EXPERT REPORT OF WILLIAM T. BIELBY, Ph.D.

Stella Mitchell, et al. v. Metropolitan Life Insurance Company, Inc.

December 2, 2002

QUALIFICATIONS, ASSIGNMENT, AND MATERIALS REVIEWED

I have been retained by the law firm of Saperstein, Goldstein, Demchak & Baller, lead counsel for plaintiffs in *Stella Mitchell et al. v. Metropolitan Life Insurance Company, Inc.* ("MetLife"). I have been asked by Teresa Demchak of that firm to review materials pertaining to personnel policies and practices of MetLife Financial Services business unit ("MLFS"), focusing primarily on the period from 1999 to the present. I have been asked to address the adequacy of MetLife's policies for ensuring equal employment opportunity for women and to analyze whether there are uniform features of those policies and procedures that place women at a disadvantage relative to men with regard to compensation, promotion, and other career opportunities.

I have testified as an expert witness in both California Superior Court and Federal Court on cases involving workplace discrimination. I have served as an expert in several other cases involving issues of gender discrimination in the financial services industry, including the class action cases *Martens, et al. v. Smith Barney, Inc., et al.* and *Cremin, et al. v. Merrill Lynch, Pierce, Fenner & Smith Inc.* In addition, I served as a statistical consultant to counsel for female brokers in the matter of *Kosen, et al. v. American Express Financial Advisors.* A list of cases in which I have been identified as an expert or have given expert testimony is attached as Exhibit A.

I received a Ph.D. in Sociology from the University of Wisconsin--Madison in 1976. I also have a B.S. in Electrical Engineering and a M.A. in Social Sciences from the University of Illinois. I am currently Professor of Sociology at the University of California, Santa Barbara, where I chaired my department from 1992 to 1998. I am also affiliated with UCSB's Department of Statistics and Applied Probability. Among my former positions are Visiting Professor of Management at UCLA and Fellow at the Center for Advanced Study in the Behavioral Sciences at Stanford. I teach graduate and undergraduate courses on organizational behavior, research methods for the social sciences, labor markets, quantitative methods, and social inequality. I also specialize in research in each of these areas. Over the past twenty years, much of my research has focused on issues of workplace discrimination, and on organizational policies and practices more generally. My research on these topics has been supported by four grants from the National Science Foundation, and it has been published in leading peer-reviewed social science research journals. My Curriculum Vitae is attached as Exhibit B.

I have received national awards from three different professional associations for my research on gender, labor markets, social psychological aspects of work, and organizational personnel practices. I have served on numerous panels, advisory committees, and professional workshops on topics relating to workplace discrimination, organizational personnel policies and practices, and research methodology. I have served as an advisor, consultant, or reviewer for the following organizations and agencies: the U.S. Bureau of the Census, the U.S. Department of Justice, the U.S. Department of Labor, the National Science Foundation, the National Institute of Mental Health, the National Academy of Sciences, the University of Michigan's Institute for Social

Research, Stanford University, and the Writers' Guild of America, West. I have also served on the editorial boards of leading social science journals, and I regularly review manuscripts for scientific journals on topics relating to organizational behavior, employment discrimination, gender and work, and research methodology. I have been elected to several offices in the American Sociological Association. I served for three years on the ASA Council, the organization's governing body, and I am currently President of the Association.

I have reviewed the deposition testimony of MLFS and MetLife managers responsible for creating and implementing the company's personnel policies and for its recent diversity initiatives, as well as the testimony of managers who made decisions about compensation and selection for management positions within MLFS. I have also reviewed the documents used as exhibits in the depositions of these individuals. In the human resources and diversity areas I have reviewed the testimony of the following individuals: Catherine Cornish, Vice President, Diversity; James Boylan, Assistant Vice President of Human Resources who directs the HR function that serves MLFS; Karen Christensen, formerly National Director of Women's Recruiting; Katherine Plazak, former MetLife Vice President and Administrative Officer who represented MLFS on the Individual Business Diversity Committee from mid-2001 until July 2002 and coordinated the MLFS Women's Initiative; Thomas Regan, Assistant Vice President, Field Compensation Administration; Nancy Sklodowski, a Human Resources Generalist with responsibilities in MLFS; and Peter Schwarz, Vice President of Human Resources for Individual Business. I have reviewed the deposition testimony of the following individuals who currently are or recently have been in Regional Vice President positions

at MLFS: Joel Marlin, Anthony Nugent, John Schrieffer, and John Schmidt. I have also reviewed the deposition testimony of: Gary Schulte, Senior Vice President with responsibility for the MLFS Western Zone; Michael Vietri, Senior Vice President with responsibility for the MLFS Central Zone; and Shailendra Ghorpade, Chief Executive Officer of MetLife Bank, who represented Individual Business on the MetLife Diversity Council and chaired the MLFS Diversity Council until July 2001.

The documents I reviewed included: organizational charts; correspondence, memos, reports, and presentations relating to various MetLife diversity initiatives; equal employment and anti-discrimination policies; the "Women of MetLife" report issued in February 1999; the Manual of Instructions for Sales Management; tabulations of the gender composition of Financial Service Representative ("FSR") and sales management positions in MLFS, and documents relating to the hiring, promotion, compensation, training, and other conditions of employment for FSRs and managers employed in MLFS. In addition to documents that are deposition exhibits, I was also provided with EEO-1 Reports for the years 1998 through 2000 and Affirmative Action Plans for 2000.

It is my understanding that discovery in this litigation is continuing and that additional depositions are being taken. It is also my understanding that plaintiffs' statistical expert has yet to complete his report. It is possible that I will be asked to review additional testimony and materials. Based on my review, I may supplement the opinions expressed in this report.

In addition to the materials described above, I have also relied upon a large body of social research on workplace bias. Social research conducted across many decades has generated considerable knowledge about what generates and sustains workplace

inequalities. That same research, either directly or by implication, points to the kinds of workplace policies and practices that are likely to minimize bias. The relevant research has applied multiple methodologies in a variety of contexts, including experiments in controlled laboratory settings; ethnographies and case studies in "real world" organizations both large and small, public and private, and in a range of industries; surveys done with representative samples of workers and employers; and historical studies based on archival materials from the United States and abroad. Thus, the scientific evidence about gender bias, stereotypes, and the structure and dynamics of gender inequality in organizations that I rely upon has substantial external validity and provides a sound basis for analyzing the policies and practices of MLFS. My method is to look at distinctive features of the firm's policies and practices and to evaluate them against what social science research shows to be factors that create and sustain bias and those that minimize bias. In litigation contexts, this method of analysis is known as "social framework analysis."[1]

Below, I first summarize my overall conclusions about gender bias and the effectiveness of anti-discrimination policies and practices at MLFS. Next, I describe the social science research that provides the basis for my reasoning and conclusions. After that, I describe the firm-wide policies and practices at MLFS that create and sustain barriers to women's career success and the effectiveness of the firm's efforts to identify and eliminate those barriers and guarantee equal employment opportunity.

SUMMARY OF FINDINGS

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[1]See J. Monahan and L. Walker, *Social Science in Law: Cases and Materials,* Fourth Edition,

I have concluded that decisions about selection into management positions and about resources that affect an FSR's compensation are made in a highly discretionary and subjective manner, with few guidelines, and with little oversight over the criteria and process used to make decisions. In a male-dominated setting like sales and sales-management at MLFS, decisions made under these circumstances are vulnerable to gender stereotyping and gender bias. I have also concluded that MLFS lacks effective anti-discrimination policies, and that several aspects of its diversity efforts to more harm than good. The basis for these conclusions appears below.

FACTORS THAT CREATE AND MINIMIZE WORKPLACE GENDER BIAS: FINDINGS FROM SOCIAL SCIENCE RESEARCH

In this section of my report I summarize the scientific literature upon which my opinions are based. In footnotes, I provide citations to sources in peer refereed journals, in important books and edited volumes in relevant fields of social science research, and, whenever possible, to review articles by leading experts who summarize the findings of social science research on gender bias in organizations, stereotypes, and related topics.

