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Contact: Tim Bradley, 314-440-9936

Pepsi & ISS Settlements Show African Americans Face Onerous Employment Barriers

EEOC Takes on Blanket No-Hire Policies That Exclude Qualified Workers With Old or Minor Arrests

Washington, DC – Two recent settlements involving employers Pepsi Beverages and Integrity Staffing Solutions, which handles hiring for Amazon.com, reflect stepped-up enforcement of the nation’s civil rights laws in response to a growing problem: widespread job discrimination against African Americans and others due to blanket no-hire policies that refuse employment to all persons with criminal records, no matter how old or minor their offense. The settlements by these major companies not only underscore the exceptional challenges Americans with criminal records face when they look for a job, but also the positive impact that stems from robust enforcement of our anti-discrimination laws by the Equal Employment Opportunity Commission (EEOC) and private parties, the National Employment Law Project said today.

“Many employers, large and small, refuse to hire qualified people if they have a criminal record, no matter how old or minor the offense, and the trend is only picking up with the rise in background checks,” said **Maurice Emsellem, policy co-director with the National Employment Law Project**. “The good news is that the EEOC and advocates across the country are fighting back by more aggressively enforcing the nation’s anti-discrimination laws, which balance the legitimate concerns of employers to keep the workplace safe with the civil rights of qualified workers struggling to find work in today’s economy.”

The cases are just the latest examples of how blanket background checks are excluding job applicants with criminal records, no matter how minor or dated the offense – and severely impacting workers of color. A [NELP report](#) last year highlighted the widespread and illegal use of blanket no-hire policies against people with criminal backgrounds.

The [Pepsi settlement](#) last week followed an EEOC investigation that revealed that more than 300 African Americans were adversely affected when Pepsi applied a criminal background check policy that disproportionately excluded black applicants from permanent employment. Under Pepsi’s former policy, job applicants who had been arrested pending prosecution were not hired for a permanent job even if they had never been convicted of any offense. Pepsi’s former policy also denied employment to applicants who had been arrested or convicted of certain minor offenses. Faced with charges of race discrimination, Pepsi agreed to pay \$3.13 million and provide job offers and training.

The [Integrity Staffing Solutions settlement](#) earlier this month followed a discrimination lawsuit brought by an African American applicant, who was denied a job three decades after he was convicted of involuntary manslaughter for shooting a man who had threatened him and his family. Following his conviction, the man went on to earn a bachelor's degree, raise two children after his wife’s death, and work for 23 years for GE/Lockheed Martin, where he was required to maintain security clearances from the federal government.

According to news reports, the suit described the plaintiff, Albert Dunn of Pennsylvania, as "a model citizen" since his conviction in the early 1980s.

"When employers use blanket screening policies that don't even give highly qualified applicants a chance to explain what the arrest or conviction was about, it becomes a serious problem," said **Emsellem**. "Millions of Americans are having these old or minor arrests or convictions come back to haunt them, years later, after they've already made amends and moved on with their lives."

The Pepsi settlement highlights the EEOC's ongoing focus on this issue. As early as 1987, the EEOC stated that barring people from employment based on their criminal records disproportionately excludes African Americans and Latinos because they are overrepresented in the criminal justice system. Under Title VII of the Civil Rights Act of 1964, discrimination in employment based on race, gender, national origin, and other protected categories is prohibited, whether intentional or not.

Last July, the EEOC held a [full commission meeting](#) to examine how the widespread use of criminal background checks has impacted workers of color in today's economy. NELP has [called on the agency](#) to update its guidelines so as to reinforce the idea that blanket screenings are unacceptable and illegal, and that for applicants with records, employers must take into account the specific job responsibilities and the nature of an individual's record, as well as an applicant's rehabilitation. (See NELP's letter to the EEOC [here](#).)

More than one in four U.S. adults – [roughly 65 million people](#) – have an arrest or conviction that shows up in a routine criminal background check. According to a 2010 [Society for Human Resources Management](#) survey, 92 percent of employers conduct criminal background checks on some or all job applicants, up from 51 percent in 1996.

Over two dozen cities and six states have adopted "ban the box" policies and other model hiring reforms to reduce employment barriers for people with records.

The National Employment Law Project is a non-partisan, not-for-profit organization that conducts research and advocates on issues affecting low-wage and unemployed workers. For more about NELP, visit www.nelp.org.

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