UNITED STATES DEPARTMENT OF LABOR

OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, Plaintiff,

vs.

ORACLE AMERICA, INC., Defendant.

________________________________)
________________________________)
________________________________)
________________________________)

VIDEOTAPED DEPOSITION OF JOYCE WESTERDAHL

May 30, 2019

Orange, California

Reported by:
Michael McMorran
CSR No. 13735
JOB No. 190530RCR
UNITED STATES DEPARTMENT OF LABOR

OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, UNITED STATES DEPARTMENT OF LABOR, OALJ Case No. 2017-OFC-00006

Plaintiff, OFCCP No. R00192699

vs.

ORACLE AMERICA, INC.,

Defendant.

________________________________)

VIDEOTAPED DEPOSITION of JOYCE WESTERDAHL, taken on behalf of Plaintiff, at 770 The City Drive South, Orange, California, beginning at 9:01 a.m., and ending at 6:02 p.m., on Thursday, May 30th, 2019, before Michael G. McMorran, Certified Shorthand Reporter No. 13735.
APPEARANCES:

For Plaintiff:

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF THE SOLICITOR
By: CHARLES C. SONG, ESQ.
    NORMAN E. GARCIA, ESQ.
350 South Figueroa Street
Suite 370
Los Angeles, California 90071-1202
(213) 894-5365

For Defendant:

ORRICK, HERRINGTON & SUTCLIFFE, LLP
By: ROBERT S. SHWARTS, ESQ.
    LARA GRAHAM, ESQ.
405 Howard Street
San Francisco, California 94105-2669
(415) 773-5760

Also Present:

ZAVEN BAGHDANIAN, Videographer
requests, but you --

A Correct.

Q -- yourself did not respond to it?

A Correct. The lawyers come in and scan our systems, yes.

Q Okay. And did the lawyers come in and scan your systems for this document request?

A Yes.

Q Yes? Okay. And do you know when that was?

A No idea.

Q Okay. But you didn't do any kind of a search for your e-mails?

A No.

Q Okay. And what is your current title at Oracle?

A Executive vice president of human resources.

Q Okay. And what are your job duties there?

A I run everything that encompasses HR, benefits, comp, employee relations, investigations, union worker counsel, activities. I also run the Oracle Foundation, Oracle Academy, Oracle High School. I'm missing things.

Q That sounds like quite a bit already.

A The data privacy groups, the emergency groups for disaster reliefs with our employees. I'm
trying to see my direct reports and what they do.

Oh, systems. We run internal IT systems with our
own software, and we run all of those
implementations and maintain those systems for --
for the HCM software and the recruiting software.

Q Okay. Is there anything that you don't do
at Oracle?

A Well, I actually do help sell. I was going
to say I don't sell anything, but I do sell our HR
product, yeah.

Q I was just kidding. Sorry. Would you say
you're the top human resources person at Oracle?

A I am.

Q Okay. And who do you report to?

A Safra Catz.

Q Okay. And Safra reports to?

A The board. She's the CEO.

Q The board?

A She's a co-CEO at Oracle.

Q Okay. And what about Mr. Ellison?

A Mr. Ellison is -- I would -- he's our chief
technology officer at this point.

Q Okay. So she doesn't necessarily report to
him?

A No.
Q Okay. And that's your only -- that's the only person you report to is Ms. Safra Catz?

A Correct.

Q Okay. This could be a long list, but who reports to you or your reports?

A Okay, Elizabeth Snyder, Jonn Nolitt --

MR. SHWARTS: Why don't you do it this way? It will be easier. Why don't you do it, give the name, give the position. That way it will help you remember all of them. He's going to ask anyways.

THE WITNESS: All right. Okay.

Elizabeth Snyder, and that's Oracle Academy, Foundation, the high school, data privacy, and international immigration.

Peter Shott, global benefits and M&A, activity on the onboarding side.

Phil Jenish. He is executive compensation and Americas' compensation.

Vickie Thrasher runs all kinds of programs from all of our diversity programs to our affinity groups, training, communications, all that fun stuff.

