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EEOC v. Smith Limousine Co., Inc.

Keywords

EEOC, Smith Limousine Co., Inc., 93 CIV 5969 (CSH), Consent Decree, Disparate Treatment, Hiring, Service, Sex, Female, Race, African American or Black, Employment Law, Title VII

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

.....-X
:
:
:
**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**
Plaintiff

CIVIL ACTION NO.

93 CIV 5969 (CSH)

v.

SMITH LIMOUSINE CO., INC., -----X
Defendant

and
PETER K. SMITH,

Rule 19(a) Defendant.

C O N S E N T D E C R E E

This action was initiated on August 25, 1993, by the Plaintiff, the Equal Employment Opportunity Commission (hereinafter, "EEOC" or "Commission"), an agency of the United States Government, alleging that Defendant Smith Limousine Company, Inc. (hereinafter "Employer" or "Defendant"), discriminated against Blacks with respect to its recruitment of chauffeurs, and discriminated against Blacks and females by failing to hire them for chauffeur positions because of their race and sex, in violation of Section 703 (a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-2(a) and failed to maintain records required to be kept pursuant to the Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. Section 1607, and Section 709 of Title VII, 42 U.S.C. Section 2000e-8.

The Employer denies all allegations of discrimination made by the EEOC in its Complaint.

The EEOC and the Employer desire to settle this action, and therefore, do hereby stipulate and consent to the entry of this Decree as final and binding between the parties signatory hereto and their successors or assigns. This Decree resolves all matters related to Cause No. 93-CIV-5969 (CSH) filed in the United States District Court for the Southern District of New York. This Decree also resolves all matters related to Charge No. 160-90-2130, Cherian v. Smith Limousine Co., Inc., filed with the EEOC. The parties have agreed that this Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court. This Consent Decree shall become effective upon the date it is signed by the Court, and such date shall hereinafter be referred to as the Effective Date.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, the EEOC and the Defendant agree as follows, the Court finds appropriate, and it is therefore ORDERED, ADJUDGED AND DECREED that:

1. This Decree resolves all issues in any manner related to EEOC Charge Number 160-90-2130 and the EEOC's Court Complaint in this case. The EEOC waives further litigation on all issues raised in the above referenced Charge and Complaint. The EEOC does not waive processing or litigating charges other than the Charge referred to hereinabove.

2. The parties agree and the Court finds that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative prerequisites and conditions precedent have been met.

3. By entering into this Decree, the parties have not admitted any contentions regarding the allegations or the merits of this cause of action. No party shall contest the validity of this Decree nor the jurisdiction of the federal district court to enforce this Decree and its terms or the right of any party to bring an enforcement suit upon breach of any of the terms of this Decree by any other party.

4. This Decree is being issued with the consent of the parties and does not constitute an adjudication or finding by this Court on the merits of the allegations of the Complaint or Amended Complaint. By entering into this Decree, this Court has not made any determination with respect to the claims made by the EEOC. Nothing contained in this Decree shall be construed as an admission of liability on the part of the Defendant. All references to any employees contained in this Decree are limited to and intended to apply to Defendant's chauffeur employees only.

A. INJUNCTION PROHIBITIONS

5. The Defendant, its officers, managers, supervisors, successors and assigns shall not discriminate against Blacks and females because of their race or sex with respect to the Defendant's hiring practices. The Defendant, its officers, managers, supervisors, successors and assigns shall not discriminate against Blacks because of their race with respect to the Defendant's recruitment practices.

6. The Defendant, its officers, managers, supervisors, successors and assigns shall not violate any of the recordkeeping provisions required of employers by

the EEOC's regulations, specifically 29 C.F.R. Part 1602.14, 29 C.F.R. Part 1607.4 and 29 C.F.R. Part 1607.15.

B. JOB OFFERS

7. Within thirty (30) days following the Effective Date, the Defendant shall mail a Job Interest Form (Appendix A) by certified mail, return receipt requested, to every person on the list attached hereto as Appendix B, who are discriminatees identified by the Commission. The Job Interest Form shall solicit the discriminatee's interest in current or future employment in the position of Chauffeur. The Job Interest Form shall notify the discriminatee of the estimated average full-time annual compensation, including base pay and tips, for all Chauffeurs newly hired during 1995 and shall list fringe benefits available to newly-hired chauffeurs. The discriminatee shall be informed that in order for him or her to be considered for employment pursuant to this Consent Decree he or she must complete and mail the Job Interest Form to the Equal Employment Opportunity Commission, 7 World Trade Center, 18th Floor, New York, New York 10048-1102, Attention Dale H. Jurgens, Senior Trial Attorney, not later than thirty (30) days from receipt of the Form, as indicated by postmark. EEOC shall furnish Defendant with copies of the returned job interest forms. The Defendant shall mail the Job Interest Form to the discriminatee at his or her last known address as provided by the Commission, and shall include therewith a stamped, addressed envelope for the reply.