In summarizing how social science research on gender stereotypes is applicable to the work context at MLFS, I also rely in part on research based on focus groups with current (as of February 2002) female MetLife FSRs and interviews with current female managers and financial planners and former female MLFS employees. That research, commissioned by MLFS and conducted by an outside consulting company, was

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Foundation Press, 1998, Chapter Five, "Social Science Used to Provide Context."

qualitative in its approach.[2] I rely on it here not to draw conclusions about its representative ness of the perceptions of all women employed in sales and sales management positions at MLFS but instead to illustrate how widely held cultural stereotypes about gender can manifest themselves in this particular work context. The issue relevant to the *Mitchell, et al.* litigation, which I address below, is whether personnel policies and practices at MLFS is organized and implemented in a way that allows these kinds of stereotypes to influence decisions that affect employees' careers.

Sources of Workplace Gender Bias

Depending on the job, organizational setting, and work environment, there are many reasons why men and women can have different career trajectories. For example, jobs may have job-related skill and experience requirements that differ, on average, between men and women. Gender disparities arising from such factors would not be considered discriminatory, so long as the employer is not responsible for differences in men's and women's qualifications (e.g., by not providing equal access to training). Conversely, employers create gender barriers when they make decisions about individuals' suitability for jobs, training, and support or their compensation based on beliefs about a person's gender rather than on his or her actual qualifications. Employers also create gender barriers when they ignore (or encourage) an organizational climate that is hostile towards women and inhibits them from performing to their full potential. Sometimes, practices that appear to be gender-neutral have the effect of denying to

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[2]The research design for the study and its results are described in a memorandum from Judi Korn of BAIGlobal to Marilyn Leitao of MLFS Marketing Strategy & Analysis, dated February 25, 2002, Bates ML0113558-0113562 ("BAIGlobal memo"). It also appears in a PowerPoint presentation titled "Financial Services Career for Women, Qualitative Research, Final Report," dated March 21, 2002, Bates ML0113466-0113532 ("FSCW Report").

women the same opportunities that are available to men. For example, using employee referrals as a recruitment mechanism is likely to reinforce a workforce's existing gender composition.[3]

One way gender bias affects career outcomes is when stereotypes are allowed to affect personnel decisions. *Gender stereotypes* are beliefs about traits and behaviors that differ between men and women.[4] For example, men are believed to be competitive, aggressive, assertive, strong, and independent, while women are thought to be nurturing, cooperative, supportive, and understanding. Men are assumed to place a high priority on their careers, while women are assumed to be more strongly oriented towards family, even though research demonstrates that the commitments of men and women with similar job opportunities and family situations are virtually identical.[5]

These kinds of stereotypes are relevant to the work setting at MLFS. For example, managers are unlikely to support female sales agents at the same level as their male counterparts if they believe women are less invested in their careers and less aggressive in pursuing business leads. If a nurturing orientation towards personal relationships is considered to be a distinctive trait of female FSRs, and business acumen

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[3]For a review of relevant research, see P. V. Marsden and E. Gorman, "Social Networks, Job Changes, and Recruitment," p. 467-502 in *Sourcebook on Labor Markets: Evolving Structures and Processes*, edited by I. Berg and A. L. Kalleberg, Plenum Publishing, 2001.

[4]K. Deaux and L. Lewis, "Components of Gender Stereotypes," *Psychological Documents*, Vol. 13, 1983, p. 25-34; K. Deaux and L. Lewis, "The Structure of Gender Stereotypes: Interrelationships Among Components and Gender Label," *Journal of Personality and Social Psychology*, Vol. 46, 1984, p. 991-1004; J. E. Williams and D. L. Best, "Sex Stereotypes and Intergroup Relations," p. 244-259 in *Psychology of Intergroup Relations*, edited by S. Worchel and W. G. Austin, Nelson-Hall, 1986; S. T. Fiske, "Stereotyping, Prejudice, and Discrimination," p. 357-411 in *The Handbook of Social Psychology, Vol. 2 (Fourth Edition)*, edited by D. T. Gilbert, S. T. Fiske, and G. Lindzey, McGraw-Hill, 1998.

[5]For a review see D. D. Bielby, "Commitment to Work and Family," *Annual Review of Sociology*, Vol. 18, 1992, p. 281-302. Also see P. V. Marsden, A. L. Kalleberg, and C. R. Cook, "Gender Differences

is considered to be a distinctively male strength, then women are likely to receive less support in marketing to high net worth executives in business settings and encouraged instead to concentrate on the "women's market." These stereotypes are reflected in the focus group discussions and interviews conducted with current and former MLFS employees. For example, some participants reported that because women are thought to be doing the job "on the side," they are in a disadvantage relative to men in receiving high quality leads. It was also suggested that women are disadvantaged in accessing corporate markets because they are viewed as more welcome "at the kitchen table" than in business settings.[6]

When women perform successfully in male-dominated contexts, their accomplishments are more likely to be attributed to luck, help from others, or special circumstances rather than to their ability, whereas comparable performance by men is more likely to be attributed to their superior skills.[7] Moreover, stereotypical behaviors that are believed to be typical of men are often viewed as *inappropriate* for women. For example, it is less acceptable for a married woman with young children to place a high

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in Organizational Commitment: Influences of Work Positions and Family Roles," *Work and Occupations*, Vol. 20, 1993, p. 367-390.

[6] BAIGlobal memo, p. 3; FSCW Report, p. 45, 65.

[7] For a review of relevant research, see J. K. Swim and L. J. Sanna, "He's Skilled, She's Lucky: A Meta-Analysis of Observers' Attributes for Women's and Men's Successes and Failures," *Personality and Social Psychology Bulletin*, Vol. 22, 1996, p. 507-519. For studies of attribution bias in employment contexts, see J. H. Greenhaus and S. Parasuraman, "Job Performance Attributions and Career Advancement Prospects: An Examination of Gender and Race Effects," *Organizational Behavior and Human Decision Processes*, Vol. 55, 1991, p. 273-297; M. Igbaria and J. Baroudi, "The Impact of Job Performance Evaluations on Career Advancement Prospects: An Examination of Gender Differences in the IS Workplace, *Management Information Systems Quarterly*, Vol. 19, 1995, p. 107-123. Greenhaus and Parasuraman studied managers in three companies in the communications, banking and electronics industries, while Igbaria and Baroudi studied professionals in the field of information systems and data processing. For reviews of social psychological research on attribution biases, see Fiske and S. E. Taylor, *Social Cognition*, Second Edition, McGraw-Hill, 1991, Chapter 3; M. Hewstone, "The Ultimate

priority on her career than it is for a married man. Similarly, a woman who behaves in an competitive, assertive, and independent manner often elicits disapproval from those around her.[8] In the MLFS focus group and interview study, some participants reported that men disapproved of women making authoritative statements, and that if a woman in an office complained she was considered to be "a bitch," while men who complained had their concerns taken seriously. Women also reported that their accomplishments were discounted or ignored, and time spent nurturing relationships with clients was criticized. If a woman did outperform men in an office, her accomplishments were sometimes attributed to sleeping with her clients.[9]

Because of gender stereotypes, individuals tend to ascribe "masculine" traits to men and "feminine" traits to women, and individuals tend to assume that the prevalence of "masculine" traits among women and "feminine" traits among men is rare. A large body of research demonstrates that the tendency to invoke gender stereotypes in making judgments about people is spontaneous and automatic.[10] As a result, people are often

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Attribution Error"? A Review of the Literature on Intergroup Causal Attribution," *European Journal of Social Psychology*, Vol. 20, 1990, p. 311-335.

