

\$150,000 Consent Decree for EEO Violations

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Garvey Schubert Barer Legal Update, September 23, 2008.

Substantial use of the internet, walk-ins, and employee referrals, instead of formal recruitment for sources of new hires, could take a big bite out of your checkbook, as DirecTV learned.

After admitting that it had failed to file its annual EEO reports or make them available in its public file for the years 2003 and 2004, DirecTV entered a consent decree with the FCC which requires it to contribute \$150,000 to the U.S. Treasury and abide by reporting conditions.

Once prepared, the 2003 and 2004 reports showed that DirecTV failed to recruit or recruit adequately for every full-time vacancy, because it had relied solely on the internet or non-public sources, such as employee referrals or walk-ins to fill some vacancies. DirecTV did not claim exigent circumstances for any of the vacancies for which it failed to recruit or recruit adequately.

Responses to FCC inquiries concerning the reporting periods ending in 2005, 2006, and 2007, and the period from September 10 through December 31, 2007, revealed that DirecTV had recruited inadequately for additional openings in the same manner as it had in the 2003 and 2004 periods.

DirecTV's compliance plan requires it to train employees on the FCC's EEO requirements, hire EEO compliance personnel, engage FCC counsel to oversee EEO compliance issues, conduct semi-annual reviews of its recruitment, outreach, and hiring activities for the next three years and file written reports with the FCC.

Broadcasters' EEO requirements are substantially similar to those imposed on multi-channel video program distributors such as DirecTV. The consent decree was entered as part of a negotiation with the FCC staff so that no further disciplinary action would be taken against DirecTV for its violations.

In light of the hefty "voluntary contribution" in this consent decree made simply to avoid worse sanctions, all licensees subject to the FCC's EEO rules should make sure that no full-time position is filled without adequate recruitment, including outside print sources.