8. The Defendant shall offer the next openings for Chauffeur positions to discriminatees who have returned the Job Interest Forms in a timely manner and have indicated interest in a position. Offers shall be made in the order specified in Appendix

B attached hereto, which is a chronological order representing the date or approximate date the individual first applied to the Defendant. Each offer shall be conditioned on the discriminatee's meeting the valid, non-discriminatory qualifications for chauffeur required of all other chauffeurs at the time of the offer. The Defendant may require a discriminatee to interview for the position in order for the Defendant to determine the discriminatee's qualifications. The Defendant shall notify the discriminatee in writing by U.S. First Class Mail of the interview request and shall at the same time provide EEOC with a copy of the notification. The discriminatee shall have seven (7) days within which to respond to an interview request and be interviewed. Any failure to make a timely response to an interview request shall be deemed no response, and the Defendant shall have no further obligation to consider the discriminatee for a position. Likewise, the Defendant shall have no further obligation to consider the discriminatee for a position if the discriminatee rejects an interview request. If after any such interview, the Defendant deems the discriminatee not qualified, it shall notify EEOC in writing within three (3) days of the interview, explaining all reasons for its decision, and presenting EEOC with all documentary evidence relating to the discriminatee's qualifications. EEOC shall thereafter have ten (10) days within which to notify the Defendant whether it disputes the Defendant's determination of the discriminatee's qualifications. Any such dispute which cannot be resolved voluntarily by Smith Limousine Co. and EEOC within ten (10) days of EEOC's notification to Defendant of said dispute shall be submitted to the U.S. Magistrate Judge, who shall be appointed by the Court to resolve said dispute. The U.S. Magistrate Judge's determination of the dispute shall be in writing, specifying the facts and reasons for the

determination, and shall be final. Any and all costs related to the U.S. Magistrate Judge's dispute resolution shall be shared equally by the parties.

9. The Defendant shall make the offers provided for above in writing, including the date of the offer, at the completion of the interview and shall at the same time provide EEOC with a copy of the offer by mail. The offer shall inform the discriminatee that he or she shall have seven (7) calendar days after receipt of the offer within which to commence work. If the discriminatee fails to report within seven (7) calendar days, the Defendant shall have no further obligation to consider the discriminatee for a position. The compensation shall be commensurate with the then prevailing compensation offered by the Defendant to Chauffeurs hired who are similarly qualified.

C. BACKPAY AND INTEREST

10. Following the Court's execution of the Consent Decree, and subject to such provisions and conditions as may be hereinafter set forth, the Defendant shall pay back pay and interest in the total sum of three hundred thousand dollars (\$300,000.00) to the individuals named in Appendix C attached hereto. Payment of this amount shall be made in the manner hereinafter provided and shall be deemed in full settlement of any and all claims for backpay, interest and any other monetary relief, no matter how designated. Each party shall bear its own costs.

11. One hundred thousand dollars (\$100,000.00) of the amount specified in the preceding paragraph hereinabove shall be paid within sixty (60) days of the Effective Date. These payments shall be made by checks made payable to the individuals named in Appendix D in the amounts indicated therein, less amounts

required to be withheld for federal, state and local income tax and Social Security withholding or other statutory amounts normally deducted from wages, to be withheld on the amounts designated in Appendix D as back pay. No amounts shall be deducted for withholding from the amounts designated in Appendix D as interest.

12. The remaining two-thirds of the amount specified in numbered Paragraph 10 hereinabove, i.e., two hundred thousand dollars (\$200,000.00) shall be paid in twelve equal quarterly installments over three years. The first installment shall be paid within ninety (90) days of the Effective Date, and the remaining eleven installments shall be paid every ninety (90) days thereafter, the final payment being paid not later than thirty-nine (39) months after the Effective Date. These payments shall be made by checks made payable to the individuals in the total amounts indicated in Appendix E attached hereto, less amounts required to be withheld for federal, state and local income tax and Social Security tax withholding or other statutory amounts normally deducted from wages, to be withheld on the amounts designated in Appendix E as back pay. No amounts shall be deducted for withholding from the amounts designated in Appendix E as interest.