[8]T. W. Smith, "Working Wives and Women's Rights: The Connection Between the Employment Status of Wives and the Feminist Attitudes of Husbands," *Sex Roles*, Vol. 12, 1985, p. 501-508; J. S. Bridges and A. M. Orza, "The Effects of Employment Role and Motive for Employment on the Perceptions of Mothers," *Sex Roles*, Vol. 27, 1992, p. 331-343; A. H. Eagly, M. G. Makhijani, and B. G. Klonsky, "Gender and the Evaluation of Leaders: A Meta-Analysis," *Psychological Bulletin*, Vol. 111, 1992, p. 3-22; M. J. Martinkio and W. L. Gardner, "A Methodological Review of Sex-Related Access Discrimination Problems," *Sex Roles*, Vol. 9, 1983, p. 825-839; C. L. Copeland, J. E. Driskell, and E. Salas, "Gender and Reactions to Dominance," *Journal of Social Behavior and Personality*, Vol. 10, No. 6, 1995, p. 53-68; A. M. Konrad and K. Cannings, "The Effects of Gender Role Congruence and Statistical Discrimination on Managerial Advancement," *Human Relations*, Vol. 50, 1997, p. 1305-1328; A. H. Eagly, and S. J. Karau, "Role Congruity Theory of Prejudice Toward Female Leaders," *Psychological Review*, Vol. 109, 2002, p. 573-598.

[9]BAIGlobal memo, p 3; FSCW Report, p. 32, 39, 46.

[10]See, for example, M. A. Zarate and Eliot R. Smith, "Person Categorization and Stereotyping," *Social Cognition*, Vol. 8, 1990, p. 161-185; M. R. Banaji, C. D. Hardin, and A. J. Rothman, "Implicit

unaware of how stereotypes affect their perceptions and behavior, and individuals whose personal beliefs are relatively free of prejudice or bias are susceptible to stereotypes in the same ways as people who hold a personal animosity towards a social group.[11]

In the employment context, career barriers resulting from gender stereotypes and gender bias are likely to be consequential for women working in a traditionally male domains, such as the middle to upper managerial and professional ranks of large corporations, engineering divisions of firms, in the military, and in historically male-dominated industries such as skilled crafts and construction trades.[12] At MLFS, no

Stereotyping in Person Judgment," *Journal of Personality and Social Psychology*, Vol. 65, 1993, p. 272-281; M. A. Zarate and P. Sandoval, "The Effects of Contextual Cues on Making Occupational and Gender Categorizations," *British Journal of Social Psychology*, Vol. 34, 1995, p. 353-362; M. R. Banaji and C. D. Hardin, "Automatic Stereotyping," *Psychological Science*, Vol. 7, 1996, p. 136-141. For a review, see J. A. Bargh and T. L. Chartrand, "The Unbearable Automaticity of Being," *American Psychologist*, Vol. 54, 1999, p. 462-479.

[11]S. T. Fiske and S. E. Taylor, *op cit.*, p. 271-294; R. Brown, *Prejudice*, Blackwell, 1995; G. V. Bodenhausen and C. N. Macrae, "The Self Regulation of Intergroup Perception: Mechanisms and Consequences of Stereotype Suppression," p. 227-253 in *Stereotypes and Stereotyping*, edited by C. N. Macrae, C. Stangor, and M. Hewstone, Guilford Press, 1996; S. T. Fiske, "Stereotyping, Prejudice and Discrimination," p. 357-411 in *Handbook of Social Psychology*, edited by D. T. Gilbert, S.T. Fiske, and G. Lindzey, McGraw-Hill, 1998; G. V. Bodenhausen, C. N. Macrae, and J. Garst, "Stereotypes in Thought and Deed: Social Cognitive Origins of Intergroup Discrimination," p. 311-335 in *Intergroup Cognition and Intergroup Behaviors*, edited by C. Sedikides, J. Schopler, and C. A. Insko, Erlbaum, 1998. Both men and women are influenced by gender stereotypes, as can be seen in the findings of focus group and interview study conducted in early 2002 and in many of the company documents regarding diversity. For example, in the focus group and interview study, some respondents mentioned that women had an advantage selling in the long-term care area, in part because of the "nurturing characteristics of the product" (FSCW Report, p. 35). One respondent reported (p.37) that the advantage to a male/female partnership was that "the men are good at numbers; the women provide the caring." It is often assumed that women do differ from men in both how they sell insurance and financial products and how they manage, in the absence of any systematic data that this is indeed the case. All of the relevant social science research cited here shows that when there are differences between men and women on traits relevant to selling and managing, they tend to be small on average, with substantial similarity in how each of these traits is distributed among women and among men.

[12]W. T. Bielby and J. N. Baron, "Men and Women at Work: Sex Segregation and Statistical Discrimination," *American Journal of Sociology* Vol. 91, 1986, p. 759-99; K. Deaux and J. C. Ullman, *Women of Steel: Female Blue-Collar Workers in the Basic Steel Industry*, Praeger, 1983; R. M. Kanter, *Men and Women of the Corporation*, Basic Books, 1977; Eagly *et al.*, *op cit.*; M. J. Martinkio and W. L. Gardner, "A Methodological Review of Sex-Related Access Discrimination Problems," *Sex Roles*, Vol. 9, 1983, p. 825-839; C. M. Jagacinski, "Engineering Careers: Women in a Male-Dominated Field," *Psychology of Women Quarterly*, Vol. 11, 1987, p. 97-110; P. Glick, C. Zion, and C. Nelson, "What Mediates Sex Discrimination in Hiring Decisions?" *Journal of Personality and Social Psychology*, Vol. 55,

women are employed in the highest level of sales management, few women work in sales

management at the agency level, and the FSR position itself is male-dominated. As of

August 2002 all 13 of the Regional-level and Zone-level managers were men, and men

outnumbered women by approximately 12 to 1 among first-line management in the

agencies (165 men and 14 women). Women comprised 20% of FSRs and 23% of

second-line managers in August 2002.[13] As of January 2002, women comprised 11% of

Functional Managers.[14]

A large body of social science research demonstrates that stereotypes are

especially likely to influence personnel decisions when they are based on informal,

arbitrary, and subjective factors.[15] In such settings, stereotypes can bias assessments of

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1988, p. 178-186; I. Padavic, "The Re-Creation of Gender in a Male Workplace," *Symbolic Interaction*, Vol. 14, 1991, p. 279-294; J. S. McIlwee and J. Gregg Robinson, *Women in Engineering. Gender, Power, and Workplace Culture*, State University of New York Press, 1992; J. Mettrick and G. Cowan, "Gender Stereotypes and Predictions of Performance: Women in Air Combat," *Journal of Social Behavior and Personality*, Vol. 11, 1996, p. 105-120; J. H. Stiehm, *Arms and the Enlisted Woman*, Temple University Press, 1989; R. Hertz, "Guarding Against Women?: Responses of Military Men and Their Wives to Gender Integration," *Journal of Contemporary Ethnography*, Vol. 25, 1996, p. 251-284. A job category is considered male-dominated when men comprise at least eighty to eighty-five percent of the incumbents. For additional research on the bias women face in such settings, conducted in a variety of contexts, see: E. Spangler, M. A. Gordon, and R. Pipkin, "Token Women: An Empirical Test of the Kanter Hypothesis," *American Journal of Sociology*, Vol. 84, 1978, p. 160-170; M. E. Heilman, "The Impact of Situational Factors on Personnel Decisions Concerning Women: Varying the Sex Composition of the Applicant Pool," *Organizational Behavior and Human Performance*, Vol. 26, 1980, p. 386-395; J. Crocker and K. M. McGraw, "What's Good for the Goose is not Good for the Gander: Solo Status as an Obstacle to Occupational Achievement for Males and Females," *American Behavioral Scientist*, Vol. 27, 1982, p. 357-369; P. R. Sackett, C. L. DuBois, and A. W. Noe, "Tokenism in Performance Evaluations: The Effects of Work Group Representation on Male-Female and Black-White Differences in Performance Evaluations," *Journal of Applied Psychology*, Vol. 76, 1991, p. 263-267; J. Rosenberg, H. Perlstadt, and W. R. Phillips, "Now That We Are Here: Discrimination, Disparagement, and Harassment at Work and the Experiences of Women Lawyers," *Gender & Society*, Vol. 7, 1993, p. 415-433; and J. D. Yoder, "Looking Beyond Numbers: The Effects of Gender Status, Job Prestige, and Occupational Gender-Typing on Tokenism Processes," *Social Psychology Quarterly*, Vol. 57, 1994, p. 150-159.

