

IN THE UNITED STATES DISTRICT COURT ~~UNITED STATES COURTS~~  
FOR THE SOUTHERN DISTRICT OF TEXAS ~~SOUTHERN DISTRICT OF TEXAS~~  
HOUSTON DIVISION FILED

JUN 1 8 2005

AUGUSTINE DUBE, ET AL,  
*Plaintiff*  
  
U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,  
*Plaintiff-Intervenor,*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

MICHAEL N. MILBY, CLERK OF COURT

CIVIL ACTION NO. H-01-0900

v.

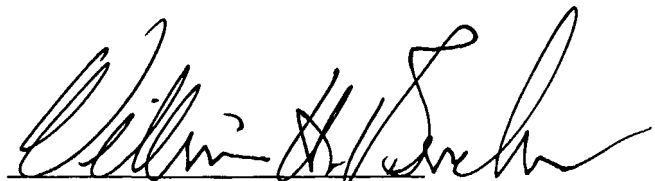
Judge Lynn Hughes

EAGLE GLOBAL LOGISTICS  
A/K/A EAGLE U.S.A.  
AIRFREIGHT, INC.,  
*Defendants.*

**CONSULTANT'S FOURTH REPORT REGARDING  
COMPLIANCE WITH EEOC/EAGLE CONSENT DECREE**

Consultant, William H. Bruckner, hereby files the attached Consultant's Fourth Report regarding compliance with the Consent Decree entered into between the United States Equal Employment Opportunity Commission ("EEOC") and Eagle Global Logistics ("EGL") covering the fourth reporting period of eight (8) months.

Respectfully submitted,

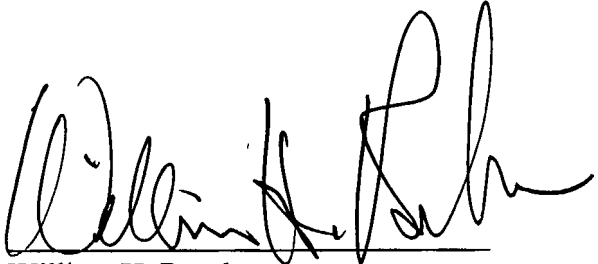
  
William H. Bruckner, Consultant

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the *Consultant's Fourth Report Regarding Compliance with EEOC/Eagle Consent Decree* has been served on all opposing counsel, as indicated below, via certified mail on this the 16<sup>th</sup> day of June, 2005.

Katharine Kores  
EEOC Memphis Office  
1407 Union Avenue, Suite 621  
Memphis, TN 38104

Nancy Patterson  
Baker & Hostetler LLP  
1000 Louisiana, Suite 2000  
Houston, Texas 77002



William H. Bruckner

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

<b>AUGUSTINE DUBE, ET AL,</b>	§	
<i>Plaintiff</i>	§	
	§	
<b>U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</b>	§	
<i>Plaintiff-Intervenor,</i>	§	<b>CIVIL ACTION NO. H-01-0900</b>
	§	
v.	§	<b>Judge Lynn Hughes</b>
	§	
	§	
<b>EAGLE GLOBAL LOGISTICS</b>	§	
<b>A/K/A EAGLE U.S.A.</b>	§	
<b>AIRFREIGHT, INC.,</b>	§	
<i>Defendants.</i>	§	

**CONSULTANT'S FOURTH REPORT REGARDING  
COMPLIANCE WITH EEOC/EAGLE CONSENT DECREE**

**I. PREFACE**

This Report, which covers the reporting period from September 1, 2004 through April 30, 2005, has been prepared by William H. Bruckner ("Consultant") and is being filed with the Court pursuant to Paragraph 72 of the Consent Decree entered in Case No. H-01-0900 between the United States Equal Employment Opportunity Commission ("EEOC") and Eagle Global Logistics ("EGL"). This reporting period, representing a total of eight months, covers a longer period than past reports, which are typically furnished every six months.<sup>1</sup>

During this reporting period, EGL has generally adhered to the agreed upon reporting scheduled although, in disregard of past promises and its obligations under Paragraph 71.D of the

---

<sup>1</sup> Past reports have sometimes only covered a period of five months because the reports from EGL were received after the Consultant's cut-off date for incorporation into the Report to the Court.

