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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

OFFICE OF FEDERAL CONTRACT) OALJ Case No.
COMPLIANCE PROGRAMS, UNITED) 2017-OFC-00006
STATES DEPARTMENT OF LABOR,)
) OFCCP No.
Plaintiff,) R00192699
)
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

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COMPLIANCE PROGRAMS, UNITED)	2017-OFC-00006
STATES DEPARTMENT OF LABOR,)	
)	OFCCP No.
Plaintiff,)	R00192699
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vs.)	
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ORACLE AMERICA, INC.,)	
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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.

1 APPEARANCES:

2 For Plaintiff:

3 UNITED STATES DEPARTMENT OF LABOR
4 OFFICE OF THE SOLICITOR
By: CHARLES C. SONG, ESQ.
NORMAN E. GARCIA, ESQ.
5 350 South Figueroa Street
Suite 370
6 Los Angeles, California 90071-1202
(213) 894-5365
7

8 For Defendant:

9 ORRICK, HERRINGTON & SUTCLIFFE, LLP
By: ROBERT S. SHWARTS, ESQ.
10 LARA GRAHAM, ESQ.
405 Howard Street
11 San Francisco, California 94105-2669
(415) 773-5760
12

13
14 Also Present:

15 ZAVEN BAGHDANIAN, Videographer
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09:07 1 requests, but you --

2 A Correct.

3 Q -- yourself did not respond to it?

4 A Correct. The lawyers come in and scan our
09:07 5 systems, yes.

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

8 A Yes.

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

09:07 10 A No idea.

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

13 A No.

14 Q Okay. And what is your current title at
09:08 15 Oracle?

16 A Executive vice president of human resources.

17 Q Okay. And what are your job duties there?

18 A I run everything that encompasses HR,
19 benefits, comp, employee relations, investigations,
09:08 20 union worker counsel, activities. I also run the
21 Oracle Foundation, Oracle Academy, Oracle High
22 School. I'm missing things.

23 Q That sounds like quite a bit already.

24 A The data privacy groups, the emergency
09:08 25 groups for disaster reliefs with our employees. I'm

09:08 1 trying to see my direct reports and what they do.
2 Oh, systems. We run internal IT systems with our
3 own software, and we run all of those
4 implementations and maintain those systems for --

09:09 5 for the HCM software and the recruiting software.

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

8 A Well, I actually do help sell. I was going
9 to say I don't sell anything, but I do sell our HR
09:09 10 product, yeah.

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

13 A I am.

14 Q Okay. And who do you report to?

09:09 15 A Safra Catz.

16 Q Okay. And Safra reports to?

17 A The board. She's the CEO.

18 Q The board?

19 A She's a co-CEO at Oracle.

09:09 20 Q Okay. And what about Mr. Ellison?

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

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

09:10 25 A No.

09:10 1 Q Okay. And that's your only -- that's the
2 only person you report to is Ms. Safra Catz?

3 A Correct.

4 Q Okay. This could be a long list, but who
09:10 5 reports to you or your reports?

6 A Okay, Elizabeth Snyder, Jonn Nolitt --

7 MR. SHWARTS: Why don't you do it this way?

8 It will be easier. Why don't you do it, give the

9 name, give the position. That way it will help you

09:10 10 remember all of them. He's going to ask anyways.

11 THE WITNESS: All right. Okay.

12 Elizabeth Snyder, and that's Oracle Academy,

13 Foundation, the high school, data privacy, and

14 international immigration.

09:10 15 Peter Shott, global benefits and M&A,

16 activity on the onboarding side.

17 Phil Jenish. He is executive compensation

18 and Americas' compensation.

19 Vickie Thrasher runs all kinds of programs
09:11 20 from all of our diversity programs to our affinity
21 groups, training, communications, all that fun
22 stuff.

23 Vance Kearney who runs EMEA, HR.

24 Alison Sibree who runs Asia PAC Japan HR.

09:11 25 And we own another company called OFSS. That's

09:11 1 under her -- she manages that company as well.
2 I'm sure I'm missing someone. Oh, Jonn
3 Nolitt, who runs internal recruitment programs.
4 Jan Ackerman who runs executive -- general
09:11 5 recruiting programs.
6 Christie Book, who runs executive recruiting
7 programs.
8 Sheryl Cochran, who is my EA.
9 Anje Dodson, A-n-j-e, who runs the Americas'
09:12 10 line of business ER piece as well as our internal
11 systems.
12 I think I've run out of runway there.
13 BY MR. SONG:
14 Q Okay. What about Kate Waggoner?
09:12 15 A Kate Waggoner works for Phil Jenish.
16 Q For Phil Jenish. Okay. And what about
17 Ms. Carrelli?
18 A Is that Lynn Palmer?
19 Q Yes.
09:12 20 A Yes. Lynn works -- I think for Kate.
21 Q For Kate. Okay. And Sheryl?
22 A I think.
23 Q Okay.
24 A Yeah.
09:12 25 Q That's all right. And Shauna

10:27 1 Q Okay.

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

10:27 5 Q Okay.

6 A And you hit "Approved."

7 Q Okay.

8 A It then goes up for further approvals.

9 Q Okay.

10:27 10 A And then once it's approved, it comes back
11 to you and says your spreadsheet's approved,
12 basically. You may talk to your employees.

13 Q I see. Now, in developing the focal budget,
14 do individual managers get to recommend that
10:27 15 their -- let's say they get to -- they have one
16 really good employee or maybe five or whatever, do
17 they get to recommend that these five get raises
18 before the focal budget is approved?

