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To: Mikel, Brian L - OFCCP <Mikel.Brian@dol.gov>
CC: Shauna Holman Harries <shauna.holman.harries@oracle.com>
Sent: 3/31/2015 6:57:00 PM
Subject: OFCCP Compliance Evaluation: Oracle Redwood Shores
Attachments: 2015-03-31 G_Siniscalco Letter to B_Mikel @ OFCCP.pdf

Dear Mr Mikel, please see the attached letter.

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March 31, 2015

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VIA E-MAIL

Mr. Brian L. Mikel
Acting Assistant District Director
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Los Angeles District Office
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Los Angeles, CA 90025

Re: OFCCP Compliance Evaluation: Oracle Redwood Shores

Dear Mr. Mikel:

I represent Oracle in connection with its Affirmative Action and Equal Employment Opportunity Compliance practices. I have been asked to respond to four different requests, both written and oral, for a listing of employees who have made complaints at HQCA by name, etc.

For the reasons set forth below, Oracle respectfully objects to these various requests on a number of grounds including, but not limited to, the following: these requests are vague, ambiguous, overly broad, irrelevant, request information on agency charges that is equally and in some respects more available to the OFCCP, violate employees' privacy rights, contain conflicting requests, and otherwise seek information beyond the scope of OFCCP policy and authority.

I note, for example, that the FCCM describes and explains that compliance officers should be focused on assessing a contractor's process and procedure. There is nothing that I am aware of that warrants or suggests a search for each and every internal employee complaint. To the extent OFCCP expects employees to bring complaints to its attention, OFCCP has adopted by regulation the applicable complaint procedure and posted Notice.

Notwithstanding these objections, Oracle will provide certain public information known to it. As discussed below, however, I think it important to first describe and address OFCCP's various requests.

On March 4, 2015, OFCCP made four numbered requests for information regarding "employees" at HQCA. Two of those requests (#1 and 3) asked for information and specified a period "within the past three years". Those requests related to employee lists for maternity leave and for reasonable accommodations.

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Request #3 was for a listing of employees who are veterans. This request made no reference to past (former) HQCA employees. Similarly the 4th numbered request asked for a "listing of employees" and made no reference to the past three years or any prior period. Further it asked for "complaints". Thus, both of these latter requests, presumably and reasonably, were understood as pertaining to current HQCA employees.

Since OFCCP has full access to, and per its manual, is expected to ascertain outstanding charges filed with EEOC and the state agency (DFEH), we saw no reason to duplicate its own information regarding present employees.

Accordingly, Oracle answered "None", since we knew of no charges or lawsuits by current HQCA employees.

On the night of March 19, only after Shauna Holman-Harries emailed to OFCCP a request for the written advance notice of onsite, which OFCCP policy mandates be sent by compliance officers to contractors "at least three business days in advance", did OFCCP then respond belatedly with a massive information request. Although Ms. Holman-Harries was hit with the massive request with less than two business days before the scheduled onsite, she confirmed her effort and intent to be responsive, rather than tell OFCCP it was simply too late and to reschedule the onsite.

She also expressly asked for a written explanation for the inexcusable delay in sending the written notice that clearly had been sitting with OFCCP officials for some time. She has yet to receive any such explanation. I renew that request on her behalf.

In that nighttime March 19 request, OFCCP sought to repeat its prior March 4 request for complaints, but actually recharacterized and rephrased it.

The new request # 2 stated:

"WORKPLACE DISCRIMINATION COMPLAINTS: As stated in the onsite letter, please have available all information related to internal complaints....."

A simple reading and comparison of this and the March 4 request show the March 19 request to be entirely new, or at the very least, a significant reinterpretation and expansion of the March 4 request

OFCCP officials then compounded the confusion when four of them were questioning in-house counsel Juana Schurman, who was on OFCCP's list of employee interviews. OFCCP expressly stated that the employee interviews would cover the employee's own employment experience as an employee at Oracle. Since she was home sick she agreed to a phone interview.

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During that interview, despite their express representations, OFCCP officials switched back and forth in their questioning and asked her questions in her legal and managerial capacity. Among other things, one of the four addressed the issue of internal complaints, asked questions about internal complaints, and said words to the effect that they wanted complaints by HQCA employees "during the review period". This was obviously a temporal extension of the request. Presumably they were referring to the original scheduling letter that specified the first six months of the current AAP year (Jan - June, 2014) and the preceding AAP year (2013).

In the meantime, earlier that same day, at the beginning of the Entrance conference, in the presence of senior Oracle executives who were there to welcome OFCCP and share their overall perspective of Oracle and its practices, and in the presence of Regional Director Wipper, one OFCCP official made unprofessional, inaccurate and blatantly bullying comments, including a threat of possible criminal prosecution for giving supposedly false information, regarding Oracle's response to the initial March 4 request on complaints. The OFCCP official then cited to a lawsuit he had apparently googled online (*Spandow v. Oracle*), and accused Oracle, in an apparent effort at "gotcha", of not listing that employee. However, Mr. Spandow last worked for Oracle in 2012 and thus would not been included under any of OFCCP's varied forms of request.

Neither Ms. Wipper, who was present, nor anyone at OFCCP, has apologized for the false reference or the unprofessional manner in which the threat and reference to criminal conduct was made.

Finally, on March 26, you emailed a fourth, and further modified request to Ms. Holman Harries.

Notwithstanding the confusing and confounding progression of OFCCP's written and oral requests, and even though OFCCP has full and equal access, we list below all known Administrative charges and pending complaints against Oracle filed by any current or former HQCA employee going back to 1/2013. We will continue to search for others.

Listing of Employee lawsuits and known agency charges. All three are former employees

MaryAnn Gacusan, complaint filed, San Mateo Superior Court, 1/07/15

James Clark, DFEH charge, 1/2/14

Alison McMullen, DFEH charge, 6/18/14

Based on the objections set forth above, and in the absence of any explanation or authority from OFCCP for its request for extensive details on all internal complaints, including names, etc., we respectfully decline to provide them.

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I would be happy to discuss what more Oracle can do to show you and your colleagues that it has a very robust process and procedure for addressing employees concerns of all kinds. Finally, I assume that in preparation for your onsite review you looked at Oracle's compliance history and confirmed that its record is outstanding. I would have expected that you and your team would have taken the opportunity while you were on-site to learn first-hand from Oracle's diverse group of senior executives about Oracle's policies and practices that make Oracle a desirable place to work with a strong record of diversity and inclusiveness. My understanding, however, is that several senior executives who were interviewed (women and minorities) felt disrespected and that their roles and efforts in affirmative action, diversity and inclusion were ignored due to the type and nature of some questions. Finally, I understand that despite OFCCP's insistence on having a large group of senior executives set aside times from their schedules for their interviews, many were cancelled by you and your team at the last minute. Oracle also heard from employees who accepted OFCCP's invitation to be interviewed that they were not being contacted about an interview time. I would expect that future interviews, if any, be done in a more appropriate, respectful, and timely fashion.

Very truly yours,

Gary R. Siniscalco

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