Vance Kearney who runs EMEA, HR.

Alison Sibree who runs Asia PAC Japan HR.

And we own another company called OFSS. That's
under her -- she manages that company as well.

I'm sure I'm missing someone. Oh, Jonn Nolitt, who runs internal recruitment programs.

Jan Ackerman who runs executive -- general recruiting programs.

Christie Book, who runs executive recruiting programs.

Sheryl Cochran, who is my EA.

Anje Dodson, A-n-j-e, who runs the Americas' line of business ER piece as well as our internal systems.

I think I've run out of runway there.

BY MR. SONG:

Q Okay. What about Kate Waggoner?

A Kate Waggoner works for Phil Jenish.

Q For Phil Jenish. Okay. And what about Ms. Carrelli?

A Is that Lynn Palmer?

Q Yes.

A Yes. Lynn works -- I think for Kate.

Q For Kate. Okay. And Sheryl?

A I think.

Q Okay.

A Yeah.

Q That's all right. And Shauna
Okay.

A -- you determine what you're going to give your people in all -- you have 30 countries we talked about.

Okay.

And you hit "Approved."

Okay.

It then goes up for further approvals.

Okay.

And then once it's approved, it comes back to you and says your spreadsheet's approved, basically. You may talk to your employees.

I see. Now, in developing the focal budget, do individual managers get to recommend that their -- let's say they get to -- they have one really good employee or maybe five or whatever, do they get to recommend that these five get raises before the focal budget is approved?

They would do it after the budgets are actually approved.

Okay. After?

Yeah.

Okay. So manager -- so once the -- so the focal budget is approved and the managers are told, "This is how much money you have for increases"; is
10:28 that correct?
   A Correct.

3 oh, okay. And so then it's at that point
   q that the manager decides how much increase to give

10:28 each employee, if any, correct?
   A Correct.

7 q okay. And is it done by the direct manager
   of the employee, like the direct supervisor of the

9 employee?

10:28 a yes.

11 q okay. So, for example, you would decide on

12 your reports' increases?
   a correct.

14 q okay. And if we go to let's say an M-1,

10:28 then does it go all the way up to the top? Or how

16 far does the review or approval process go?

17 mr. schwarts: objection. vague.

18 by mr. song:

19 q okay. all right --

10:29 a i don't even know how to answer that --

21 mr. schwarts: i think i know where you were

22 going, but i don't think you asked it the way you

23 wanted to. try again.

24 by mr. song:

10:29 q okay. let's say an M -- we'll take as an
  2    THE WITNESS: I don't know.
  3    BY MR. SONG:
  4    Q Okay. And do you know if anyone has looked
  12:17 5    at performance scores by race?
  6    A I don't know.
  7    Q Okay.
  8    A I don't know how they'd know, but . . .
  9    Q Well, they could just look at, you know, the
  12:17 10    performance scores of all women as compared to men
  11    or something like that. Okay.
  12    And to your knowledge, when are performance
  13    reviews conducted?
  14    A Every line of business has a certain cadence
  12:18 15    about what they want to do or if they don't want to
  16    do it.
  17    Q Okay. So it's not required?
  18    A No.
  19    Q Okay. Do you know -- do you know within --
  12:18 20    let's say HR, how often they take place?
  21    A We do it once a year.
  22    Q Okay. And about what time?
  23    A Right before early -- late winter right
  12:18 24    before we go into focal stock planning.
  25    Q Okay. And are those -- do you factor those
12:21 1   A They do an annual process.
2   Q Okay. And do you know if support does
3       written ones?
4   A I don't know if they're actually written or
5       not.
6   Q Okay. And product development you said you
7       don't know?
8   A It's a mixed bag.
9   Q Okay. So regarding performance reviews,
10      those are just handled by the line of business?
11   A With their HR partner.
12   Q With their HR partner. And so they can
13       determine whether they want to do them and when to
14       do them and how often --
15   A Correct, yeah.
16   Q Okay. Great.
17 MR. SONG: We're almost out of tape again;
18 so I think this might be a good time for a lunch
19 break.
21 THE VIDEOGRAPHER: This is the end of
22 Media No. 2 of video deposition of Joyce Westerdahl.
23 We're going off the record at approximately
24 12:20 p.m.
12:21 25 (Off the record from 12:22 p.m. to
Q -- from Gary Siniscalco.
A Yes, thank you.
Q Okay. So looking at Roman numeral IV, it says:
"OFCCP's -- OFCCP's statistical model is defective and no counter statistical model is warranted."
Do you see that?
A Yes.
Q So that was -- at least part of Oracle's position was that OFCCP's statistical model was flawed?
A Yes.
Q And Oracle did not offer any factor that OFCCP should consider that would explain the disparities described in the NOV, right?
A Well, Oracle -- no, I don't -- Oracle asked -- told the OFCCP that they -- they thought a cohort analysis should be done because each job is so different at Oracle that they did not feel the groupings that OFCCP chose to use were comparing -- was comparing apples to apples. They did not con- -- consider that these jobs were performing the same -- the same work.
Q Okay. So Oracle's position throughout
Q: Did Oracle suggest a factor or a variable that OFCCP should consider that would address the specific types of work performed by individual employees?

