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10 ATTORNEYS FOR PLAINTIFF

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

13 EQUAL EMPLOYMENT OPPORTUNITY
14 COMMISSION

15 Plaintiff,

16 v.

17 SWINERTON BUILDERS NORTHWEST,
18 INC.,

19 Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

20 NATURE OF THE ACTION

21 This is an action under the Age Discrimination in Employment Act to correct unlawful
22 employment practices on the basis of his age and to provide appropriate relief to Edwin Joe Estes
23 who was adversely affected by such practices. The Equal Employment Opportunity Commission
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1 alleges that Swinerton Builders Northwest, Inc. discriminated against Mr. Estes when it
2 terminated him because of his age. Plaintiff seeks monetary relief on behalf of Mr. Estes.

3 JURISDICTION AND VENUE

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337,
5 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age
6 Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §626(b) (“ADEA”), which
7 incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as
8 amended, 29 U.S.C. §§216(c) and 217.

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10 2. The employment practices alleged to be unlawful were committed within the
11 jurisdiction of the United States District Court for the Western District of Washington at Seattle.

12 PARTIES

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

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19 4. At all relevant times, defendant Swinerton Builders Northwest, Inc. has been a
20 corporation continuously doing business in the State of Washington and has continuously had at
21 least 20 employees.

22 5. At all relevant times, defendant Swinerton Builders Northwest Inc. has
23 continuously been an employer engaged in an industry affecting commerce within the meaning
24 of Section 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§630(b), (g) and (h).
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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. More than thirty days prior to the institution of this lawsuit, Mr. Estes filed a charge with the Commission alleging violations of the ADEA by defendant Swinerton Builders Northwest, Inc. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. On or about May 1, 2004, defendant engaged in unlawful employment practices at its Seattle, Washington facility in violation of §4(a) of the ADEA, 29 U.S.C. §623(a). The practices include terminating Mr. Estes because of his age, 63.

9. The effect of the practices complained of in paragraph 8 above has been to deprive Mr. Estes of equal employment opportunities.

10. The unlawful employment practices complained of in paragraph 8 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. §626(b).

11. The unlawful employment practices complained of in paragraph 8 above were done with malice or with reckless indifference to Mr. Estes's federally protected rights.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

1 A. Grant a permanent injunction enjoining defendant, its officers, successors, agents,
2 assigns, and all persons in active concert or participation with it, from engaging in any
3 employment practices which discriminate on the basis of age.

4 B. Order defendant to institute and carry out policies, practices, and programs which
5 provide equal employment opportunities for all employees, and which eradicate the effects of its
6 past and present unlawful employment practices.

7 C. Order defendant to make whole Mr. Estes by providing affirmative relief
8 necessary to eradicate the effects of its unlawful employment practices.
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10 D. Order defendant to make whole Mr. Estes by providing appropriate back pay with
11 prejudgment interest and front pay losses resulting from the unlawful practices complained of in
12 paragraph 8 above.

13 E. Order defendant to pay Mr. Estes liquidated damages for its willful conduct
14 complained of in paragraph 8 above, in amounts to be determined at trial.
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16 F. Grant such further relief as the Court deems necessary and proper in the public
17 interest.

18 G. Award the Commission its costs of this action.

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JURY TRIAL DEMAND

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

DATED this 23rd day of September, 2005.

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