

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CLERK OF COURT

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

BRINK'S, INCORPORATED,

Defendant.

CIV 01 0473 LH
LORENZO E. GARCIA
COMPLAINANT
JURY TRIAL DEMANDED

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Elizabeth Montoya who was adversely affected by such practices. The Commission alleges that Ms. Montoya was denied a promotion to an Assistant Manager position by Defendant because of her sex, female.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to 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.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of New Mexico.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times to this action, Defendant Brink's Incorporated ("Defendant" or "Employer") has continuously been a Delaware Corporation doing business in the State of New Mexico and the City of Albuquerque, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Elizabeth Montoya filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least October, 1999, Defendant has engaged in unlawful employment practices at its Albuquerque facility in violation of Sections 703(a) of Title VII, 42 U.S.C. §§ 2000e-2(a). These practices include denying Ms. Montoya a promotion to Assistant Manager because of her sex, female.

8. The effect of the practices complained of above has been to deprive Elizabeth Montoya of equal employment opportunities and otherwise adversely affect her status as employee because of her sex.

9. The unlawful employment practices complained of in paragraphs 7-8 above were intentional.

10. The unlawful employment practices complained of in paragraphs 7-8 above were done with malice and/or reckless indifference to the federally protected rights of Elizabeth Montoya.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant its officers, successors, assigns, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates on the basis of sex, including the failure to promote women because of their sex and any other employment practice which discriminates on the basis of sex.

B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for women, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring Defendant to pay Elizabeth Montoya appropriate back wages in an amount to be proved at trial, and prejudgment interest, to eradicate the effects of its unlawful employment practices described above.

D. Order Defendant to make whole Elizabeth Montoya by providing the affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not

limited to, rightful place reinstatement and/or front pay, and compensation for past and future pecuniary losses, in amounts to be proved at trial.

E. Order Defendant to make whole Elizabeth Montoya, who was adversely affected by the unlawful employment practices described above, by providing compensation for non-pecuniary losses, including but not limited to, emotional pain, anxiety, depression, loss of enjoyment of life, damage to her reputation and humiliation in amounts to be determined at trial.

F. Order Defendant to pay Elizabeth Montoya, who was adversely affected by the unlawful employment practices described above, punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs in this action.

JURY TRIAL DEMANDED

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

DATED this 27th day of April, 2001.

Respectfully submitted,

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