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**A Compliance Check Newsletter**

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## **Austrian Airlines to Pay \$500,000 for Age Bias**

### **EEOC Says General Manager Referred to Older Employees as 'Worthless and Ineffective'**

The U.S. Equal Employment Opportunity Commission (EEOC) recently submitted a consent decree for court approval to settle an age discrimination lawsuit against Austrian Airlines (Austrian) for a half million dollars and other relief on behalf of William Thoman, former director of sales for the Americas, because of his age (then 51) and in retaliation for opposing discriminatory practices in violation of the Age Discrimination in Employment Act.

EEOC charged in the litigation that on December 16, 2002, without any prior warning, the general manager of Austrian Airlines North America terminated Thoman and replaced him with a 32-year-old employee. Prior to the termination, Thoman had objected to the general manager's characterization of older workers as "worthless and ineffective" and told him that under U.S. law, he could not simply "get rid of" older workers.

"I hope this settlement sends a clear message to Austrian Airlines and other foreign companies operating in the U.S. that they cannot operate without consideration for U.S. laws," said Thoman. "I hope the resolution in this case provides current employees of Austrian Airlines and other companies protection against age discrimination by their employers."

In addition to paying Thoman \$500,000, Austrian will take other measures on an international basis to ensure that the company does not discriminate against employees protected by U.S. anti-discrimination law. The EEOC filed suit in federal district court after first attempting to reach a voluntary pre-litigation settlement through its conciliation

Rachel L. Adams, the senior trial attorney litigating the case, added: "This settlement should remind all employers that U.S. law prohibits them from targeting older workers for discriminatory treatment due to age-based myths and stereotypes. All individuals deserve the freedom to compete and advance in the workplace on a level playing field."

## *The Focus*

### **Accommodation Scenarios for the Interviewing Process**

The following examples illustrate some of the ways employers are expected to accommodate individuals during the interview process.

- An individual with bilateral carpal tunnel syndrome interviewed for a position with a local hospital. A comprehension test, which was designed to be taken via computer keyboard, was required for all applicants for the position. Because of limitations in typing, the individual could not effectively complete the computer-designed test. As an accommodation, the employer provided the test orally.
- An individual with mild mental retardation was scheduled to interview for a mail room position. The individual was concerned with interviewing successfully and completing the necessary job training if offered the position. A local vocational rehabilitation program provided a job coach to accompany the individual on the job interview. After successfully interviewing for the position, the employer accommodated the individual by allowing the job coach to assist the individual on-site during the initial job training phase.
- An individual who was hard of hearing interviewed for a computer technician position. The individual benefited from amplification and wore a receiver designed to work with an assistive listening device (ALD). The interviewers accommodated the individual throughout the interview process by talking into a microphone designed to work with the ALD.
- An individual with a learning disability had difficulty concentrating on reading passages during testing situations. As an accommodation, the individual was allowed extra time and a private office to take an application exam.
- An individual who uses a wheelchair applied for a management position. The human resources office was on the second floor of a building with no elevator. Because the office was inaccessible, the interviewers temporarily relocated to the first floor to interview the employee. The employer hired the individual and, to make the office accessible, a chair lift and other building modifications were made.
- An individual with macular degeneration applied for a position as a receptionist. The interviewer enlarged the application forms and increased their contrast with a photo copier. To complete the application forms, the individual was given a hand magnifier.

Additional information may be found at <http://www.jan.wvu.edu/>