A: No, not any -- not anything -- one factor.

Q: Okay. Looking at Page 15 of 18, there's Footnote 17 which says: "We presume, quote, work experience at Oracle means simply length of time at Oracle since hire or acquisition."

And that was referring to -- was Oracle presuming that the work experience that OFCCP considered in its model meant length of time at Oracle since hire or acquisition?

A: I'm not certain. I -- I believe that they were just basically talking about at time -- time -- time at Oracle rather than relevant work experience. And I just know that from some of the different discussions with regard to this item.

Q: Okay. Actually, let's -- let's just look up at the text where these footnotes appear --

A: Okay.

Q: -- the text of the letter. It says: "Each of the regression models" --
Q. (By Mr. Song) Yeah.
A. They don't -- they don't want to give a bunch of people zero so they can cover, like, two critical cases.
Q. Uh-huh.
A. So that would be a situation where they would go up their chain to say: I really need an extra $10,000 so I can boost these guys a little bit more because of, you know, either their performance or their position and range or maybe they're at a risk for leaving.
Q. Uh-huh.
A. We also, in product development, see situations where there were off-cycle promotions that didn't include a raise and so they gave the promotion to them saying, "I will hit you with a raise on the next focal cycle."
Q. Uh-huh.
A. And then the raise needed for that would be a little bit more than what a typical focal would be because you have to account for, also, their increase in responsibility.
So if a manager has someone that they need to address because they gave them a dry promotion during the year, they might say, "I need another five grand
Q Okay. Do you know if there are any equal opportunity employment statements or documents in the employee's My Oracle page?
A I would imagine there are, yes.

Q Okay. And do you know if this affirmative action plan, which is Exhibit 69, if this is -- if this is distributed to employees?
A I don't think this is distributed to employees.

Q Do you know if they have access to it?
A I don't know.

Q Okay.
A I mean, we distribute the plans to the managers individually, but I don't know -- I don't know how far, you know, I don't know their rigor.

Q Okay. And does Oracle conduct training on the affirmative action plan?
A Specific training? You would have to ask them, just like with all the other training.

I'm assuming there is some training, and there's training in the code of conduct on equal employment. But I don't know if there's a specific EEOC just targeted training.

Q Okay. And do you know -- do you know what Oracle's equal opportunity employment policy is?
DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA )
COUNTY OF ORANGE   ) SS.

I, Michael McMorran, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the state of California, holder of Certificate Number CSR 13735 issued by the Court Reporters Board of California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b), and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a
true record of the testimony given by the witness. (Fed. R. Civ. P. 30(f)(1)).

Before completion of the deposition, review of the transcript [X] was [ ] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed, are appended hereto. (Fed. R. Civ. P. 30(e)).

Dated: **6/3/2019**

MICHAEL G. MCMORRAN, CSR No. 13735