19 A They would do it after the budgets are
10:28 20 actually approved.

21 Q Okay. After?

22 A Yeah.

23 Q Okay. So manager -- so once the -- so the
24 focal budget is approved and the managers are told,
10:28 25 "This is how much money you have for increases"; is

10:28 1 that correct?

2 A Correct.

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

10:28 5 each employee, if any, correct?

6 A Correct.

7 Q Okay. And is it done by the direct manager
8 of the employee, like the direct supervisor of the
9 employee?

10:28 10 A Yes.

11 Q Okay. So, for example, you would decide on
12 your reports' increases?

13 A Correct.

14 Q Okay. And if we go to let's say an M-1,
10:28 15 then does it go all the way up to the top? Or how
16 far does the review or approval process go?

17 MR. SHWARTS: Objection. Vague.

18 BY MR. SONG:

19 Q Okay. All right --

10:29 20 A I don't even know how to answer that --

21 MR. SHWARTS: 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 25 Q Okay. Let's say an M -- we'll take as an

12:17 1 MR. SHWARTS: Okay. Go ahead.

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
24 before we go into focal stock planning.

12:18 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
12:21 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,
12:21 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 --

12:21 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.

12:21 20 MR. SHWARTS: Okay. That's fine.

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

15:34:35 1 Q -- from Gary Siniscalco.
2 A Yes, thank you.
3 Q Okay. So looking at Roman numeral IV, it
4 says:
15:34:50 5 "OFCCP's -- OFCCP's statistical model
6 is defective and no counter statistical
7 model is warranted."
8 Do you see that?
9 A Yes.
15:35:02 10 Q So that was -- at least part of Oracle's
11 position was that OFCCP's statistical model was
12 flawed?
13 A Yes.
14 Q And Oracle did not offer any factor that
15:35:26 15 OFCCP should consider that would explain the
16 disparities described in the NOV, right?
17 A Well, Oracle -- no, I don't -- Oracle
18 asked -- told the OFCCP that they -- they thought a
19 cohort analysis should be done because each job is
15:35:51 20 so different at Oracle that they did not feel the
21 groupings that OFCCP chose to use were comparing --
22 was comparing apples to apples. They did not
23 con- -- consider that these jobs were performing the
24 same -- the same work.
15:36:07 25 Q Okay. So Oracle's position throughout

15:48:35 1 Q Did Oracle suggest a factor or a variable
2 that OFCCP should consider that would address the
3 specific types of work performed by individual
4 employees?

15:49:01 5 A No, not any -- not anything -- one
6 factor.

7 Q Okay. Looking at Page 15 of 18, there's
8 Footnote 17 which says:

9 "We presume, quote, work experience at
15:49:48 10 Oracle means simply length of time at
11 Oracle since hire or acquisition."

12 And that was referring to -- was Oracle
13 presuming that the work experience that OFCCP
14 considered in its model meant length of time at
15:50:15 15 Oracle since hire or acquisition?

16 A I'm not certain. I -- I believe that
17 they were just basically talking about at time --
18 time -- time at Oracle rather than relevant work
19 experience. And I just know that from some of the
15:50:37 20 different discussions with regard to this item.

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

23 A Okay.

24 Q -- the text of the letter. It says:
15:50:46 25 "Each of the regression models" --

1 Q. (By Mr. Song) Yeah.

2 A. They don't -- they don't want to give a
3 bunch of people zero so they can cover, like, two
4 critical cases.

5 Q. Uh-huh.

6 A. So that would be a situation where they
7 would go up their chain to say: I really need an extra
8 \$10,000 so I can boost these guys a little bit more
9 because of, you know, either their performance or their
10 position and range or maybe they're at a risk for
11 leaving.

12 Q. Uh-huh.

13 A. We also, in product development, see
14 situations where there were off-cycle promotions that
15 didn't include a raise and so they gave the promotion to
16 them saying, "I will hit you with a raise on the next
17 focal cycle."

18 Q. Uh-huh.

19 A. And then the raise needed for that would
20 be a little bit more than what a typical focal would be
21 because you have to account for, also, their increase in
22 responsibility.

23 So if a manager has someone that they need
24 to address because they gave them a dry promotion during
25 the year, they might say, "I need another five grand

04:57 1 Q Okay. Do you know if there are any equal
2 opportunity employment statements or documents in
3 the employee's My Oracle page?

4 A I would imagine there are, yes.

04:57 5 Q Okay. And do you know if this affirmative
6 action plan, which is Exhibit 69, if this is -- if
7 this is distributed to employees?

8 A I don't think this is distributed to
9 employees.

04:57 10 Q Do you know if they have access to it?

11 A I don't know.

12 Q Okay.

13 A I mean, we distribute the plans to the
14 managers individually, but I don't know -- I don't
04:58 15 know how far, you know, I don't know their rigor.

16 Q Okay. And does Oracle conduct training on
17 the affirmative action plan?

18 A Specific training? You would have to ask
19 them, just like with all the other training.

04:58 20 I'm assuming there is some training, and
21 there's training in the code of conduct on equal
22 employment. But I don't know if there's a specific
23 EEOC just targeted training.

24 Q Okay. And do you know -- do you know what
04:58 25 Oracle's equal opportunity employment policy is?

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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

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

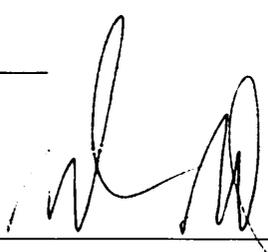
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/ / /

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