Consent Decree, it has continued to fail to respond to all but one of the Consultant's recommendations set forth in previous Reports.<sup>2</sup>

Moreover, despite a request for at least quarterly reports of the progress made under the Leadership Development Program ("LDP") portion of the Consent Decree, no updates have been furnished to the Consultant since the LDP Progress Report dated January 2005 covering the last two months of 2004. The absence of information concerning the LDP is a grave concern in that 24 months of the 36 month term of the LDP have now elapsed. Already hampered by a delayed start, the absence of complete reports have prevented the Consultant from exercising any of the sort of input that appears to have been contemplated by the Consent Decree. In the Consultant's Supplemental Report regarding EGL's Leadership Development Program filed on February 14, 2005, a number of questions and concerns about the structure, operation and candidate selection processes of the LDP programs were identified. To date, the Consultant's attempts to obtain additional information and resolve its areas of concern have met with no success.

## **II. COMPLIANCE AND COMMENTARY**

### **A. Hiring and Promoting**

The most recent data on new hires for the eight month period at issue reveals that EGL hired a total of 1,047 new employees, of which 649, or approximately 62 percent, were female and/or Hispanic or African American ("female/minority"). Seventy-one (71) of the new hires fell within the EEO-1 classification (Officers and Managers). Twenty-four (24), or 33.8 percent, of the new EEO-1 level employees were female/minority. Another 20 new hires fell within the EEO-4

---

<sup>2</sup>EGL has forwarded information regarding EEOC charges filed against it in Chicago as well as concerning other EEOC charges pending on or about January 1, 2005 pursuant to the Consultant's recommendation.

classification for Sales Workers. Ten, or 50 percent of these, were female/minority. Over the past year, EGL has shown real progress in hiring a greater percentage of females and minorities as Sales Workers, but the progress has not been as pronounced for the Officers and Managers category. The Career Path Development/Mentoring Program of the LDP was designed to help remedy the imbalance in the numbers of females and minorities working in executive level jobs, but the Consultant is unable to evaluate its efficacy in the absence of current and complete information.

An analysis of the new hire data also reveals that, of 112 persons hired into positions paying \$50,000 or more, only 38 (33.9%), were female/minority. In contrast, females and minorities accounted for 632 of the 945 (67 %) new hires into positions paying less than \$50,000. As in prior reporting periods, it remains true that a female or minority is almost two times more likely to be hired into a position paying less than \$50,000 than is a white or Asian male.

In the current reporting period, EGL filled 15 positions in the United States, excluding student interns, without posting. Seven of the positions went to a female/minority. According to the rationale provided for not posting these positions and the demographical distribution of the jobs, the Consultant is persuaded that these positions were not posted for valid business reasons, rather than as a pretext for any sort of discrimination.

Of the 1,516 jobs requisitioned over the eighth month period, 206, or 13.6 percent, were not posted externally. The percentage of jobs requisitioned, but not posted externally, has ranged between 18 and 11 percent since the Consent Decree became effective. As in past reporting periods, the percentage of positions not posted externally was highest in the Corporate Division, where 41 of 238 jobs, or approximately 17 percent, were never posted externally. EGL has not adequately explained the reasons it has not posted specific jobs externally nor has it followed the Consultant's

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

A total of 424 promotions were reported between September 1, 2004 and April 30, 2005. Two hundred fifty-eight (258), or 60 percent, of those receiving promotions were female/minority. This figure is fairly representative of the workforce of EGL, which is 62.4 % female/minority. Promotion of females and minorities into executive and sales positions, however, still lagged significantly behind their overall representation in EGL's workforce. Seventy-three (73) of the jobs fell within the EEO-1 classification, of which 26 (35.6 %) went to female/minority employees. Twelve (12) of the jobs were classified as EEO-4, of which 5 (41.6 %), went to female/minority employees.

The gap between the average salaries of jobs to which white/Asian males and female/minority employees were promoted continued during the eight months covered by this report. Using weighted averages, white and Asian males receiving promotions were promoted into jobs paying an average annual salary of \$51,257, while female/minority promotees earned an average of \$37,482 per annum after their promotion, for a difference of \$13,775. A chart comparing the average salaries of white/Asian males receiving promotions with those of females/minorities in each of the eight months in this reporting period is attached as Exhibit A.

