

UNITED STATES COURT OF APPEALS
Tenth Circuit
Office of the Clerk
C404 United States Courthouse
Denver, Colorado 80294
(303) 844-3157

Robert L. Hoecker
Clerk

Patrick Fisher
Chief Deputy

February 2, 1993

TO: ALL RECIPIENTS OF THE CAPTIONED OPINION

RE: 91-1419, EEOC v. Citicorp Diners Club, Inc.
Filed February 1, 1993 by Judge McWilliams

Please be advised of the following correction to the captioned opinion:

The five page attachment was omitted from the copy you've received.

Please attach these pages to your copy of the opinion.

Very truly yours,

ROBERT L. HOECKER, Clerk

By: 
Barbara Schermerhorn
Deputy Clerk

Attachment

EXHIBIT 1

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SUBPOENA

TO: Citicorp Diners Club
183 Inverness Drive West
Englewood, CO 80111

NO. 91-6
AMENDED

IN THE MATTER OF:

Deborah H. Brown v. Citicorp Diners Club Charge No. 320881778

Having failed to comply with previous request(s) made by or on behalf of the undersigned Commission official, YOU ARE HEREBY
REQUIRED AND DIRECTED TO:

☐ Testify before ☒ Produce and bring or ☐ Mail the documents described below to:

☐ Produce access to the evidence described below for the purpose of examination or copying to:

Ronald Houser, Senior Investigator of the Equal Employment Opportunity Commission
EEOC-1845 Sherman St., 2nd Flr. on 19 April 1991 at 5:00 p.m.
Denver, CO 80203
The evidence required is

1. Copies of documents which identify all of Respondent's establishments as of September 1988, nationwide, by name, address, and telephone number.
2. Copies of documents which identify all of Respondent's establishments as of September 1988, nationwide, by name, address, and telephone number, which employ the "within promotion" policy.
3. Copies of position descriptions for each position awarded as a "within promotion" during the years 1983 through 1988 at the Englewood, Colorado facility.
4. For each of the positions awarded as a "within promotion" in the Englewood, Colorado facility, submit documents which identify each individual involved in the process, i.e., each individual who recommended an employee for the promotion, the name of the selecting official, and the name of the employee awarded the position.
5. Copies of the personnel file, including information on race, national origin and sex, for each selected for a "within promotion" at the Englewood, Colorado facility, during the period 1983 through 1988.

Page 1 of 2 pages

This subpoena is issued pursuant to ☐ Title VII of U.S.C. 2000e-9 ☐ (ADEA) 29 U.S.C. 624(a) ☐ EEOA 29 U.S.C. 206

ISSUING OFFICIAL (Typed name, title and address)

ON BEHALF OF THE COMMISSION

Francisco J. Flores, Jr., District Director
EEOC-1845 Sherman St., 2nd Flr.
Denver, CO 80203

[Signature] March 4, 1991

ATTACHMENT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

OCT 04 1991
U.S. DISTRICT COURT
D. COLO.
CLERK

Civil Action No. 91-S-1341

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Petitioner,

v.

CITICORP DINERS CLUB, INC.,

Respondent.

AFFIDAVIT OF PATRICIA GIORDANO

State of Colorado)
)
County of Arapahoe) ss.

Patricia Giordano, being of lawful age and duly sworn, states as follows:

1. I am employed in Diners Club's Englewood, Colorado facility as the Human Resources Director. This Affidavit is based upon information and belief and the business records of Diners Club.

2. Diners Club has currently 17 facilities in the United States. No one in the Englewood facility has any authority to promote any employee in any other Diners Club facility who is outside their direct supervisory responsibility.

3. At all times pertinent to Ms. Brown's charge, Diners Club has operated under a job opportunity policy which provides, in pertinent part, "The job opportunity policy permits staff to apply for positions which fit their skills and experience. All positions up to level U will be posted unless the senior manager of the functional area and the senior manager of Human Resources determine that staff who have the skills required for the position are not available within the company, the employment of a qualified external candidate is appropriate, or the position can be filled most appropriately

actually worked in each work group over the time period if such individuals are still employed. By way of further complication, during the time period in question, the Englewood facility employed on average 1,100 people. This workforce is extremely dynamic: approximately 170 employees turned over each year totalling 847 staff changes from 1984 to 1988, not including promotions and transfers); and, only about 18.5% of the managers who were in place in 1983 are still with the company. The Diners Club business has been functionally reorganized approximately eight times since 1983, resulting in major changes in reporting structures, departmental composition and even location. Therefore, even those managers who are still employed will be unable to provide the breadth of information you have requested, and their memories for events occurring eight years ago will result in speculation at best."

9. Diners Club believes that the examination of over two thousand files and the effort to compile what would admittedly be an incomplete response to the items requested in the subpoena would require two full-time employees working approximately six months each. Even after that expenditure of effort, the responses would be incomplete since records which would enable a complete and accurate response do not exist.

10. Prior to Diners Club having any knowledge of the filing of the EEOC's Petition for an Order Enforcing Administrative Subpoena, Diners Club and Ms. Brown had reached agreement in principle concerning the settlement of her charge.

11. Ms. Brown was employed at an officer level. Her position was a grade level R with a 1988 salary range of \$22,700 to \$41,900.

DATED this 27th day of September, 1991.

Patricia A. Adams

SUBSCRIBED AND SWORN TO before me, a notary public in and for said county and state, this 30th day of September, 1991.

Thomas G. Lambert
Notary Public

1436H

My Commission expires January 8, 1994