[13]MLFS Field Diversity Snapshot: Distribution, Bates ML0109333. Functional managers are included in the tabulation for FSRs.

[14]MLS Field January 2002 Report, MLFS Overall, Bates ML0101175.

[15]For a review, see American Psychological Association, "In the Supreme Court of the United States: Price Waterhouse v. Ann B. Hopkins: Amicus Curiae Brief for The American Psychological

a woman's qualifications, contributions, and advancement potential, because perceptions

are shaped by stereotypical beliefs about women generally, not by the actual skills and

accomplishments of the person as an individual.[16] In decision-making contexts

characterized by arbitrary and subjective criteria and substantial decision-maker

discretion, individuals tend to seek out and retain stereotyping-confirming information

and ignore or minimize information that defies stereotypes.[17]

Association," *American Psychologist*, Vol. 46, 1991, p. 1061-1070. Also see V. F. Nieva and B. A. Gutek, "Sex Effects on Evaluation," *Academy of Management Review*, Vol. 5, 1980, p. 267-275 (especially pages 270-274); D. N. Bersoff, "In the Supreme Court of the United States: Clara Watson v. Fort Worth Bank & Trust, Amicus Curiae Brief for the American Psychological Association" (reprinted in *American Psychologist*, Vol. 43, 1988, p. 1019-1028); Messick and Mackie, "Intergroup Relations," *Annual Review of Psychology*, Vol. 40, 1989, p. 49-50; Fiske and Taylor, *op cit.* (especially Chapter 9, "Social Inference"); L. H. Krieger, "The Contents of our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity," *Stanford Law Review*, Vol. 47, 1995, p. 1161-248; B. F. Reskin, *The Realities of Affirmative Action in Employment*, American Sociological Association, 1998; W. T. Bielby, "Minimizing Workplace Gender and Racial Bias," *Contemporary Sociology*, Vol. 29, 2000, p. 120-129.

[16]For review articles on gender bias in evaluation, see Nieva and Gutek, *op cit.* and R. Kalin and D. C. Hodgins, "Sex Bias and Occupational Suitability," *Canadian Journal of Behavioral Science*, Vol. 16, 1984, p. 311-325. Examples of studies of gender bias in assessments of qualifications, performance and promotion potential include: G. L. Gerber, "The More Positive Evaluation of Men Than Women on the Gender-Stereotyped Traits," *Psychological Reports*, Vol. 65, 1989, p. 275-286; G. H. Dobbins, R. L. Cardy, and D. M. Truxillo, "The Effects of Purpose of Appraisal and Individual Differences in Stereotypes of Women on Sex Differences in Performance Ratings: A Laboratory and Field Study," *Journal of Applied Psychology*, Vol. 71, 1988, p. 551-558; T. H. Shore, "Subtle Gender Bias in the Assessment of Managerial Potential," *Sex Roles*, Vol. 27, 1992, p. 499-515; M. Foschi, L. Lai, and K. Sigerson, "Gender and Double Standards in the Assessment of Job Applicants," *Social Psychology Quarterly*, Vol. 57, 1994, 326-339; J. Landau, "The Relationship of Race and Gender to Managers' Ratings of Promotion Potential," *Journal of Organizational Behavior*, Vol. 16, 1995, p. 391-400.

[17]This kind of biased information-processing has been examined and replicated in numerous experimental studies. See, for example, Banaji, Hardin, and Rothman, *op cit.*; Banaji and Hardin, *op cit.*; J. Crocker, D. B. Hannah, and R. Weber, "Person Memory and Causal Attributions," *Journal of Personality and Social Psychology*, Vol. 44, 1983, p. 55-66; S. M. Belmore, "Determinants of Attention During Impression Formation," *Journal of Experimental Psychology: Learning, Memory, and Cognition*, Vol. 13, 1987, p. 480-489; M. Schaller, "Social Categorization and the Formation of Group Stereotypes: Further Evidence for Biased Information Processing in the Perception of Group-Behavior Correlations," *European Journal of Social Psychology*, Vol. 21, 1991, p. 25-35; T. E. Ford and C. Stangor, "The Role of Diagnosticity in Stereotype Formation: Perceiving Group means and Variances," *Journal of Personality and Social Psychology*, Vol. 63, 1992, p. 356-367; C. N. Macrae, A. B. Milne, and G. V. Bodenhausen, "Stereotypes as Energy-Saving Devices: A Peek Inside the Cognitive Toolbox," *Journal of Personality and Social Psychology*, Vol. 66, 1994, p. 921-935; C. N. Macrae, C. Stangor, and A. B. Milne, "Activating Social Stereotypes: A Functional Analysis," *Journal of Experimental Social Psychology*, Vol. 23, 1994, p. 370-389; L. C. Johnston and C. N. Macrae, "Changing Social Stereotypes: The Case of the Information Seeker," *European Journal of Social Psychology*, Vol. 24, 1994, p. 356-367; M. Zuckerman, C. R. Knee, K. Miyake, and H. S. Hodgins, "Hypothesis Confirmation: The Joint Effect of Positive Test Strategy and

Social research establishes clearly that the historical representation of women in a job has a substantial impact on compensation and other job rewards, mobility prospects, and workplace culture.[18] Experimental studies on stereotyping show that male and female job applicants with identical personal traits are matched according to their gender to jobs that are considered predominantly-male and predominantly-female.[19] And studies done in both experimental and natural settings demonstrate the impact of "sex role spillover," whereby gender-linked traits associated with male-dominated occupations can profoundly affect the working climate for women.[20] Women employed in traditionally male-dominated jobs often attract more attention, are evaluated more extremely, are perceived as different, receive less support, compared to male co-workers. As a result, women in such settings often receive inadequate mentoring from their male colleagues, are less likely to have full access to training and developmental work assignments, and are less likely to receive useful and accurate feedback about their performance than are similarly situated males in such settings.[21]

Acquiescence Response Set," *Journal of Personality and Social Psychology*, Vol. 68, 1995, p. 52-60. For reviews, see Brown, *op cit.* and *Fiske, op cit.*

[18]P. England, *Comparable Worth: Theories and Evidence,* Aldine de Gruyter, 1992; B. F. Reskin, D. B. McBrier, and J. A. Kmec, "The Determinants and Consequences of Workplace Race and Sex Composition," *Annual Review of Sociology*, Vol. 25, 1999, p. 335-361.

[19]Glick et al., *op cit.*

[20]Gutek and B. Morasch, "Sex Ratios, Sex-Role Spillover, and Sexual Harassment of Women at Work," *Journal of Social Issues*, Vol. 38, 1982, p. 55-74; B. Gutek, *Sex and the Workplace*, Jossey-Bass, 1985; D. Burgess and E. Borgida, "Sexual Harassment: An Experimental Test of Sex-Role Spillover Theory," *Personality and Social Psychology Bulletin*, Vol. 23, 1997, p. 63-75.

[21]Kanter, *op. cit.*; D. F. Izraeli, "Sex Effects or Structural Effects" An Empirical Test of Kanter's Theory of Proportions," *Social Forces*, Vol. 62, 1983, p. 153-165; M. B. Brewer and R. M. Kramer, "The Psychology of Intergroup Attitudes and Behavior," *Annual Review of Psychology*, Vol. 36, 1985; D. M. Messick and D. Mackie, *op cit.*; T. F. Pettigrew and J. Martin, "Shaping the Organizational Context for Black American Inclusion," *Journal of Social Issues*, Vol. 43, 1987, p. 41-78R, A. Noe, "Women and Mentoring: A Review and Research Agenda," *Academy of Management Review*, Vol. 13, 1988, p. 65-78;

A large body of research in industrial sociology, dating back to the 1950s, shows that individuals who find their opportunities for advancement blocked respond by lowering their goals and aspirations, and by lowering their commitment to their work compared to others with more promising career prospects.[22] The MLFS focus group and interview study conducted in February 2002 included responses consistent with these findings from social science research. Included were reports of women becoming disinterested in management because of barriers they had encountered, and some also acknowledged that their production suffered as a result.[23]

Minimizing Workplace Gender Bias

Organizational policies and practices that create barriers to career advancement for women and minorities, once in place, become institutionalized and rarely change in the absence of any substantial change in a firm's business, technical, or legal

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R. Ragins, "Barriers to Mentoring: The Female Manager's Dilemma," *Human Relations*, Vol. 42, 1989, p. 1-22; B. R. Ragins and J. L. Cotton, "Easier Said than Done: Gender Differences in Perceived Barriers to Gaining a Mentor," *Academy of Management Journal*, Vol. 14, 1991, p. 939-951.

