



Florida EMPLOYMENT

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LawLetter

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CRIME

Florida executives face tax fraud charges for employing hundreds of illegal workers

In our February issue, we reported on the conviction and sentencing of two leaders of a nationwide employee-leasing conspiracy that brought hundreds of illegal workers to the United States. Last November, we highlighted a case that allowed employees to file racketeering charges against an employer for ignoring temporary employees' status as illegal immigrants. Do you see a theme? Here's the latest twist in the crackdown on employers that hire illegal immigrants.

Feds make clean sweep at janitorial company

Three executives of the national cleaning and maintenance company Rosenbaum-Cunningham International were indicted February 22, 2007, for defrauding the federal government out of more than \$18 million in employment taxes owed for hundreds of illegal immigrant workers. The company, which operates primarily out of West Palm Beach, performed janitorial services for theme restaurant chains such as the House of Blues, Hard Rock Cafe, Planet Hollywood, and Dave & Buster's.

Company president Richard M. Rosenbaum of Longwood was arrested in Florida and held in federal custody. Vice president Edward Scott Cunningham of West Palm Beach and controller Christina Flocken of Longwood were issued subpoenas and are expected to appear voluntarily in federal court in Michigan.

The company's executives are accused of hiring illegal immigrants from Mexico, Honduras, and Guatemala and then avoiding millions of dollars in federal taxes on their wages from 1999 to 2007 by spinning a web of "shell" com-

panies and bank accounts and paying the employees in cash. An investigation by the IRS and U.S. Immigration and Customs Enforcement also netted nearly 200 illegal workers at some of the theme restaurants in 17 states and the District of Columbia.

Remember to keep it clean

We'll probably be seeing more of these cases in the future. This company's executives are accused of intentionally defrauding the government out of taxes. But remember that ignoring the employment of illegal workers also can get you into hot water. To stay clean, remain vigilant in checking and verifying employment eligibility. ❖

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RACE DISCRIMINATION

EEOC says Walgreens discriminated against its African-American workers

These are both good times and bad times for Walgreen Co., the largest drugstore retailer in the United States. As the company faces increased competition from Wal-Mart and other retailers, it has been acquiring other drugstore chains and expanding. But with that increase in business activity come allegations of discrimination against African Americans. Because this case has just been filed, we haven't had the opportunity to hear Walgreens' side of the story. At this point, the details are still a bit sketchy, but let's take a look at the allegations against the company.

The allegations

The Equal Employment Opportunity Commission (EEOC) filed a race discrimination charge against Walgreen Co. in the U.S. District Court for the Southern District of Illinois on March 7. The complaint alleges widespread bias against thousands of African-American workers throughout the country. The EEOC claims the Illinois-based drugstore retailer assigned managers, management trainees, and pharmacists to low-performing stores and stores in primarily African-American communities. The EEOC also claims African-American managers and pharmacists were denied promotions based on their race.

A similar case was filed by a group of current and former African-American managers in a 2005 lawsuit that's still pending in the Illinois federal district court. Those employees are awaiting a ruling on their request to have the case certified as a class action.

Both the St. Louis and Miami district offices of the EEOC investigated Walgreens' actions after several current and former employees in Florida and other states complained about the company's employment practices. According to the EEOC's chair, Naomi Earp, "This lawsuit demonstrates that the Commission's focus on systemic cases will be a powerful weapon to tackle obvious as well as subtle forms of race discrimination. We will not rest until workplace decision-making is based on merit rather than immutable and irrelevant characteristics, such as race or color."

Discrimination or demographics?

Interestingly, the new allegations come at a time when Walgreens has expanded into urban areas and hired more minority workers. Urban stores often have lower sales numbers than suburban stores. Because all the facts haven't come to light at this stage of the litigation, it isn't clear what actions Walgreens took in assigning its minority employees to stores.

Companies sometimes assign minorities to stores in areas with a high percentage of minorities. Say a company transfers its Hispanic managers to Hispanic areas. That may seem to make sense at first — Hispanic managers will speak the same language as their customers and may relate to them better. The managers are happy until they begin comparing their pay to what managers in other stores are paid.

Pay is often tied to incentives like store sales and profitability. Stores in minority areas may not perform as well as suburban stores, and that can lead to claims of discrimination. In any event, you must be cautious about how you assign and promote employees to ensure you aren't placing them in a discriminatory box. ❖

WORKPLACE ISSUES