#### **B. Maintaining Records**

There has been no changes made known to the Consultant with respect to EGL's practices or policies. A random check of ten names appearing on the New Hire List also showed up on the Applications Log

### **C. Anti-Discrimination Policies and Handling Complaints**

EGL has not advised the Consultant of any changes in EGL's anti-discrimination policies or practices in handling complaints. Thus, it appears that no action has been taken with respect to the Consultant's prior recommendation 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 no adverse action will be taken as a result of such participation. In the December 2004- January 2004 period, outside counsel for EGL advised the Consultant that the charges filed in Chicago alleging national origin discrimination had been dismissed, forwarded a number of position statements prepared in response to EEOC charges, and provided an update on several other matters listed in EGL's Charge Log. No information about pending charges has been received from EGL after January 6, 2005.

Between September 1, 2004 and April 30, 2005, EGL registered a total of 134 new internal complaints, of which 83 were entered in March 2005, following an apparent crack down regarding improper use of the internet. EGL's reports indicate that prompt and sufficient action was taken in response to each complaint and there appears to be no discernable patterns in regards to the origin of the complaints or the type of discrimination alleged.

Currently, the EEOC Charge Log records 14 pending matters (from a high of 21 in September 2004). Two of the currently pending matters involve complaints of sex discrimination, two of national origin discrimination and two of race discrimination. The number and distribution of the charges is not unusual for an organization of EGL's size.

### **D. Training and Orientation**

The Consultant has not been made aware that EGL has met any of its notice, training or

orientation obligations during this reporting period.

**E. Leadership Development Program**

As previously indicated, the Consultant has received no updates on EGL's progress with the LDP since a report dated January 2005 containing data from the November and December, 2004 time frame.

**III. SUMMARY**

As discussed in the body of this report, the Consultant has received no information with respect to EGL's efforts to comply with the training and orientation requirements of the Consent Decree nor has he received any documentation regarding the LDP for the past five months. Except for selected details regarding certain EEOC charges filed in 2004, no information regarding current charges has been received despite the Consultant's request that it receive the charge and EGL's position statement with respect to all charges alleging race, sex or national origin discrimination.

On the plus side, EGL continues to hire and promote acceptable numbers of females and minorities and does appear to be using its prerogative to fill jobs without posting in order to secure the best candidate for the position involved. In addition, the Applicant Tracking Log appears to be more complete than in earlier reporting periods.

In consideration of the foregoing, the Consultant recommends that EGL fulfill its prior promises to provide a written response to the Consultant's recommendations and comply with the recommendations to do each of the following:

1. EGL should immediately produced the non-narrative portions of its 2003 Affirmative Action Plan to the Consultant for review and analysis.
2. EGL should clarify all descriptions of the S.O.A.R. program to specify that all job vacancies are to be posted for a minimum of five full business days excluding the first day of posting.



3. EGL should adopt a written policy that specifically describes what constitutes a valid business decision justifying the determination not to internally post a position (in line with the past decisions of the Executive VP of Human Resources).
4. EGL should adopt a consistent policy with respect to requisitioning jobs that are not to be posted internally.
5. EGL should confer with the EEOC about including a budgetary exception to EGL's obligation to post positions on its official web site.
6. EGL should verify the accuracy of all future Applicant Logs and identify, manually if necessary, the successful applicants and all applicants who have received a job offer during the previous reporting period.
7. EGL should adopt a specific document retention policy addressing the retention of employment applications, applications for promotion, and documents relevant to its Leadership Development Program.
8. EGL's anti-retaliation policy should be expanded to state that employees are encouraged to fully participate in the investigation of a complaint or charge and will not be subject to discipline or otherwise disadvantaged as a result.
9. EGL's anti-discrimination policy should be expanded to assure complaining parties that they will be interviewed as inconspicuously as possible and that every possible effort will be made to ensure their anonymity and the confidentiality of the information revealed during the course of an investigation.
10. EGL should establish policies and procedures for conducting the investigation following a report of discrimination/harassment.
11. Supervisors' performance evaluations should include a segment regarding their achievement of employment diversity.
12. The reference in Policy No. 200.3 to "confirmed" instances of discrimination or harassment should be removed in order to encourage employees to freely report discriminatory or harassing actions.
13. EGL should submit the necessary confirmation that the required harassment training and orientation has occurred.
14. EGL should confer with the EEOC to determine set up and funding of programs contemplated by the Consent Decree and the role of Consultant in overseeing the

various programs.

