same date. Although the Consultant has previously requested EGL to forward more complete information for all EEOC charges alleging racial, national origin, sexual discrimination/harassment or retaliation, the Consultant is no longer convinced that information regarding all charges is necessary. The Consultant remains convinced that copies of the charges filed in Chicago are essential and hereby requests EGL to immediately forward same. Because it is not always apparent from the present EEOC charge log how all charges are disposed of, the Consultant also requests that EGL indicate the final disposition of all EEOC charges filed against it.

D. Training and Orientation

The Consultant has not been made aware of any orientations or training conducted during this reporting period. EGL has yet to confirm that a Notice of Settlement has been posted at each facility in accordance with Paragraph 75 of the Consent Decree or advise the Consultant of the schedule by which it intends to redistribute its sexual harassment policy to all employees at least once annually by attaching a copy to their paychecks.

With regard to training, EGL has not advised the Consultant whether it has, in fact, implemented the computer based program marketed by Bright Line Compliance. Neither has the Consultant been informed whether training has been conducted in order to fulfill EGL's obligation to provide harassment training to senior management officials and persons charged with handling discrimination and retaliation complaints.

E. Leadership Development Program

Although Lorie Parmeter, EGL's Vice President of Human Resources, indicated that an LDP report would be provided along with its June reports, the July 29, 2004 cover letter accompanying the June reports stated that "the [LDP] data is not available" and would "be sent under separate cover." When no report had been received by early October, the Consultant sent EGL a letter setting October 15, 2004 as the deadline for providing a report, but no report was received until October 26, 2004. Because the LDP Progress Report was received too late for the Consultant to adequately review it before the Consultant's Third Report is due, it will be review separately at a later date.

An examination of EGL's monthly New Hire Reports shows that 10 summer interns were hired in May, 12 in June and 1 in July. Because the interns hired in May and June were listed in EGL's monthly List of Unposted Jobs and designated as being under the LDP, it appears that at least these 22 interns were intended to be LDP participants, but it is not known if the intern hired in July was subject to different hiring criteria or treatment while employed. It does appear that all interns were paid the same amount.

The interns hired in May consisted of 6 white females, 3 white males and 1 Asian male. The June interns included 4 females, none of whom were minority, and 8 males, three of whom (2 black, 1 hispanic) were minorities. The intern hired in July was a white male. Accordingly, of the 23

student interns employed by EGL during the reporting period, there were a total of 3 minorities (13 %) and 10 females (43.5 %). Nine of the 23 (39.1 %) were non-minority males, who are not among the groups designed to benefit from the LDP. Although the 12 interns hired in June were listed on that month's Log of Unposted Jobs, the internship positions added in May and July were not similarly listed on the May and July Log of Unposted Jobs. The Consultant has received no information regarding the selection criteria for the summer interns nor has there been any evidence that EGL has established internship programs with at least one college or university within each region as required by the Consent Decree.

EGL's New Hire Reports for the designated period also show that it hired six student workers, four of whom were black females and two of whom were white males. Although four interns were hired in June, only two student internship positions appear on that month's Log of Unposted Jobs and the internship positions filled in May and July are not included on the Unposted Jobs Log for those months. The reasons for these differences are unknown. Likewise, it is not known whether the white males were intended to be included in the LDP and, if not, what distinctions were made in terms of their selection or treatment while employed. At any rate, in as much as the New Hire reports reveal all the student workers were based in Houston, it is apparent that EGL has not successfully initiated a High School Work/Study Program with a minimum of two high schools in each region, as required by the Consent Decree.

While Consultant is aware that EGL has implemented a Management Training Program¹²

¹² In response to EGL's invitation, the Consultant attended a 1 ½ hour orientation for the second Management Training Class held at EGL in Houston. It was noted that the class consisted of 13 females and 9 males. Five of the males, three of whom were employed in the Austin station, appeared to be white, non-minorities. It remains true, however, that no reports regarding the selection process nor any information regarding the initial class has been furnished to the Consultant.

(presumably intended to serve as the Career Path Development/Mentoring Program described in the Consent Decree) as set forth in its Leadership Development Program Guide attached as Exhibit A to the Consultant's Second Report, reports were not provided to the Consultant as to the composition of the Management Training class or the subsequent job assignments of participants after completion of the program in sufficient time to be analyzed in this Report.

