

FAX TRANSMITTAL

of pages 2

To ATTY KATOR	From A.J. SCHREFFLER
Dept./Agency	Phone #
Fax # 202-289-1389	Fax # 410-962-6633

NBN 7540-01-317-7388

5039-101

GENERAL SERVICES ADMINISTRATION

OPPORTUNITY COMMISSION
DISTRICT OFFICE
1ST BUILDING

10 South Howard St., Third Floor
Baltimore, Maryland 21201

KEN A. BURDEN
HARRY M. DUNBAR
GILBERT M. JEFFERSON

CLASS AGENTS

v.

COMMISSIONER,
SOCIAL SECURITY ADMINISTRATION

AGENCY

JUN 28 2004

EEOC CASE NO.:
120-99-6378X

ORDER REGARDING MONITORS

This matter is now before the Commission on the Class Motion for Compliance with the Settlement Agreement and the Agency's Response to Class Motion for Compliance with the Settlement Agreement.

At issue is the interpretation of § III.C.1 of the Settlement Agreement which states in relevant part as follows:

1. The Oversight Committee will designate a pool of employee volunteers who will be trained by the Agency and will serve as non-voting monitors for promotion assessment panels. The Agency may limit the amount of time any particular employee volunteers to serve as a monitor for assessment panels to not more than 4 hours per month if it finds that a particular employee has abused the opportunity to participate in this process or if it finds that the demands of that particular employee's position are such that the Agency cannot spare additional time. The role of the non-voting monitor is to ensure compliance with relevant merit promotion guidelines and Equal Employment Opportunity (EEO) principles during the rating and ranking of applicants by the assessment panel. A monitor shall not express opinions concerning the ranking of individuals by the assessment panels during meetings held by the panel. Failure of a monitor to appear at a scheduled meeting of an assessment panel will not prevent the assessment panel from proceeding with its obligations. Monitors must submit written reports within 10 working days to both the Oversight Committee and the Deputy Commissioner for Human

Resources, or his designee, if the monitor believes violation of either EEO or merit promotion principles occurred during the rating and ranking process performed by an assessment panel.

The Class argues that the non-voting monitors for promotion assessment panels must have access to all documents used in the panel rating and ranking process while the Agency argues that it is not required to provide monitors with the applications and other personal documents provided to the actual panel members.

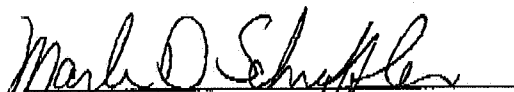
Both parties correctly state that the meaning of the terms in the Settlement Agreement must be determined from the four corners of the agreement itself without resort to extrinsic evidence of any nature. See, *Hyon v. United States Postal Service*, EEOC Request No. 05910787 (December 2, 1991).

Based upon a review of the terms of the Settlement Agreement, and considering the arguments of the parties as set forth in their submissions, I agree with the Agency that it is not necessary for the monitors to have access to the documents used during the Rating and Ranking Process in order for the monitors "to ensure compliance with relevant merit promotion guidelines and Equal Employment Opportunity (EEO) principles during the rating and ranking of applicants by the assessment panel." Since it is not necessary for the monitors to have access to such documents to perform their function, I find it was not the intent of the parties, as expressed in the terms of the Settlement Agreement, that the non-voting monitors for promotion assessment panels would have access to the documents used during the Rating and Ranking Process.

The Agency shall provide the necessary training for the panel monitors as expeditiously as possible.

It is so ORDERED.

For the Commission:


MARLIN D. SCHREFFLER
ADMINISTRATIVE JUDGE

CERTIFICATE OF SERVICE

For timeliness purposes, it shall be presumed that the parties received the foregoing **ORDER REGARDING MONITORS** within five (5) calendar days after the date it was sent *via* first class mail. I certify that on June 28, 2004, the foregoing **ORDER** was sent *via* first class mail to the following:

Michael J. Kator, Esq
Cathy A. Harris, Esq
KATOR, PARKS & WEISER, PLLC
1020 19th Street, NW, Suite 350
Washington, DC 20036-6101

Sent by FAX only

Dean S. Landis, Esq.
S.S.A.
Suite 56
P.O. Box 26430
Balto., Md 21207
Baltimore, MD 21235

Senty by FAX only


Lynn A. Tognocchi
Legal Technician