

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

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

Plaintiff,

v.

LEPRINO FOODS COMPANY,

Defendant.

Case No.

2011 SEP -1 P 1:58
US DEPT OF LABOR
ADMIN LAW JUDGES

ADMINISTRATIVE COMPLAINT

Plaintiff, Office of Federal Contract Compliance Programs, United States Department of Labor, (hereinafter "OFCCP"), by its attorneys, alleges:

1. This action is brought by OFCCP to enforce the contractual obligations imposed by Executive Order 11246 (30 Fed. Reg. 12319), as amended by Executive Order 11375 (32 Fed. Reg. 14303), Executive Order 12086 (43 Fed. Reg. 46501), and Executive Order 13279 (67 Fed. Reg. 77141) (hereinafter "Executive Order 11246" or the "Executive Order"), and the rules and regulations issued pursuant thereto.

2. Jurisdiction over this action exists under Section 208 and 209 of Executive Order 11246, 41 CFR 60-1.26 and 41 CFR Part 60-30.

3. Defendant, Leprino Foods Company (hereinafter "Leprino" or "Defendant") is engaged in the manufacturing, sale, and distribution of cheese and whey products.

4. At all times pertinent hereto, Leprino maintained its corporate headquarters in Denver, Colorado.

5. At all times pertinent hereto, Leprino has operated a manufacturing facility in Lemoore, California ("Lemoore West Facility").

6. At all times pertinent hereto, Leprino has been a Government contractor or subcontractor within the meaning of Executive Order 11246, and is now, and at all pertinent times, has been subject to the contractual obligations imposed on Government contractors and subcontractors by Executive Order 11246, and the implementing regulations issued thereunder.

7. The regulations issued pursuant to Executive Order 11246 provide at 41 CFR 60-1.40 and 41 CFR 60-2.1 that each Government contractor with 50 or more employees and a contract of \$50,000 or more must develop a written affirmative action program for each of its establishments in accordance with requirements set forth in 41 CFR Part 60-2.

8. At all times pertinent hereto, Leprino has had 50 or more employees.

9. At all times pertinent hereto, Leprino has had a Government contract or subcontract of \$50,000 or more.

10. At all times pertinent hereto, Leprino has been required to develop, maintain and implement a written affirmative action program for each of its establishments in accordance with the requirements set forth in 41 CFR Part 60-2.

11. Pursuant to Section 202 of Executive Order 11246 and 41 CFR 60-1.4, Leprino has agreed not to discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin and has agreed to take affirmative action to ensure that applicants and employees are afforded employment opportunities without regard to their race, color, religion, sex or national origin.

12. OFCCP notified Leprino that its Lemoore West Facility had been selected for compliance review on September 28, 2006.

13. As a result of this compliance review, OFCCP found that during the period October 1, 2005 to September 30, 2006, Leprino utilized hiring process and selection procedures, which discriminated against minority applicants for "on-call laborer" positions on the basis of their race.

14. The acts and practices described in paragraph 13 above violate Executive Order 11246 and the regulations promulgated thereunder, and violate the defendant's contractual obligations to the Federal Government.

15. All procedural requirements prior to the filing of this Complaint have been met. OFCCP has issued to Leprino a notice to show cause why enforcement proceedings should not be initiated based upon its findings of Defendant's violations of Executive Order 11246, and has attempted to secure voluntary compliance through means of conciliation and persuasion. These efforts were unsuccessful.

WHEREFORE, Plaintiff prays for a recommended decision and order pursuant to 41 CFR Part 60-30, providing the following relief: (1) an order permanently enjoining Defendant, Leprino, and its officers, agents, servants, successors, divisions and subsidiaries and those persons in active concert or participation with them from violating the Executive Order; (2) an order canceling all of Defendant, Leprino's, Government contracts and subcontracts and those of its officers, agents, successors, divisions, subsidiaries and those persons in active concert or participation with it, declaring said persons and entities ineligible for the extension or modification of any such existing Government contract or subcontract; (3) an order debarring Defendant, Leprino, and its officers, agents, servants, successors, divisions and subsidiaries and those persons in active concert or participation with them, from entering into future Government contracts and subcontracts until such time thereafter as Defendant satisfies the Deputy Assistant Secretary for Federal Contract Compliance Programs that Defendant, Leprino, has undertaken efforts to remedy its prior noncompliance and is currently in compliance with the provisions of the Executive Order and the regulations promulgated thereunder; and (4) an order requiring Defendant to provide complete relief to the affected class of minority applicants including a position, lost wages, interest, and all other benefits of employment resulting from its discriminatory failure to hire them, including, but not limited to, retroactive seniority.

Plaintiff further prays for such other relief as justice may require.

DATE: August 30, 2011

Respectfully submitted,

M. PATRICIA SMITH
Solicitor of Labor

LAWRENCE BREWSTER
Regional Solicitor

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of September, 2011, the foregoing *Administrative Complaint* has been served upon the Defendant Leprino Foods Company and its counsel of record, by certified mail, postage prepaid, at the following addresses:

The Corporation Company
Registered Agent for Leprino Foods Company
818 W Seventh Street
Los Angeles, California 90017

Larry Jensen
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