15. EGL should implement the stipulated training to new hires and existing employees no later than the end of the first quarter of 2004.
16. EGL should develop and implement the stipulated training to senior management officials and persons charged with handling discrimination complaints no later than the end of the first quarter of 2004.
17. EGL should confer with the EEOC and the Consultant to determine the Consultant's role in the design and implementation of the LDP programs stipulated by the Consent Decree.
18. EGL should make substantial progress in developing and implementing the five LDP programs stipulated by the Consent Decree by the end of the first quarter of 2004.
19. EGL should confirm that it received signed EEOC Notice-Posting Acknowledgments from all terminals.
20. EGL should obtain EEOC approval for its intended structure of the LDP.
21. EGL should provide a complete report on the status of each LDP program on a regular basis, preferably monthly but, at minimum, quarterly.
22. Along with its regular monthly reports, EGL should provide the Consultant with a copy of any EEOC (or state agency) charge received during the applicable month that contains a complaint of race discrimination, national origin discrimination, sex discrimination/harassment, or retaliation.
23. EGL should forward the Consultant a copy of its position statement prepared in response to each charge containing a complaint of race discrimination, national origin discrimination, sex discrimination/harassment, or retaliation.
24. EGL should provide a full report on the status of each program included in the LDP each month as well as follow up on the progress made by prior participants in the program, as applicable.
25. EGL should provide a written response to the Consultant as to its position/intentions with respect to each recommendation included in the Consultant's reports within thirty days of receiving each report.
26. EGL should notify the Consultant of any modifications to its regional organization within ten (10) days after the modification takes effect.

27. EGL should 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.
28. EGL should ensure that all job applicants are listed in the Application Tracking Information Report.
29. EGL should notify the Consultant and furnish a copy of the Petition or Complaint for any Title VII or related suits filed against it.
30. EGL should provide data on the disposition of all EEOC charges.

Dated: June 14, 2005

Respectfully submitted,

**BRUCKNER BURCH PLLC**

---

William H. Bruckner, Consultant

## Promotions - Average Monthly Salaries

<u>Month</u>	<u>Average Salary &amp; No. of White Males Promoted</u>	<u>Average Salary &amp; No. Females/Minorities Promoted</u>
September 2004	\$42,895 (35)	\$30,843 (77)
October 2004	\$51,995 (38)	\$39,206 (75)
November 2004	\$39,995 (22)	\$36,108 (38)
December 2004	\$60,338 (8)	\$41,237 (13)
January 2005	\$54,460 (10)	\$44,470 (12)
February 2005	\$75,943 (7)	\$37,225 (12)
March 2005	\$51,544 (16)	\$50,422 (17)
April 2005	\$64,053 (18)	\$48,059 (8)
<b>Weighted Average</b>	<b>\$51,257</b>	<b>\$37,482</b>

### EXHIBIT A

## Promotions - Average Monthly Salaries

<u>Month</u>	<u>Average Salary &amp; No. of White Males Promoted</u>	<u>Average Salary &amp; No. Females/Minorities Promoted</u>
September 2004	\$42,895 (35)	\$30,843 (77)
October 2004	\$51,995 (38)	\$39,206 (75)
November 2004	\$39,995 (22)	\$36,108 (38)
December 2004	\$60,338 (8)	\$41,237 (13)
January 2005	\$54,460 (10)	\$44,470 (12)
February 2005	\$75,943 (7)	\$37,225 (12)
March 2005	\$51,544 (16)	\$50,422 (17)
April 2005	\$64,053 (18)	\$48,059 (8)
<b>Weighted Average</b>	<b>\$51,257</b>	<b>\$37,482</b>

## EXHIBIT A