13. Within ten (10) days of the Effective Date, EE..C shall furnish to the Defendant a W-4 for each individual listed in Appendix C for use by the Defendant in determining the amount of income tax withholding for each individual. The W-4's shall be furnished to the Defendant by delivering same to Defendant's controller, David Ross.

14. All payments to the individuals required by Paragraph numbered 11 of this Consent Decree shall be mailed by Certified Mail, Return Receipt Requested, and all payments to the individuals required by Paragraph numbered 12 of this Consent

Decree shall be mailed by first-class mail by Defendant. Each check shall be accompanied by a statement detailing the gross amount, itemization and identification of all deductions for withholding, and the net amount. The checks and statements shall be mailed to the individuals' addresses, which addresses shall be provided by EEOC to the Defendant within ten (10) days of the Effective Date, and which thereafter EEOC shall modify and notify Defendant promptly upon being notified of address changes by the individuals. The addresses shall be furnished to the Defendant by delivering same to Defendant's controller.

15. Should any check be returned undelivered, the Defendant shall forthwith notify EEOC's counsel in writing and shall provide EEOC with the envelope in which the check was mailed to the individual, along with any explanations provided by postal authorities. Defendant shall remain liable for any such undelivered payment.

16. Upon failure of the Defendant to make payment in accordance with numbered Paragraphs 10, 11 and 12 of this Consent Decree, and upon ten (10) days' written notice to the Defendant, all payments set forth in said paragraphs shall be immediately due and owing as of the date for payment which the Defendant failed to make, provided however that Defendant shall have twenty (20) days to make such payment or show good cause, which shall not include inability to pay, why such payment has not been made. Further upon default, interest shall accrue on the balance of the amounts owing under Paragraphs numbered 10, 11 and 12 of this Consent Decree from date of default to time of payment at the IRS penalty rates applicable during the period of default.

17. For purposes of satisfaction of the monetary obligations of this Consent Decree, and because of the particular financial relationship between the Defendant and Peter K. Smith, Defendant's owner and president, Peter K. Smith agrees personally and in his individual capacity (1) to be joined as a Rule 19(a) defendant to this action for purposes of effecting full and complete relief, AND HE IS HEREBY SO JOINED, and (2) that, in the event of any default by the Defendant, he, Peter K. Smith, personally and in his individual capacity guarantees payment of any and all amounts to all individuals required under this Consent Decree.

18. The Defendant shall provide each individual listed in Appendix C with a completed W-2 every year at the time required by law by mailing same to the individual at the address provided by EEOC pursuant to numbered Paragraph 13 of this Consent Decree, and shall at the same time provide EEOC a copy of each W-2.

D. AFFIRMATIVE RELIEF

19. The Defendant shall undertake to increase the representation of Blacks and females in its Chauffeur workforce according to the goals and the timetable set forth below, until Blacks comprise at least 22.6% of its Chauffeur workforce, and females comprise at least 3% of its Chauffeur workforce. These goals represent the estimated Black and female availability of qualified limousine chauffeurs, based on 1990 U. S. Census data for (1) the occupational group, Taxi and Limousine Drivers, and (2) commuting patterns of taxi and limousine drivers working in Manhattan, the situs of Defendant's business.

The Defendant acknowledges that as of October 16, 1990, Blacks comprised only 3.75% of its eighty (80) active Chauffeurs, and females comprised none of its active Chauffeurs.

The Defendant shall undertake to hire Black and female Chauffeurs in sufficient numbers to meet or exceed the percentages stated above, rounded to the nearest whole number, so that the Defendant shall employ as Chauffeurs at least the following number of Black and female individuals, by the dates indicated:

	<u>JULY 31, 1997</u>	<u>JULY 31, 1998</u>
BLACK	20%	22.6%
FEMALE	1%	3%

After two years following the Effective Date, the Commission shall evaluate the Defendant's progress in achieving these participation levels. If the Defendant has not been successful in reaching the participation levels indicated for the dates past, despite its good faith efforts to do so, the Defendant shall put into effect the newspaper advertising provisions of Paragraph numbered 20 hereinbelow, and additionally, the Defendant and the Commission shall meet to discuss additional recruitment methods or procedures to improve, where feasible, the participation of Blacks and females into Chauffeur positions. If the Commission and the Defendant cannot agree on the additional recruitment methods, the Commission shall notify the Defendant in writing, and within ten (10) days of EEOC's notification to Defendant the dispute shall be submitted to the U.S. Magistrate Judge, who shall be appointed by the Court to resolve said dispute as to the additional recruitment methods. The U.S. Magistrate Judge's determination of the dispute shall be in writing, specifying the facts and reasons for the

determination, and shall be final. Any and all costs related to the U.S. Magistrate Judge's dispute resolution shall be shared equally by the parties.

20. The Defendant shall hereinafter identify itself as an Equal Opportunity Employer in all employment advertisements, regardless of media source or date. If the goals as to Blacks set forth in Paragraph numbered 19 are not met by the times indicated, the Defendant shall, at times when it is hiring Chauffeurs, place employment advertisements for Chauffeurs in the Sunday issue of the Amsterdam News and the City Sun on Sundays until Blacks comprise at least 22.60 of its Chauffeur workforce. Upon mutual agreement of the parties, other recruitment methods may be substituted for newspaper advertising.

21. If the goals as to females set forth in Paragraph numbered 19 are not met by the times indicated, until females comprise at least 3's of its Chauffeur workforce the Defendant shall write to (a) Mary Martin, Disclosure Officer, New York Taxi and Limousine Commission (NYTLC), 221 West 41st St., New York, NY 10036, and (b) Non-Traditional Employment for Women, 243 W. 20th St., New York, NY 10011, Attn: Ms. Williams, and advise them it is interested in interviewing qualified female applicants for Chauffeur positions who have prior limousine driving experience. With respect to the NYTLC, the Defendant shall make a FOIA request of the NYTLC for a list of female licensed chauffeurs and shall utilize the list to satisfy the goals related to female chauffeurs.

22. The Defendant agrees that it will provide its female Chauffeurs a working atmosphere free of sex discrimination.

23. In determining qualifications for hiring chauffeurs, Defendant shall consider only the following factors:

- a. Knowledge of the geography of Defendant's chauffeur services;
- b. Knowledge of traffic conditions and alternate routes;
- c. Knowledge of restaurants, hotels and other places of and their location;
- d. Appearance and demeanor;
- e. Limousine driving ability;
- f. Prior limousine or other professional driving experience;
- g. Previous driving record;
- h. Satisfaction of licensing requirements.

Each of these factors shall be applied on a non-discriminatory basis to race and sex with respect to Black and female chauffeur as applicants.

24. Beginning not later than ten (10) days after the Effective Date, the Defendant shall keep a separate file of the applications of all Blacks and females who apply for Chauffeur jobs and shall refer to such filed applications for up to six months from application date on every occasion when the Defendant has a vacancy for or a need to hire a Chauffeur in order to search for a qualified individual to hire. Such search shall be conducted prior to any selection to fill the position, except that such search need not be conducted if the goals set forth in Paragraph numbered 19 are maintained.

25. The Defendant hereinafter shall provide a written application for employment to any applicant seeking a Chauffeur position.

26. Within thirty (30) days of the Effective Date, the Defendant shall begin using a new application form entitled, "Chauffeur Application", for all applicants for employment. The application shall contain and indicate a space for the date of the application conspicuously located next to and on the same line as the line for the signature of the applicant at the bottom of the first page of the application.

27. Defendant agrees to appoint Stephen Scott as the person solely responsible for interviewing and hiring chauffeurs. EEOC will be advised of any successor appointee. Mr. Scott (and any successor thereto) and Defendant's counsel will meet with a representative selected by EEOC within twenty (20) days of the Effective Date (or within twenty (20) days of the successor's appointment) who will review with Mr. Scott or the successor the intent and requirements of Paragraphs numbered 5, 6, 8, 9, 23 and 24 of this Consent Decree.

E. NOTICE REQUIREMENT

28. The Defendant shall, within twenty (20) days following the Effective Date, cause to be signed and it shall post and keep posted the Notice to Chauffeur Applicants and Chauffeurs attached hereto as Appendix F. The Defendant shall conspicuously post copies of the Notice on all employee bulletin boards and all other places on its premises where notices to applicants or employees are customarily posted for the duration of this Consent Decree. The Defendant shall also post a copy of such notice conspicuously at eye level at the top of the steps to the Dispatcher's Office.

