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EEOC v. Wehr Constructors Inc.

Judge John G. Heyburn

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EEOC v. Wehr Constructors Inc.

Keywords

EEOC, Equal Employment Opportunity Commission, Wehr Constructors, 3:05-cv-00342-JGH, Race, African American, Black, Construction, Disparate Treatment, Terms and Conditions

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	CIVIL ACTION NO. 3:05CV-342-H
Plaintiff,)	
)	
v.)	
)	
WEHR CONSTRUCTORS, INC.,)	
)	
Defendant.)	
)	

CONSENT DECREE

The United States Equal Employment Opportunity Commission (the “Commission”) commenced this action against Wehr Constructors, Inc. (“Wehr”) pursuant to Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991 in order to correct Wehr’s alleged unlawful employment practices on the basis of race and to provide appropriate relief to Ricardo Hayden and a class of similarly situated individuals. This action was instituted and authorized by Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission and Wehr stipulate to the Court’s jurisdiction over the parties. Further, the Commission and Wehr desire to resolve Civil Action No. 3:05CV-342-H without the burden and expense of further litigation. As a result, and based on the pleadings and the record as a whole, the Court finds that: [i] the Court has jurisdiction over the parties and the subject

matter of this action; and [ii] the purpose and provisions of Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991 will be promoted and effectuated by the entry of this Decree, (3) this Consent Decree resolves all matters and claims in controversy in this lawsuit between the EEOC and Wehr as provided in paragraphs 1 through 13 below.

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED as follows:

1. Wehr denies any wrongdoing on the basis of any of the allegations set forth in the underlying charge of discrimination filed with the Commission or on the basis of any of the allegations set forth in the Commission's Complaint.

2. Wehr agrees that it and all of its officers, directors, employees, agents, shareholders, members, representatives and any affiliated entity will not discriminate against nor harass any Wehr employee on the basis of his or her race.

3. Wehr agrees that there will be no discrimination or retaliation of any kind against any person because of opposition to any practice made unlawful under Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991, or because of the filing of a charge, the giving of testimony, assistance, or participation in any manner in an investigation, proceeding or hearing under Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991.

4. Wehr shall pay the total sum of Sixty Thousand Dollars (\$60,000.00) to Ricardo Hayden, James Green, Timmy Murray and Charles Thornton in the following amounts, delivered to the following addresses:

Ricardo Hayden \$ 40,000.00
1528 South 31st Street
Louisville, Kentucky 40211

James Green \$10,000.00

**3812 Bank Street
Louisville, Kentucky 40212**

**Timmy Murray \$5,000.00
170 Woodland Rd. #25
Vine Grove, Kentucky 40175**

**Charles Thornton \$5,000.00
702 Quails Run Rd.
Louisville, Kentucky 40207**

Wehr shall effect payment by issuing checks by certified mail in the amounts specified and to the addresses identified.

5. Wehr shall mail a copy of the checks and proof of their delivery (assigned certified mail receipt) to Laurie A. Young (or her successor), Regional Attorney, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio St., Suite 1900, Indianapolis, Indiana 46204-4203, within thirty (30) days of mailing.

6. Ricardo Hayden, James Green, Timmy Murray and Charles Thornton agree to sign a release agreement with Wehr in settlement of this action. The Commission will notify counsel for Wehr when is it has received the executed releases whereupon counsel for Wehr shall forward the compensatory checks to Ricardo Hayden, James Green, Timmy Murray and Charles Thornton.

7. The term of this Decree shall be for thirty six months (36) months from and after the date of its entry by the Court.

8. Wehr agrees to submit periodic reports to the Commission detailing its compliance with this Decree. Wehr agrees to submit six (6) semi-annual reports during the term of this Decree. The first report shall be due seven (7) months after the execution of this decree, and the subsequent reports shall be mailed to the Commission no later than the final day of the

month of each sixth month after the preceding report and continuing throughout the term of years covered by the Decree.

a. Each semi-annual report shall include the following information for the six (6) month period preceding the report: [i] the name, home address, and home telephone number of any Wehr employee filing an internal or external complaint or grievance alleging racial discrimination; and [ii] the nature of the complaint and the corrective action taken.

b. All reports shall be directed to Laurie A. Young (or her successor), Regional Attorney, at the address specified in paragraph 5.

9. Within ninety (90) days of the date of execution of this Decree, Wehr shall provide a training program to all of its employees regarding the provisions of Title VII of the Civil Rights Act as it pertains to race discrimination in the work place. This training program shall include an explanation of the prohibition against retaliation for those employees reporting race discrimination. Thirty (30) days before the training, Wehr shall provide: [i] notice to the Commission of the date, time, and place of the training; [ii] shall send to the Commission a copy of the training program and all written materials, if any, to be used; and [iii] shall provide the Commission with a roster of all individuals who will receive the training. The Commission may provide reasonable input on the content of the training but shall do so no later than ten (10) days prior to the training.

Upon completion of the training, Wehr shall certify to the Commission the specific training that was undertaken and shall provide the Commission with a roster of all individuals who received the training. All reports shall be sent to the attention of Laurie A. Young, Regional Attorney, at the address specified in paragraph 5.

10. In the event that the EEOC determines that a violation of this Decree has

occurred, it will, prior to exercising any remedy provided by law, provide written notice to Wehr and its attorney specifically identifying the alleged violation(s). Wehr will have thirty (30) days or any additional period which may be agreed to by the parties in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or any such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation before the Commission exercises any remedy provided by law.

11. Wehr shall post the Notice attached hereto as Appendix A. The Notice shall be placed within a conspicuous area where it shall be visible to all employees.


12. All claims in this action, however denominated, are hereby dismissed with prejudice in their entirety, the case subject only to the dictates of paragraph 13 with each party to pay their own costs and attorneys fees.

13. **RETENTION OF JURISDICTION BY COURT:** The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

SO ORDERED:

April 24, 2007

Date

Judge, Ur 
John G. Heyburn II
Chief Judge, U.S. District Court

HAVING SEEN AND AGREED TO WITH COPIES:

/s/Kenneth W. Brown
Kenneth W. Brown
Senior Trial Attorney
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And

/s/Oliver B. Rutherford _____

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Oliver B. Rutherford

Smith and Smith Attorneys

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Louisville, Kentucky 40202.

Counsel for Defendant

APPENDIX A

EMPLOYEE NOTICE

**Posted Pursuant to an Agreement with the
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Louisville Area Office**

NOTICE OF NON-DISCRIMINATION POLICY

This Notice is being distributed and posted by agreement between Wehr Constructors, Inc. (“Wehr”) and the United States Equal Employment Opportunity Commission (EEOC).

Federal law requires that there be no discrimination nor harassment against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40) or disability.

Federal law also prohibits employers from discriminating against employees or applicants in all aspects of employment, including, but not limited to, hiring, promotion, discharge, pay, job training and fringe benefits.

Wehr supports and will comply with such Federal law in all respects and will not take any actions against employees because they have filed a charge of discrimination with the EEOC, reported an alleged violation under the law to the EEOC, or have given testimony, assisted or participated in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

Any candidate for employment or employee who believes they are a victim of illegal employment discrimination may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

**Questions concerning this notice may be addressed to:
Equal Employment Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (317) 226-7212
EEOC 800 # 1-800-669-4000
TDD (317) 226-4162**