[22]R. Guest, "Work Careers and Aspiration of Automobile Workers," *American Sociological Review*, Vol. 19, 1954, p. 155-63; E. Chinoy, *Automobile Workers and The American Dream*, Doubleday 1955; T. V. Purcell, *Blue Collar Man: Patterns of Dual Allegiance in Industry*, Harvard University Press, 1960; R. Blauner, *Alienation and Freedom*, University of Chicago Press, 1964; O. Grusky, "Career Mobility and Organizational Commitment," *Administrative Science Quarterly*, Vol. 10, 1966, p. 489-502; Kanter, *op cit.*; J. A. Jacobs, *Revolving Doors: Sex Segregation and Women's Careers*, Stanford University Press, 1989; and K. Loscocco, "Reactions to Blue-Collar Work: A Comparison of Men and Women," *Work and Occupations*, Vol. 17, 1990, p. 152-177; L. M. Shore and S. J. Wayne, "Commitment and Employee Behavior: Comparison of Affective Commitment and Continuance Commitment with Perceived Organizational Support," *Journal of Applied Psychology*, Vol. 78, 1993, p. 774-780; J. E. Wallace, "Organizational and Professional Commitment in Professional and Nonprofessional Organizations," *Administrative Science Quarterly*, Vol. 40, 1995, p. 228-255; R. P. Settoon, N. Bennett, and R. C. Liden, "Social Exchange in Organizations: Perceived Organizational Support, Leader-Member Exchange, and Employee Reciprocity," *Journal of Applied Psychology*, Vol. 81, 1996, p. 219-227. For reviews, see W. T. Markham, S. L. Harlan, and E. J. Hackett, "Promotion Opportunity in Organizations: Causes and Consequences," *Research in Personnel and Human Resource Management*, Vol. 5, 1987, p. 223-87 and D. D. Bielby, "Commitment to Work and Family," *Annual Review of Sociology*, Vol. 18, 1992, p. 281-302.

[23]BAIGlobal memo, p. 4-5; FSCW Report, p. 43, 52-55, 60.

environment.[24] This is especially true of personnel practices and policies that are reinforced by the firm's culture.[25] However, gender bias in the workplace is by no means inevitable, and social science research shows what kinds of policies and practices effectively minimize bias.

Through deliberate efforts, the effects of stereotypes can be controlled.[26] Research studies show that the effects of stereotypes and outgroup bias on evaluative judgments such as those involved in recruitment, hiring, job assignment, promotion, and assessments of skills and qualifications can be minimized when decision-makers know that they will be held accountable for the criteria used to make decisions, for the accuracy of the information upon which the decisions are based, and for the consequences their

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[24]L. Stinchcombe, "Social Structure and Organizations," p. 142-93 in *Handbook of Organizations*, edited by J. G. March, Rand McNally, 1965; M. T. Hannan and J. H. Freeman, "Structural Inertia and Organizational Change," *American Sociological Review*, Vol. 43, 1984, p. 143-164; J. N. Baron, "Organizational Evidence of Ascription in Labor Markets," in *New Approaches to Economic and Social Analyses of Discrimination*, edited by R. Cornwall and P. Wunnava, Praeger, 1991. The concept of organizational inertia has been applied in scientific studies conducted in a wide range of industrial settings. See, for example, J. Roggema and M. H. Smith, "Organizational Change in the Shipping Industry: Issues in the Transformation of Basic Assumptions," *Human Relations*, Vol. 36, 1983, p. 765-790; E. Abrahamson and C. J. Fombrun, "Macrocultures: Determinants and Consequences," *Academy of Management Review*, Vol. 19, 1994, p. 728-755; L. Gardenswartz and A. Rowe, "Diversity Management: Practical Application in a Health Care Organization," *Frontiers of Health Services Management*, Vol. 11, 1994, p. 36-40; G. T. Fairhurst, S. Green, and J. Courtright, "Inertial Forces and the Implementation of a Socio-technical Systems Approach: A Communication Study," *Organization Science*, Vol. 6, 1995, p. 168-185; C. Doucouliagos, "Conformity, Replication of Design and Business Niches," *Journal of Economic Behavior & Organization*, Vol. 30, 1996, p. 45-62; and M. Ruef, "Assessing Organizational Fitness on a Dynamic Landscape: An Empirical Test of the Relative Inertia Thesis," *Strategic Management Journal*, Vol. 18, 1997, p. 837-853.

[25]P. Doeringer and M. Piore, *Internal Labor Markets and Manpower Analysis*, D. C. Heath, 1971

[26]P. G. Devine, "Stereotypes and Prejudice: Their Automatic and Controlled Components," *Journal of Personality and Social Psychology*, Vol. 56, 1989; S. T. Fiske, M. Lin, and S. L. Neuberg, "The Continuum Model: Ten Years Later," p. 231-54 in *Dual Process Theories in Social Psychology*, edited by S. Chaiken and Y. Trope, Guilford Press, 1999.

actions have for equal employment opportunity.[27] Below I assess the extent to which

such oversight and accountability exists at MLFS.

Formal written policies alone are not sufficient to minimize bias in personnel

decisions. A written equal employment opportunity ("EEO") policy that is simply

reactive and lacks effective accountability is vulnerable to bias against women and

minorities. Often, such a system is simply a symbolic exercise in "going through the

motions," with little substantive impact on creating a work environment that is free of

bias.[28] True "EEO accountability" has three key elements,[29] and below I assess the

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[27]T. E. Nelson, M. Acker and M. Manis, "Irrepressible Stereotypes," *Journal of Experimental Social Psychology*, Vol. 32, 1996, p. 13-38; J. L. Eberhardt and S. T. Fiske, "Motivating Individuals to Change: What Is a Target to Do?" p. 369-415 in *Stereotypes and Stereotyping*, edited by C. N. Macrae, C. Stangor, and M. Hewstone, Guilford Press, 1996; A. M. Konrad and F. Linnehan, "Formalized HRM Structures: Coordinating Equal Employment Opportunity or Concealing Organizational Practices?" *Academy of Management Journal*, Vol. 38, 1995, p. 787-829; T. F. Pettigrew and J. Martin, "Shaping the Organizational Context for Black American Inclusion," *Journal of Social Issues*, Vol. 43, 1987, p. 41-78; G. R. Salancik and J. Pfeffer, "Uncertainty, Secrecy, and the Choice of Similar Others," *Social Psychology*, Vol. 41, 1978, p. 246-55; C. T. Schreiber, K. F. Price, and A. Morrison, "Workforce Diversity and the Glass Ceiling: Practices, Barriers, Possibilities," *Human Resource Planning*, Vol. 16, 1993, p. 51-69; P. E. Tetlock, "Accountability: The Neglected Social Context of Judgment and Choice," p. 297-332 in *Research in Organizational Behavior*, Vol. 7, edited by L. L. Cummings and B. M. Staw, Jai Press, 1985; P. E. Tetlock and J. I. Kim, "Accountability and Judgment Processes in a Personality Prediction Task," *Journal of Personality and Social Psychology*, Vol. 52, 1987, p. 700-709; P. E. Tetlock, "The Impact of Accountability on Judgment and Choice: Toward a Social Contingency Model," *Advances in Experimental Social Psychology*, Vol. 25, 1992, p. 331-376; Reskin, *op cit.*; P. M. Tetlock and M. Lerner, "The Social Contingency Model: Identifying Empirical and Normative Boundary Conditions on the Error-and-Bias Portrait of Human Nature," p. 571-585 in *Dual Process Theories in Social Psychology*, edited by S. Chaiken and Y. Trope, Guilford Press, 1999; W. Bielby, 2000, *op cit*. To see how human resource professionals apply these principles in the design of personnel systems, see R. D. Gatewood and H. S. Field, *Human Resource Selection*, Third Edition, Dryden Press, 1994; and H. G. Heneman, III, R. L. Heneman, and T. A. Judge *Staffing Organizations*, Second Edition, Mendota House and Richard D. Irwin, 1997.