F. REPORTING AND RECORDKEEPING

29. Defendant shall make and provide to the Commission the following records and reports for Chauffeurs at the times specified for the duration of this Consent

Decree:

a. A Chauffeur Applicant Flow Log. Within twenty (20) days following the Effective Date, the Defendant shall begin recording and shall thereafter continuously record and keep current on a Chauffeur Applicant Flow Log, using the form attached hereto as Appendix G, the following information for all individuals who apply for Chauffeur positions for employment with the Defendant:

1. full name, race (Black and non-Black) and sex of the applicant
2. date of application
3. recruitment, walk-in or referral source, except that such indication need not be conducted if the goals set forth in Paragraph numbered 19 are maintained
4. indication of whether the applicant was offered a chauffeur job, and if so, the date and terms of the offer, and the results of the offer.

The Defendant shall provide the Commission within forty-five (45) days of the Effective Date a copy of the Applicant Flow Log completed to the fortieth day after the Effective Date, and thereafter for each six month period within thirty (30) days following the end of the six months.

b. A Backpay Report. Within forty-five (45) days of the Effective Date, the Defendant shall provide the Commission a Backpay Report of the Defendant's compliance with the backpay and interest provisions in Paragraphs numbered 7, 8, and 9, above. Thereafter, every six (6) Defendant shall provide a report of the Defendant's to date with the backpay and interest provisions in numbered 10 through 15 above and the Defendant's to date with the job offer provisions in Paragraphs 8 and 9 above.

c. A Workforce Census. Within forty-five (45) days of the Effective Date the Defendant shall provide the Commission a Workforce Census for Chauffeur positions completed as of the thirtieth day after the Effective Date, providing a breakdown of the Defendant's workforce by race (Black or non-Black) and sex and all of the information and in the form listed in Appendix H attached hereto, and thereafter for each six month period within thirty (30) days following the end of the six months.

d. A Termination List. Within forty-five (45) days of the Effective Date the Defendant shall provide the Commission a Termination List of all terminations completed from the Effective Date to the thirtieth day after the Effective Date, providing a breakdown of the termination of employment, voluntary or involuntary, from Defendant's workforce by race (Black/non-Black) and sex of all employees and all of the information and in the form listed in Appendix I attached hereto, and thereafter for each six month period within thirty (30) days following the end of the six months. This provision (d.) shall not apply if the goals set forth in Paragraph numbered 19 are maintained.

e. An EEO-1 Employer Information Report. If required by law, within thirty (30) days of the Effective Date the Defendant shall provide the Commission an EEO-1 Employer Information Report of the Defendant's then current workforce, and thereafter annually at times required by law and the Commission's regulations. The Defendant shall also file such EEO-1 Employer Information Report in accordance with the law and the Commission's regulations.

30. The Commission has the right to monitor and review compliance with this Consent Decree. As a part of such review, the Commission may require written reports regarding compliance, may inspect the Respondent's premises at reasonable times, and may interview employees and examine and copy relevant documents.

31. The Defendant shall keep all records made under this Consent Decree, and all other records that are made in relation to recruitment or hiring into Chauffeur positions for the duration of this Consent Decree, and thereafter as required by the law and by the Commission's regulations. The Defendant shall make all such records available to the Commission at all reasonable times and additionally during any monitoring inspection by the Commission.

32. The Defendant shall, when the following records are made or are returned to the Defendant, supply copies to the Commission:

a. The semi-annual notice and written vacancy notices provided to organizations pursuant to Paragraph numbered 21 above.

b. All job offers made pursuant to Paragraphs numbered 9 and 10 above, and, upon request of EEOC, all certified mail receipts and return receipts for the job offers.

c. All backpay checks mailed to discriminatees, all breakdowns of the amounts, and all certified mail receipts and return receipts for same, pursuant to Paragraphs numbered 11, 12 and 14 above, upon request of the EEOC.

33. All records, documents and reports required by this Consent Decree to be provided to the Commission shall be provided to:

Regional Attorney
New York District Office
EEOC
7 World Trade Center, 18th Floor
New York, New York 10048-1102

and shall include a reference to EEOC v. Smith Limousine Co., Inc., Civil Action No. 93-cv-5969 (CSH).

