

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

1 committee of port employers and union representatives known as the Joint Port Labor
2 Relations Committee ("the JPLRC").
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4 4. During events relevant to this Accusation, Mr. Morgan was 56 years of
5 age and was employed by APL. Mr. Morgan was performing work according to APL's
6 expectations, but he suffered an adverse employment action by APL in so much as he
7 was rejected for valuable stick crane training due to his age or misperceived proximity to
8 retirement. APL treated younger "A-Card" union members more favorably.
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10 5. In December 2009, APL's giant gantry crane collapsed, thereby causing
11 APL to temporarily transition to use of smaller stick boom cranes for which operation
12 APL needed an enlarged, trained, and certified pool of union members at the jointly
13 maintained dispatching hall. The JPLRC sought individuals, including Mr. Morgan,
14 interested in such training that was to be paid by APL.
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17 6. At a meeting of the JPLRC on February 2, 2010, attended by APL's
18 terminal manager, Debbie Jeffrey, it was agreed that APL would give a refresher course
19 to three (3) existing and qualified stick crane operators. APL also agreed to train four
20 new people chosen from a list of sixteen "A-Card" union members, including Mr.
21 Morgan, and to make its choices based on seniority.
22

23 7. On or about April 2, 2010, Ms. Jeffrey selected four individuals who were
24 between 40 and 47 years of age for stick crane training. Although Mr. Morgan had more
25 union seniority than two or three of the selected employees, he was rejected for training
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1 for the stated reasons that he was a “traveler, leaves the port for long periods of time,
2 nearing retirement.”

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

6
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.

14
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
23 **CAUSE OF ACTION**
24 **DISCRIMINATION BECAUSE OF AGE**
25 **A VIOLATION OF AS 18.80.220(a)**

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

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14. In or before April 2010, Daniel Morgan applied for training and work at
or through APL in stick crane operation.

ACCUSATION—Page 3

ASCHR, Paula M. Haley, Executive Director, ex rel. Daniel Morgan v. American President Lines, Ltd., ASCHR No. E-10-047

1 15. Mr. Morgan was qualified, was vested with "A-Card" union seniority, and
2 had demonstrated adequate attendance, performance, and discipline while working for
3 APL at the time he applied for the afore-described stick crane training.
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5 16. Mr. Morgan was rejected for stick crane training despite being qualified
6 for such training.
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8 17. Other younger, lower seniority, and/or less experienced employees or
9 union members were instead offered stick crane training by APL.

10 18. APL's refusal to train and/or hire Mr. Morgan for stick crane operation
11 was because of his age in violation of AS 18.80.220(a).
12

13 19. As a result of APL's violation of AS 18.80.220(a), Mr. Morgan has
14 suffered damages in the form of lost training, wages, benefits, and other remuneration.
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16 **PRAYER FOR RELIEF**

17 Wherefore the Executive Director asks for the following relief:

18 1. That the Commission issue an order declaring that APL violated
19 AS 18.80.220(a) by discriminating against Daniel Morgan because of his age.
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21 2. That the Commission order APL to adopt and disseminate a policy of
22 nondiscrimination under the Alaska Human Rights Law that includes a policy
23 prohibiting discrimination against employees on the basis of age, and a policy
24 prohibiting retaliation for complaining about discrimination.
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26 3. That the Commission order APL to obtain training of at least six hours in
27 length for its managers and supervisors and at least three hours in length for its employees
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1 on the provisions of the Alaska Human Rights Law that prohibit discrimination in
2 employment, with an emphasis on preventing age discrimination and retaliation.

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

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

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

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

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

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25 9. That the Commission order APL to refrain from advising or informing any
26 other employer or potential employer of Mr. Morgan, or any union or joint port committee
27 and members thereof, of the facts or circumstances involved in this case.
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ACCUSATION—Page 5

ASCHR, Paula M. Haley, Executive Director, ex rel. Daniel Morgan v. American President Lines, Ltd., ASCHR No. E-10-047

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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