[28]L. B. Edelman, "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law," *American Journal of Sociology*, Vol. 97, 1992, p. 1531-1576; L. B. Edelman, S. Patterson, E. Chambliss, and H. S. Erlanger, "Legal Ambiguity and the Politics of Compliance: Affirmative Action Officers' Dilemma," *Law and Policy*, Vol. 13, 1991, p. 73-97; L. B. Edelman, H. S. Erlanger, and J. Lande, "Employers' Handling of Discrimination Complaints: The Transformation of Rights in the Workplace," *Law & Society Review*, Vol. 27, 1993, p. 497-534; L. B. Edelman, Lauren B. and S. Petterson, "Symbols and Substance in Organizational Response to Civil Rights Law," in *Research in Social Stratification and Mobility*, 1999; M. E. Heilman, " Sex Stereotypes and their Effects in the Workplace: What We Know and What we Don't Know," *Journal of Social Behavior and Personality*, Vol. 10, 1995, p. 3-26; J. S. Leonard, "Women and Affirmative Action," *Journal of Economic Perspectives*, Vol. 3 (No. 1), 1989, p. 61-75. Also

effectiveness of each in MLFS's policies and practices for minimizing gender bias. One is the regular monitoring and analysis of patterns of segregation and differences by gender and race in pay and career advancement as a routine part of an organization's personnel system. Such monitoring assess whether disparities are greater than what plausibly might be expected based on differences in job-related knowledge, skills, abilities, and interests and other job-related factors that influence an employee's contributions to the organization.[30]

A second component of EEO accountability is systematic analysis of feedback from employees about perceptions of barriers to and opportunities for career advancement. Systematic monitoring of trends in employees' perceptions of barriers to career advancement and of top management's commitment to EEO can be used to identify subtle forms of bias and related problems not immediately apparent from analyses of more objective workforce data.

The third component of EEO accountability is explicit evaluation of managers and supervisors on their contributions to an organization's EEO goals. Nearly all medium- to large-scale organizations have a written antidiscrimination policy, and many have a written policy stating that implementing the objectives of the Affirmative Action Plan is the responsibility of every employee. However, such policies are merely

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see J. S. Leonard, *Use of Enforcement Techniques in Eliminating Glass Ceiling Barriers*, Report prepared for the U. S. Department of Labor, Glass Ceiling Commission, April 1994.

[29]W. Bielby, 2000, *op cit.*

[30]Organizations with Affirmative Action Plans usually do something like this under the rubric of "availability and utilization analyses," but often such analyses are generic reports generated by off-the-shelf programs with little real connection to a company's overall personnel system. Effective monitoring is not based on the generic formulae and broad occupational categories typically used in Affirmative Action Plans, but instead relies on actual job transitions and is based on the same information used by those who

symbolic unless they also delineate explicit duties and responsibilities relating to equal employment opportunity in each manager's or supervisor's job description, which can then be related to specific evaluative dimensions in the performance reviews of those employees.

DISCRETIONARY AND SUBJECTIVE PROCEDURES FOR MAKING DECISIONS THAT AFFECT PAY AND CAREER ADVANCEMENT

Compensation

Compensation for incumbent FSRs is almost entirely commission-based, tied to the quantity and quality of business they generate and retain.[31] However, agency managers have discretion to make decisions about resources such as sales leads that can influence an FSR's productivity. Sales leads include walk-ins and call-ins, "E-leads" (e.g., leads via calls to a company 800 number or generated by the institutional division of the company that are transmitted electronically to an agency), and contacts with potential clients through the delivery of death claim checks. MetLife has developed structured programs for the distributions of some leads, such as the "Deliver the Promise" program for death claim deliveries, and the ESS program for E-leads. But others, such as walk-ins and call-ins to an agency, are distributed at the discretion of the Managing Director. For those kinds of leads, there are no written criteria and no review or

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make decisions about hiring, job assignment, training, performance evaluation, promotion, compensation, and the like.

[31]Regan depo., p. 118-124.

oversight over the process used to make decisions about distributing them.[32] Similarly,

there are no written criteria and no monitoring of the process used by Managing Directors

to reassign "orphaned accounts" (the books of business left behind by FSRs who leave

the firm).[33] Perceptions of gender bias in the distribution of leads were highlighted in

the February 2002 focus group and interview study, and while both Mr. Boylan and Ms.

Plazak testified that they believed someone was going to look into the issue, neither was

aware of any report being issued or any action taken as a result.[34]

Selection into First-Line and Second-Line Management Positions

James Boylan, who directs the human resource function for MLFS, testified that

there is no policy or document that established criteria for selection into the position of

Managing Director.[35] There is no review of the process or criteria used for making

selection decisions, and there is no written record of the reasons for selecting a specific

candidate.[36] Instead, the process and criteria for filling Managing Director positions is

left to the discretion of individual Regional and Zone Vice Presidents.[37] There is no

formal application process or system for registering interest in a first-line management

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[32]Boylan depo., p. 543; Schrieffer depo., p. 162-179, 186-188; Nugent depo., p. 154-160; Schulte depo., p. 143-144, 146; Vietri depo., p. 130-132; Marlin depo., p. 81-88.

[33]Schrieffer depo., p. 195-200; Schmidt depo., p. 205-216; Nugent depo., p. 160-166; Schulte depo., p. 144-145, 147-149; Vietri depo., p. 122-130.

[34]Boylan depo., p. 538, 541-543; Plazak depo., p. 143-145.

[35]Boylan depo., p. 399. The company has developed position descriptions that include written qualifications, but these documents are not used as guidelines for selection decisions, and they do not provide direction on how to assess candidates on the written qualifications. Mr. Boylan did not know if the position description was based on a formal job analysis (Boylan depo., p. 600-603).

[36]Schrieffer depo., p. 228-229.

[37]Nugent depo., p. 37-43 Schrieffer depo., p. 215-216, 228; Schulte depo., p. 75-77.

position.[38] The company has a computerized job posting system, but there is no requirement that vacant first-line positions be posted, and there is no monitoring or review of how many positions are filled through the system.[39] If a hiring manager identifies a candidate he believes is qualified, that person can be promoted into the position without posting.[40]

Hiring managers testified that they relied on a variety of factors to fill first-line management positions. These range from relatively objective and potentially measurable factors such as compliance conduct, FSR hiring and retention, sales productivity and growth, to subjective factors such as management style, leadership quality, integrity, and vision.[41]

Hiring for second-line managers is similarly organized, with the process and criteria left to the discretion of Managing Directors in the agencies.[42] The criteria relied upon by hiring managers is equally varied, again ranging from objective factors such as compliance record to highly subjective ones like being "favorably known in the organization and in the community" (Schulte depo., p. 84) and a strong desire to move into management.[43]

Selection of Functional Managers

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[38]Boylan depo., p. 590-592.

[39]Boylan depo., p. 584-589; Schulte depo., p. 72.

[40]Boylan depo., p. 589; Schwarz depo., p. 144-145; Schrieffer depo., p. 224-225.

[41]Schulte depo., p. 70-78; Nugent depo., p. 39-41; Schrieffer depo., p. 212-215, 229-231.

[42]Schmidt depo., p. 56; Schulte depo., p. 84-86, 102-103; Nugent depo., p. 96; Schrieffer depo., p. 239-41.