34. This Court shall retain jurisdiction over the subject matter of this Consent Decree until such time as all payments and any interest payments based on back pay amounts in this Consent Decree have been received by discriminatees, all percentage goals specified in Paragraph numbered 19 have been met and have been adhered to for at least one (1) year, and the Court issues an order terminating this Consent Decree.

35. Any party may move to enforce this Consent Decree.

36. To be eligible for receipt of payment of the amounts specified in Paragraphs numbered 11 and 12, each discriminatee must sign a release which shall be held in escrow by the EEOC until full payment has been made to the discriminatee. Only one release shall be required of each discriminatee. A copy of the release form is annexed hereto and marked Appendix J. The EEOC shall furnish a copy of each signed release to the Defendant and shall make the originals available for Defendant's review.

If in the course of paying a claimant, a claimant cannot be located within three years, the portion of the back pay amount attributable to that claimant and not received by the claimant shall be covered into the United States Treasury.

SO ORDERED.

DATED: New York, New York

_____, 1996

UNITED STATES DISTRICT JUDGE

AGREED TO IN FORM AND CONTENT:

PETER K. SMITH, PRESIDENT AND OWNER
SMITH LIMOUSINE COMPANY, INC.,
DEFENDANT

PETER K. SMITH, IN HIS INDIVIDUAL CAPACITY
AS RULE 19(a) DEFENDANT

LESTER BERKELHAMER, ESQUIRE (LB 6374)

WILLIAM P. HARRINGTON, ESQUIRE (WPH 5262)
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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
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7 World Trade Center, 18th Floor
New York, New York, 10048
Telephone: (212) 748-8538
Fax: (212) 748-8464

APPENDIX A

SMITH LIMOUSINE CO., INC.
636 West 47th Street
New York, New York 10036

Telephone (112) 247-OJ44
Accounting Department

JOB INTEREST FORM

Date:

[Name]
[Address]
[City, State, ZIP Code]

Dear [name]:

You have been identified by the Equal Employment Opportunity Commission as an individual eligible for a chauffeur position as a result of a Consent Decree between Smith Limousine and the EEOC as positions become available. Smith Limousine Co., Inc., would like to determine your interest in current or future employment as a chauffeur with our company and, if you express your interest by returning this form, to offer you the opportunity, as vacancies arise in the near future, to be considered for employment as a chauffeur, with the full privileges and rights of employment and on the same basis as other Smith Limousine Co. chauffeurs. Let me say that we are interested in your becoming employed with us if you are currently qualified.

[If applicable: While there are no immediate openings available,] We anticipate approximately ___ full-time chauffeur vacancies in the next six (6) months. You may be interested in knowing that the estimated average full-time annual compensation, including base pay and tips, for all chauffeurs newly hired by Smith during 1995, was \$_____. Fringe benefits are listed below:

Please be informed that in order for you to be considered for a vacancy, you must complete, sign and mail this form in the stamped envelope provided, within ten (10) days of your receipt of this letter, to:

Equal Employment Opportunity Commission
7 World Trade Center, 18th Floor
New York, New York 10048-1102
Attn: Dale H. Jurgens, Senior Trial Attorney

If you do not mail your signed timely response, you will not be considered, and Smith Limousine Co. will have no further obligation to consider you pursuant to the Consent Decree entered on Date in EEOC v. SMITH LIMOUSINE CO., INC., Civil Action No. 93 CIV 5969 (CSH), U. S. District Court for the Southern District of New York.

If you mail this form and indicate your interest in being considered, we will contact you at the address and phone number you provide us on this form as soon as a vacancy arises, in the order indicated on the list attached to this letter. When contacted, you will be asked to come to our office and be interviewed by our operations manager, Steve Scott, to determine your present qualifications for the job. In determining your qualifications, Mr. Scott will consider only the following factors:

- a. Knowledge of the geography of Smith's chauffeur services;
- b. Knowledge of traffic conditions and alternate routes;
- c. Knowledge of restaurants, hotels and other places of interest, and their location;
- d. Appearance and demeanor;
- e. Limousine driving ability;
- f. Prior limousine or other professional driving experience
- g. Previous driving record;
- h. Satisfaction of licensing requirements. (You must have a valid Class 4 (chauffeur) driver's license. If you are hired, you will be required to obtain the necessary chauffeur's license from the New York City Taxi & Limousine Commission.)

We encourage you to respond and mail this form in the envelope provided in a timely manner.

