

1 BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

2 ALASKA STATE COMMISSION FOR)
3 HUMAN RIGHTS, PAULA M. HALEY,)
4 EXECUTIVE DIRECTOR, *ex rel.*)
5 DANIEL MORGAN,)

6 Complainant,)

7 v.)

8 AMERICAN PRESIDENT LINES, LTD.,)

9 Respondent.)
10)
11)

ASCHR No. E-10-047
RECEIVED
HUMAN RIGHTS COMMISSION
AUG 28 2014
COMMISSION SECRETARY

12 ACCUSATION

13 Paula M. Haley, Executive Director of the Alaska State Commission for Human
14 Rights, *ex rel.* Daniel Morgan, hereby alleges the following against Respondent
15 American President Lines, Ltd.:

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17 1. Respondent American President Lines, Ltd. (herein "APL"), is a Delaware
18 corporation doing business in Alaska as an ocean carrier for container transportation.

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20 2. Complainant Daniel Morgan is a longshoreman/mechanic and registered
21 "A-Card" member of the International Longshore and Warehouse Union ("the ILWU").
22 Mr. Morgan has worked at the Port of Dutch Harbor, Alaska, from 1989 through the
23 present, and has been employed by APL during much of that time.

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25 3. During the events relevant to this Accusation, APL and the ILWU were
26 parties to a collective bargaining agreement known as the All Alaska Longshore
27 Agreement ("the AALA"), which generally required port issues to be handled by a joint
28

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committee of port employers and union representatives known as the Joint Port Labor Relations Committee (“the JPLRC”).

4. During events relevant to this Accusation, Mr. Morgan was 56 years of age and was employed by APL. Mr. Morgan was performing work according to APL’s expectations, but he suffered an adverse employment action by APL in so much as he was rejected for valuable stick crane training due to his age or misperceived proximity to retirement. APL treated younger “A-Card” union members more favorably.

5. In December 2009, APL’s giant gantry crane collapsed, thereby causing APL to temporarily transition to use of smaller stick boom cranes for which operation APL needed an enlarged, trained, and certified pool of union members at the jointly maintained dispatching hall. The JPLRC sought individuals, including Mr. Morgan, interested in such training that was to be paid by APL.

6. At a meeting of the JPLRC on February 2, 2010, attended by APL’s terminal manager, Debbie Jeffrey, it was agreed that APL would give a refresher course to three (3) existing and qualified stick crane operators. APL also agreed to train four new people chosen from a list of sixteen “A-Card” union members, including Mr. Morgan, and to make its choices based on seniority.

7. On or about April 2, 2010, Ms. Jeffrey selected four individuals who were between 40 and 47 years of age for stick crane training. Although Mr. Morgan had more union seniority than two or three of the selected employees, he was rejected for training

1 for the stated reasons that he was a “traveler, leaves the port for long periods of time,
2 nearing retirement.”

3
4 8. Mr. Morgan was not “nearing retirement” and had not communicated to
5 anyone at APL that he was planning to retire.

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7 9. Although Mr. Morgan took approved leaves and spent time away from the
8 Port of Dutch Harbor during slow seasons, he was not a “traveler” as defined in the
9 AALA. Mr. Morgan did not work out of other ports.

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11 10. At all times relevant to this Accusation, APL and/or the JPLRC had the
12 authority to withhold approval of vacation and leave requests, including any requests
13 made by Mr. Morgan for his approved leave.

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15 11. Mr. Morgan was unable to operate any of APL’s stick cranes that were
16 being used as substitutes for the gantry crane because he was denied the opportunity to
17 be trained to use them.

18
19 12. APL eventually installed a new and different gantry crane, but some
20 vessels at Dutch Harbor still have or use stick cranes. Mr. Morgan remains unqualified
21 to operate stick cranes because APL refused to allow him to be trained to use them.

22 **CAUSE OF ACTION**
23 **DISCRIMINATION BECAUSE OF AGE**
24 **A VIOLATION OF AS 18.80.220(a)**

25 13. Paragraphs 1-13 above are re-alleged and incorporated herein.

26 14. In or before April 2010, Daniel Morgan applied for training and work at
27 or through APL in stick crane operation.
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on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, with an emphasis on preventing age discrimination and retaliation.

4. That the Commission order APL to eliminate from Mr. Morgan's personnel records all documents and entries relating to the facts and circumstances that led Mr. Morgan to file the above-captioned charge of discrimination and any of the related events occurring thereafter.

5. That the Commission order APL to refrain from penalizing Mr. Morgan in any way in future considerations for employment and, if rehired or trained, for transfers, promotions, or upgrading because APL filed a complaint with the Commission.

6. That the Commission order APL to offer Mr. Morgan crane training or alternative crane training and to pay Mr. Morgan back wages and any other lost remuneration caused by APL's discriminatory actions, plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

7. That the Commission order APL to immediately offer stick crane training to Mr. Morgan, including full benefits and seniority consistent with his union membership status.

8. That the Commission order APL to pay the statutory maximum amount of front pay to Mr. Morgan until he is fully reinstated.

9. That the Commission order APL to refrain from advising or informing any other employer or potential employer of Mr. Morgan, or any union or joint port committee and members thereof, of the facts or circumstances involved in this case.

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Dated this 28th day of August 2014 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

Signature Redacted

Elizabeth N. Smith
Human Rights Attorney
Alaska Bar No. 9402003