[43]Schulte depo., p. 84-85, 99-100; Nugent depo., p. 100-101, Schrieffer depo., p. 231-234.

Functional Managers arc FSRs who receive a weekly salary supplement for taking on management duties such as recruitment and training under the supervision of a Managing Director. Written guidelines exist for the appointment of a Functional Manager, but these mainly pertain to payroll and compliance issues; they do not specify the criteria or process to be used in selecting Functional Managers.[44] Functional Managers are selected, without posting, by the agency's Managing Director.[45]

In sum, managers have considerable discretion in selecting individuals to place in first-line, second-line, and functional management positions. Little exists in the way of written guidelines for the criteria to be applied or the process to be followed in making management selections, and there is hardly any monitoring or oversight of the process. Testimony from individuals who participate in selecting individuals to place in management positions indicates that they rely on a range of factors, including many that are highly subjective. No policies or procedures are in place to ensure that assessment of subjective factors is done in a systematic, reliable, and valid manner. Similarly, the distribution of unassigned accounts and some kinds of sales leads, which can affect an FSR's productivity, is left to the discretion of individual managers, with no monitoring or oversight. Moreover, the highly discretionary and subjective system for making selection and resource allocation decisions is set in a historically male-dominated work context where men predominate in positions of status and authority. The social science research I described above demonstrates that this is the kind of decision-making context that is vulnerable to gender stereotyping and gender bias.

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[44]Manual of Instructions For Sales Management, PER-17-1 to 17-4, Appointment of a Functional Manager," Bates ML005630-005634; Boylan depo., p. 607; Nugent depo., p. 64-67.

ANTI-DISCRIMINATION POLICY AND DIVERSITY EFFORTS AT MLFS

I have described above three key elements of EEO policy to establish effective accountability and minimize gender bias: (1) monitoring of disparities in career outcomes such as pay and promotion; (2) on-going assessment of employees' perceptions of discriminatory barriers; and (3) systematic assessment of managers' contributions to the company's EEO objectives. In this section I evaluate MLFS on each of those dimensions.

Monitoring of Gender Disparities

Peter Schwarz, the Vice President of Human Resources for Individual Business, testified that to his knowledge there has never been a study of gender disparities in rates of promotion into first-line management at MLFS. Neither Mr. Schwarz, nor Mr. Regan, the executive in charge of compensation administration for the field sales force, was aware of any statistical study of gender disparities in compensation among FSRs.[46]

Tracking of gender disparities at MLFS is limited almost entirely to point-in-time snapshots of the gender composition of job categories. Mr. Boylan testified that the only time he generated such a report was in December 2001, when, at the request of Mr. Schwarz, he compiled a tabulation of the gender composition of the FSR position, first-line management, and second-line management at four points in time, 1998, 1999, 2000, and 2001. Mr. Boylan that the report was "just a review of taking a historical look at the various positions at MLFS" and he did not know if the report was intended to be used to

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[45]Boylan depo., p. 607-610; Marlin depo., p. 72-75

[46]Schwarz depo., p. 143-144; Regan depo., p. 148. Also see Schulte depo., p. 219-220.

assess whether women had been under-represented.[47] The tabulation compiled by Mr. Boylan showed women's representation among FSRs declining from 24.3% in 1998 to 19.8% in 2001. According to Mr. Boylan, he was unable to form any assessment based on those statistics without additional information about individuals entering and leaving the business at different points in time, but he made no effort to acquire and analyze such information. He chose not to do so "because I was not providing any analysis of this information."[48] Mr. Boylan was unable to say whether data on labor force availability trends would allow him to draw conclusions from the data he compiled.[49] Similarly, when Ms. Plazak assumed responsibility for diversity issues in the Individual Business, she had statistics compiled for the gender composition of jobs within each unit but made no attempt to assess them relative to any external industry standard or relevant labor pool.[50]

Gender composition statistics are also compiled as part of the company's obligations as a government contractor to file EEO-1 forms and Affirmative Action Plans with the United States Department of Labor. However, these statistics are even less useful than those described above, which were compiled as part of the company's diversity initiatives. The EEO-1 statistics do not differentiate between entry-level and higher management, and instead are classified by broad categories that have little relation

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[47]Boylan depo., p. 434-437. Also see p. 426-428.

[48]Boylan depo., p. 438-443.

[49]Boylan depo., p. 443-445. Similarly, as background for a talent review meeting in May 2002, Mr. Schwarz had data compiled on the gender composition of new hires into Managing Director and Agency Director positions, but he was unaware of any effort to compare those statistics to relevant data on availability (Schwarz depo., p. 202-203).

[50]Plazak depo., p. 118-122.

to actual management career paths in the firm. The Affirmative Action Plans for agencies with 50 or more employees apparently were not produced at all for several years during the 1990s.[51] The plans for 2000 that I reviewed contained the same "boilerplate" language across offices and were largely devoid of substance.[52]

Neither Mr. Boylan nor Mr. Schwarz reviews the company's Affirmative Action Plans. Mr. Schwarz testified that monitoring the preparation of the reports was Mr. Boylan's responsibility, and that Mr. Boylan had never brought to his attention any concerns with utilization as reflected in those plans.[53] Mr. Boylan testified that while he has responsibility for making sure that the reports are completed, he does not personally review them. Catherine Cornish, the Vice President for Diversity at MetLife, also testified that she has never read any of the company's Affirmative Action Plans.[54] The actual preparation of the reports is delegated to an "EEO unit" within Human Resources, and the work of that unit seems to have no connection whatsoever to actual human resources policies and practices at MLFS.[55]

The MLFS human resource executives took the same *laissez faire* stance towards statistics on gender disparities in terminations. Statistics compiled as background

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[51]Schwarz depo., p. 47-49.

[52]For example, in the entry for "composition of the workforce by minority group and sex," the Plan for each office uses identical language to describe utilization analyses, accompanied by the statement "job groups where underutilization exists have been identified and affirmative action goals have been established." These statements are contrary to the testimony of the company's executives responsible for human resources and diversity initiatives.

[53]Schwarz depo., p. 49-51.

[54]Cornish depo., p. 149.

[55]Boylan depo., p. 435-436. Mr. Schulte, the executive in charge of the MLFS Western Zone, testified that he was not sure if he had ever seen an Affirmative Action Plan for the company that was submitted to the Department of Labor (Schulte depo., p. 211-212). Also see Sklodowski depo., p. 71-76.

information for the May 2002 talent review meeting show that in the Atlantic Zone,

women accounted for 47% of the Agency Directors terminated between April 1, 2001

and March 1, 2002, while they comprised just 23.5% of the Agency Directors in that

Zone as of March 31, 2002. A larger disparity was evident in the Western Zone, where

women accounted for 75% of the terminated Agency Directors and comprised 28% of the

Agency Directors as of March 31, 2002.[56] Asked about those disparities, Mr. Boylan

testified that he did not do any analysis of why those disparities existed.[57] Mr. Schwarz

testified that this information was compiled as "nothing more than background data to be

available for the meeting in case someone asked." According to Mr. Schwarz, he did not

ask anyone to analyze gender disparities in the rates of termination, and when he looked

at those statistics himself "it didn't show anything that I felt was noteworthy."[58]

Mr. Boylan and Mr. Schwarz also testified that they were aware of no analyses

being conducted on how the consolidation offices under the company's segmentation

process was having a disproportionate impact on women's positions in management.[59] It

is Mr. Schwarz's opinion that because the consolidations were being made as a business

decision, there could not possibly be any gender bias in terms of how the process was

implemented.[60] Finally, Mr. Schwarz was not aware of any effort to conduct an analysis

of disparities by gender in performance evaluations under the company's recently

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[56]MLFS Field Management Landscape Current (As of March 31, 2002), Bates ML0109292;
MLFS Field Management Terminations (April 1, 2001 - March 1, 2002), Bates ML0109311.

[57]Boylan depo., p. 530-531.