Yours very truly,

Peter K. Smith
President

*

I AM AM NOT [CIRCLE ONE] INTERESTED IN BEING CONSIDERED FOR A CHAUFFEUR POSITION WITH SMITH LIMOUSINE COMPANY, INC. PLEASE CONTACT ME AT THE FOLLOWING ADDRESS OR TELEPHONE NUMBER WHEN YOU HAVE A VACANCY AND WHEN IT IS MY TURN ACCORDING TO THE LIST I HAVE BEEN PROVIDED.

My contact address is:

Street Address

City, State and Zip code

Contact telephone number

DATE

SIGNATURE

APPENDIX B

**LIST OF CLAIMANTS
TO CONSIDER FOR HIRE
ARRANGED IN CHRONOLOGICAL ORDER
BY ACTUAL OR CONSTRUCTIVE APPLICATION DATE**

1. Arthur Craig
2. Crosby Barnes
3. Charles Jones
4. George Gayles
5. John Patterson III
6. Eric Prescott
7. Freddie McCullough
8. Alexander Layne
9. Dana Dunn
10. Ernest Herbert
11. Wardel Fenderson
12. Benjamin Holmes

APPENDIX C

**LIST OF CLAIMANTS
TO RECEIVE BACKPAY AWARDS**

1. Crosby Barnes
2. Arthur Craig
3. Dana Dunn
4. Wardel Fenderson
5. George Gayles
6. Ernest Herbert
7. Benjamin Holmes
8. Charles Jones
9. Alexander Layne
10. Freddie McCullough
11. John Patterson III
12. Eric Prescott

APPENDIX D

LIST OF CLAIMANTS
TO RECEIVE BACKPAY AWARDS:
FIRST PAYMENT

	<u>N A M E</u>	<u>BACKPAY AMOUNT</u>	<u>INTEREST AMOUNT</u>
1.	Crosby Barnes	\$ 4,963.87	\$ 4,565.96
2.	Arthur Craig	2,859.70	2,140.30
3.	Dana Dunn	5,380.95	4,003.09
4.	Wardel Fenderson	5,307.21	2,915.74
5.	George Gayles	5,202.86	4,131.14
6.	Ernest Herbert	2,859.70	2,140.30
7.	Benjamin Holmes	5,162.11	2,756.64
8.	Charles Jones	4,636.50	4,234.90
9.	Alexander Layne	5,262.22	4,087.98
10.	Freddie McCullough	5,262.22	4,087.98
11.	John Patterson III	4,860.26	3,828.17
12.	Eric Prescott	5,262.22	4,087.98

APPENDIX E

**LIST OF CLAIMANTS
TO RECEIVE BACKPAY AWARDS:
QUARTERLY PAYMENT**

<u>N A M E</u>	<u>BACKPAY AMOUNT</u>	<u>INTEREST AMOUNT</u>
1. Crosby Barnes	\$ 919.24	\$ 845.55
2. Dana Dunn	996.47	741.31
3. Wardel Fenderson	982.82	539.95
4. George Gayles	963.49	765.02
5. Benjamin Holmes	955.95	510.49
6. Charles Jones	858.61	784.24
7. Alexander Layne	974.48	757.03
8. Freddie McCullough	974.48	757.03
9. John Patterson III	900.05	708.92
10. Eric Prescott	974.48	757.03

APPENDIX F

NOTICE

1. This NOTICE to all chauffeur applicants and chauffeurs of SMITH LIMOUSINE CO., INC., is being posted and provided as part of a Consent Decree between SMITH LIMOUSINE CO., INC., and the U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION entered in Civil Action No. 93-CIV-5969 (CSH), U. S. District Court for the Southern District of New York, brought by EEOC on behalf of Black and female applicants for chauffeur jobs.

2. Federal law requires that there be no discrimination against any employee or applicant for employment because of that person's sex, race, national origin, color or religion with respect to hiring, compensation, promotion, discharge, or other terms, conditions or privileges of employment.

3. SMITH LIMOUSINE CO., INC., strongly supports and will comply with such Federal law in all aspects. It will not discriminate against individuals because of their race or sex in its hiring or other employment practices, and it will not discriminate against an individual because he or she has exercised rights under the law by participating in the EEOC's lawsuit.