The Consultant has directed EGL to forward its LDP Progress Report dated October 2004 to the EEOC so that EGL and the Consultant, together with the EEOC, may work to establish the full range of LDP programs listed in the Consent Decree and ensure that they meet the goal articulated in the Consent Decree to provide the "training, experience and mentoring to female, African-American and Hispanic employees which will prepare them for leadership positions with Eagle" without further delay.

III. SUMMARY

As discussed in the body of this report, the Consultant had received no information reports from EGL concerning its efforts to develop a LDP in accordance within the parameters set forth in Exhibit 2 to the Consent Decree until October 26, 2004. Immediate steps need to be taken to ensure that EGL is in compliance with its LDP obligations and provides regular progress reports.

As noted above, EGL has also failed to cooperate with the Consultant's efforts to either enact or respond to previous recommendations. It has further failed to confirm that it has complied with the training and posting requirements of the Consent Decree.

Although EGL continues to hire and promote acceptable numbers of females and minorities, overall progress has stalled in such areas as total percentage of minorities employed in its workforce, total percentage of females employed in its workforce, percentage of females and minorities hired

in the EEO-1 job category, and percentage of females and minorities hired into higher paying jobs. Trends in these areas will need to be closely followed to determine their true significance over time.

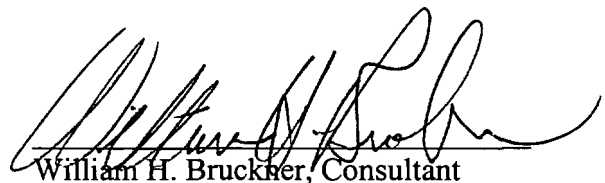
In addition to implementing all prior recommendations, the Consultant recommends that the following actions occur without delay:

- EGL submit a copy of its October 2004 LDP Progress Report to the EEOC and reach an understanding with the EEOC and Consultant regarding the extent of its LDP obligations 1 under the Consent Decree.
- EGL notify the Consultant of any modifications to its regional organization within ten (10) days after the modification takes effect.
- EGL improve the consistency of its reports by, e.g., either including or not including all summer interns on its New Hire Report and Jobs Not Posted Report.
- EGL ensure that all job applicants are listed in the Application Tracking Information Report..
- EGL notify the Consultant and furnish a copy of the Petition or Complaint for any EEO suits filed against it.
- EGL forward copies of the five EEOC charges filed in Chicago in May 17, 2004.
- EGL provide data on the disposition of all EEOC charges.
- EGL provide the Consultant with regular written reports on its LDP activities at least every three months.

Dated: October 27, 2004

Respectfully submitted,

BRUCKNER BURCH PLLC



William H. Bruckner, Consultant

**COMPARISON OF EEO-1 DATA
FOR 2002, 2003, AND 2004**

	2002	2003	2004
Total No. Of Employees	4246	4621	4699
No. & % F / Minority	2581 (60.8%)	2890 (62.5%)	2933 (62.4%)
No. & % Female	1747 (41.1%)	1889 (40.9%)	1923 (40.9%)
No. & % Minority	1636 (38.5%)	1636 (35.4%)	1633 (34.8%)
Total Officers & Managers	542	582	652
No. & % F/Minority	184 (33.9%)	202 (34.7%)	247 (37.9%)
No. & % Female	137 (25.2%)	141 (24.2%)	163 (25%)
No. & % Minority	73 (13.5%)	95 (16.3%)	119 (18.3%)
Total Sales Workers	236	280	237
No. & % F/Minority	78 (33.1%)	127 (45.4%)	87 (36.7 %)
No. & % Female	58 (24.6%)	98 (35%)	65 (27.4%)
No. & % Minority	28 (11.9%)	65 (23.2%)	27 (11.4%)

EXHIBIT A

Month	Average Salary and No. Of White Males Promoted	Average Salary and No. Of Min/Females Promoted
April 2004	49,461 (11)	43,255 (21)
May 2004	50,817 (30)	55,201 (33)
June 2004	50,878 (15)	44,883 (16)
July 2004	64,459 (13)	39,684 (24)
August 2004	66,005 (13)	33,426 (62)
September 2004	43,290 (36)	31,997 (76)
Weighted Average	\$ 51,578 (118)	\$ 38,382 (232)

Exhibit B