[58]Schwarz depo., p. 204-207.

[59]Schwarz depo., p. 167-177; Boylan depo., p. 615-619.

[60]Schwarz depo., p. 174-176.

implemented Performance Management Process. Again, to him, such an analysis was unnecessary, because "ratings are an indication of an individual's personal performance and they are what they are." Mr. Schwarz said that if any analysis of gender disparities were to be conducted at all it would be by Mr. Boylan.[61] Mr. Boylan was not aware of any such analysis.[62]

In sum, efforts to monitor gender disparities in career outcomes at MLFS are extremely limited, and those that are undertaken are rarely examined analytically to see if there is evidence of barriers to equal employment opportunity for women.[63] Even those efforts that are mandated by the Federal government are ignored by the human resources executives responsible for the company's personnel policies and practices. At MLFS, the exercise of assembling Affirmative Action Plans is almost exclusively one of going through the motions.

Monitoring Employees' Perceptions

MetLife does an annual employee survey which assesses employee satisfaction and opinions on a variety of work-related issues, although apparently diversity is not a focus of the survey and no analyses are conducted on issues related to gender that are

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[61]Schwarz depo., p. 201-202.

[62]Boylan depo., p. 648

[63]A previous effort to examine gender disparities in women's representation in management at MLFS as a starting point for assessing discriminatory barriers was virtually ignored by senior management. The Women in MetLife report, conducted by former National Director of Women's Recruitment Karen Christensen, was intended as the first step in a larger initiative to understand the reasons behind women's low representation in sales management at MLFS. However, after completing her report, Ms. Christensen was told to limit her work on the topic, and her report was never distributed beyond her immediate superiors (Christensen depo., p. 38-51, 55-69, 86-128, 144-146). Neither Catherine Cornish, who became Diversity Vice President for MetLife in July 2000, nor Katherine Plazak, who assumed responsibility for diversity issues in Individual Business in Fall 2000, was given copies of the Women of MetLife report, despite its obvious relevance to their job responsibilities (Cornish depo., p. 474; Plazak depo., p. 219).

communicated to MLFS human resource professionals.[64] The one systematic effort to monitor employees' perceptions of gender barriers at MLFS was the qualitative focus group and interview study conducted in February of 2002. It was designed as the first step of an ongoing assessment of issues related women's concerns at MLFS, including a possible quantitative survey.[65] However, Ms. Plazak, who headed the Women's Initiative, began scaling back her involvement in July 2002 when she knew she would be leaving the firm in the Fall.[66] Apparently, a replacement has yet to be named to coordinate the Women's Initiative, the MLFS Diversity Committee has stopped meeting, and the work that began with the focus groups and qualitative interviews seems to have stalled.[67]

Evaluation of Managers on EEO Contributions and Diversity Goals

Managers in MLFS are not evaluated on their contributions to the company's EEO or diversity objectives. It is not part of the company's Performance Management Process that was first applied to first-line managers in 2000 and second-line managers in 2001.[68]

In early 2001, diversity goals for placing women in first-line management positions were established, and goals for second-line management and FSR positions

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[64]Plazak depo., p. 195-196.

[65]Plazak depo., p. 117, 197-198.

[66]Plazak depo., p. 37-39.

[67]Boylan depo., p. 374, 656-662; Schwarz depo., p. 209-210; Mr. Schwarz testified on November 20, 2002 that he was not aware that anyone had replaced Ms. Plazak as coordinator of the Women's Initiative (Schwarz depo., p. 207-208).

[68]Boylan depo., p. 64-65, 638-640; Schwarz depo., p. 146; Schulte depo., p. 223.

were established for 2002.[69] It has been communicated to senior managers that their

compensation could be affected by failure to reach those goals.[70] While setting goals

and making compensation partially contingent on meeting them might seem to be a

proactive way to redress an imbalance in the recruitment, retention, and promotion of

women at MLFS, there are several reasons why it is likely to do more harm than good as

designed and implemented at MLFS.

First, there is uncertainty among senior managers about whether they are in fact

being held accountable for meeting numerical goals. Nothing was put in writing

regarding compensation and attaining numerical goals.[71] Mr. Schwarz could not recall

whether he was told specifically by MetLife CEO that his own incentive compensation

could be affected adversely if Zone Vice Presidents did not meet their goals or whether

he simply "inferred it."[72] Similarly, Western Zone Vice President Gary Schulte testified

that he was not told expressly that his compensation would be affected by his success in

attaining diversity goals, he was not aware if his compensation for 2001 was affected by

whether or not he achieved diversity goals, and he was not aware of any document that

would reflect whether his compensation was at all affected by diversity issues.[73] Neither

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[69]Schwarz depo., p. 116-124; Plazak depo., p. 80-82; Schulte depo., p. 224; Schrieffer depo., p. 248-249

[70]Boylan depo., p. 184-185.

[71]Schwarz depo., p. 185-186.

[72]Schwarz depo., p. 186-187.

[73]Schulte depo., p. 224-225.

Mr. Schmidt nor Mr. Schrieffer was aware that goals had been set for placing women in second-line management positions for 2002.[74]

Second, numerical goals were not established through a systematic analysis of available pools of qualified individuals internally and externally and appropriate selection rates absent discriminatory barriers. Modest goals that are easily obtained may have some symbolic value by signaling that concerns about inequities are being addressed, but hiring or promoting a few token women does little to redress workplace inequities. Conversely, goals that are inappropriately high create an incentive to place women in management positions for which they are not yet fully prepared, setting them up for failure and reinforcing stereotypes that women are not qualified for management positions.

Third, through its Diversity Council initiative, MLFS has taken proactive steps to target women (and minorities) in second-line positions to be given developmental support. However, it has based those selections on a highly arbitrary and subjective ranking system which is unlikely to result in the most qualified women being selected for promotion.[75] Again, such an approach that does not attend to the job-relatedness and validity of the underlying process is likely to set some women up for failure.

Fourth, and most importantly, the MLFS approach to diversity goals treats the symptom -- poor representation of women in management positions -- while ignoring the cause -- discriminatory barriers in the process used to make selection decisions. Without a sustained and systematic attempt to identify and remove discriminatory barriers,

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[74]Schmidt depo., p. 197; Schrieffer depo., p. 262.

women in MLFS will remain disadvantaged in promotion and compensation. Even those women who get ahead by virtue of the diversity goals are likely to face disadvantages in their new position, especially if they and their coworkers do not believe that their accomplishments are attributable to a fair assessment of their qualifications in a system that is free of bias. Selection under such circumstances can compound the isolation and lack of support that token women in male-dominated settings typically experience.[76]

In sum, there are significant deficiencies in the anti-discrimination policies and diversity initiatives at MLFS. First, there has been virtually no effort to analyze gender disparities in selection and compensation in a way that provides useful information about potential discriminatory barriers. Second, efforts to build upon the qualitative research that assessed women employees' workplace experiences and perceptions of career barriers have been dropped, and there has been little effective follow-up on the issues raised in that study. Third, the company's approach to diversity goals represent a modest effort to treat a symptom and ignores the underlying causes, leaving discriminatory barriers intact.

CONCLUSION

I have concluded that decisions about selection into management positions and about resources that affect an FSR's compensation are made in a highly discretionary and subjective manner, with few guidelines, and with little oversight over the criteria and

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[75]Boylan depo., p. 407-412, 420-424, 557-558; Plazak depo., p. 99-102, 113-114; Schwarz depo., p. 150-153; Schmidt depo., p. 233.

process used to make decisions. In a male-dominated setting like sales and sales-management at MLFS, decisions made under these circumstances are vulnerable to gender stereotyping and gender bias. I have also concluded that MLFS lacks effective anti-discrimination policies, and that several aspects of its diversity efforts to more harm than good.

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[76]For research relevant to this issue, see, for example, M. E. Heilman and V. B. Alcott, "What I Think You Think of Me: Women's Reactions to Being Viewed as Beneficiaries of Preferential Selection," *Journal of Applied Psychology*, Vol. 86, 2001, p. 574-582.