4. The Equal Employment Opportunity Commission maintains offices throughout the United States, and in New York City. Its New York District Office is located at:

Equal Employment Opportunity Commission
New York District Office
7 World Trade Center, 18th Floor
New York, New York 10048-1 102
Telephone: 212-748-8500

5. This NOTICE will remain posted until expiration of the above-referenced Consent Decree, by direction of the U.S. District Court.

SIGNED this day of _____, 1996

PETER K. SMITH
PRESIDENT, SMITH LIMOUSINE CO., INC.

DO NOT REMOVE THIS NOTICE
APPENDIX G

**SMITH LIMOUSINE CO., INC.
 APPLICANT FLOW LOG**

BEGINNING DATE¹: ENDING DATE:

Date of Application	Race (Blk; Not Blk)	Sex	Last Name; First Name, Middle Initial	Offer Date If Any	Recruitment Source, Results of Offer (Accepted, start date; rejected, date of rejection)

¹ The first report covers the period beginning twenty (20) days after the date of entry of the Consent Decree and ending forty (40) days after entry of the Decree. The second report beginning date is forty-one (41) days after entry of the Decree until six (6) months after that date; successive reports are for every six (6) month period thereafter.

APPENDIX H

SMITH LIMOUSINE CO., INC.

CHAUFFEUR WORKFORCE CENSUS

DATE OF CENSUS ¹: _____

_____	<u>No. of Chauffeurs</u>	<u>Percent of Total</u>
BLACK	_____	_____
NON-BLACK	_____	_____
FEMALE	_____	_____
MALE	_____	_____

¹ The first census date is as of thirty (30) days after entry of the Consent Decree. The second census date is six (6) months after the first census date; successive censuses are every six (6) months thereafter.

APPENDIX I

**SMITH LIMOUSINE CO., INC.
CHAUFFEUR TERMINATION¹ LIST**

BEGINNING DATE²: _____ ENDING DATE: _____
ENDING DATE: _____

Date of Termination	Race (Bik; Not Blk)	Sex	Last Name; First Name, Middle Initial	Part-time/Full-time	Will vacancy be filled? Yes or No (If no, state the reason why not)

¹ All terminations must be listed, regardless of whether voluntary or involuntary, if required per para. 29(d) of the Consent Decree.

² If required pursuant to para. 29(d) of the Consent Decree, the first termination list covers the period beginning with the date of entry of the Consent Decree and ending thirty (30) days after entry of the Consent Decree. The second termination list beginning date is thirty-one (31) days after entry of the Consent Decree until six (6) months after that date; successive lists are for every six (6) month period thereafter.

APPENDIX J

RELEASE

TO ALL TO WHOM THESE PRESENTS SHALL

COME OR MAY CONCERN KNOW THAT

I, the undersigned, as RELEASOR, in consideration of the benefits to be made available to me pursuant to the Consent Decree in a certain action entitled, Equal Employment Opportunity Commission, Plaintiff v. Smith Limousine Co., Inc., Defendant and Peter K. Smith, Rule 19 (a) Defendant, United States District Court for the Southern District of New York, 93 Civ. 5969 (CSH), a copy of which Consent Decree I have been provided and for which I hereby acknowledge receipt, do hereby waive, release and forever discharge the defendants in said action, including Smith Limousine Co., Inc., and Peter K. Smith, their respective directors, trustees, officers, agents, representatives, heirs, executors, administrators, successors and assigns ("RELEASEES") from any and all actions, causes of action, suits, claims, demands, dues, accounts, debts, sums of money, damages and judgments, in law and equity, which the RELEASOR, RELEASOR's heirs, executors, administrators, successors and assigns ever had or now have against the RELEASEES arising from the above-referenced action by the EEOC. RELEASOR further warrants that no promise or inducement for the Release has been made except as herein set forth; that this Release is executed without reliance upon any statement or representation by the RELEASEES concerning any fact material to my act in releasing them; and that I am legally competent to execute this Release and accept full responsibility therefor.

This Release may not be changed orally. I enter into this waiver and release knowingly and voluntarily. I have been advised to consult with an attorney of my choice before executing this waiver and release. I have been given a reasonable period of time to consider the Consent Decree and this waiver and release.

IN WITNESS WHEREOF, the RELEASOR has hereunto set RELEASOR's hand and seal on the day of , 1996.

RELEASOR

STATE OF

COUNTY OF

On _____ before me personally came _____, to me known, and known to me to be the individual described in, and who executed the foregoing RELEASE, and duly acknowledged to me that he executed the same.

NOTARY PUBLIC