



Council on American-Islamic Relations
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May 24, 2016

Rosemary Fox
Director
U.S. Equal Employment Opportunity Commission
Milwaukee Area Office
310 West Wisconsin Avenue, Suite 500
Milwaukee, WI 53203-2292

Via First Class and Electronic Mail:
Rosemary.Fox@eoc.gov

RE: ARIENS COMPANY | EEOC CHARGES OF DISCRIMINATION

Dear Ms. Fox:

Please accept this letter and the accompanying individual Charges of Discrimination¹ as a formal complaint against Ariens Company (“Ariens” or “the company”) by a class of former employees (“Charging Parties”), by and through their counsel, Maha Sayed and William Burgess of the Council on American-Islamic Relations.

Charging Parties allege that Ariens discriminated and retaliated against them on the basis of their religion (Islam), national origin (Somali), and race (Black) in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”). In addition, Charging Parties further allege that Ariens created a hostile work environment and that they were subjected to a pattern or practice of adverse work terms and conditions throughout the course of their employment.

I. SUMMARY OF THE FACTS

a. Charging Parties’ Sincerely Held Religious Beliefs.

Charging Parties are fifteen² practicing Muslims and, in exercising their Islamic faith, pray at five prescribed times each day. *See Exhibit B: Prayer Times Schedule-*

¹ Exhibit A includes an organizational chart identifying Charging Parties and their corresponding EEOC Charges of Discrimination.

² Because CAIR continues to be contacted by former Ariens employees, the number of Charging Parties with respect to this matter is subject to change. To the extent that new clients are retained, CAIR will supplement the record with additional EEOC Charges of Discrimination.

Brillion, WI - Jan. & Feb. 2016. Prayer is an obligatory and fundamental religious duty for Muslims and is often referred to as one of the “Five Pillars” of Islam. The five prescribed prayers depend on the position of the sun and generally occur at: dawn (“*fajr*”), noon (“*zuhr*”), afternoon (“*asr*”), sunset (“*maghrib*”), and dusk or nighttime (“*isha*”) prayer. Each of the five daily prayers cannot be performed before their prescribed time. However, Muslims may complete their prayers during a generally accepted window of time that occurs between the start of one prayer until the beginning of the subsequent prayer.

At the outset of their employment, Charging Parties notified Ariens management and their individual supervisors of their religious requirement regarding prayer at prescribed times and requested an accommodation to pray should the need arise during their scheduled shifts. In fact, prior to accepting their positions, several of the Charging Parties explicitly asked whether Ariens would allow them to pray during their shifts if the need arose and were assured by management that the company would. *See, e.g.,* Exhibit A: No. A-15.

b. Ariens’ Practice and/or Policy of Allowing Employees to take Breaks for both Religious and Non-Religious Purposes.

Prior to January 25, 2016, Ariens permitted Muslim employees to individually leave their workstations one at a time to pray after notifying and receiving permission from their supervisor. Charging Parties spent from about five to ten minutes away from their workstation to complete their prayer. The need to request a religious accommodation arose only once or twice during their scheduled shift, depending on the time of the year. Charging Parties’ brief time away from their workstation did not affect the overall flow of production or their coworkers’ ability to complete their specified tasks.

Ariens’ practice of allowing Muslim employees to request brief breaks to perform their obligatory prayers is the same practice used when employees request breaks for non-religious purposes. Non-religious unscheduled breaks include, but are not limited to, using the restroom, smoking, making a phone call, or purchasing a snack. Moreover, unlike Charging Parties, Ariens employees who were not Somali-Muslim would routinely request such breaks and leave their workstations for extended periods of time, without facing any criticism or disciplinary action from their supervisors. *See, e.g.,* Exhibit A: Nos. A-1, A-3, A-4, A-5, A-7, A-9, A-10, A-11, A-13, and A-14. This is the prevailing policy that Ariens currently utilizes when employees take breaks outside of the company-wide breaks, for non-religious purposes.

c. Ariens Unilaterally Revokes its Practice and/or Policy of Allowing Breaks for Religious Purposes Only and Refuses to Engage in the Interactive Process.

On January 14, 2016, Ariens management announced to the Somali-Muslim employees that the company would no longer permit breaks for the purposes of prayer. The managers informed the group that the new policy would be put into effect on January 25, 2016, and stated that if employees wanted to pray, then they must do so during the pre-existing scheduled breaks, which last ten (10) minutes each. The managers further stated that if Muslim employees continued to pray or requested an accommodation to pray, then Ariens would terminate their employment. Ariens management subsequently handed the Somali-Muslim employees documents from the State of Wisconsin Department of Workforce Development that outlined how to apply for unemployment benefits and included Somali translation. *See, Exhibit C: State of Wisconsin DWD-Unemployment Benefits.*

Charging Parties, both individually and as a group, immediately expressed their concerns and informed the managers that they would not be able to meet their religious requirements during the company's pre-scheduled breaks because they fell outside of the window of time in which prescribed prayers occur. Charging Parties further requested that the company accommodate their religious beliefs by allowing them to continue taking brief breaks for prayer just as employees do for non-religious reasons. In addition, Charging Parties proposed several options that included, among others, taking unpaid breaks and shifting their scheduled breaks to more reasonably align with prayer times.

In response, Ariens management dismissed Charging Parties' concerns and asserted that the new break policy was "not up for discussion" and will be implemented starting January 25, 2016. The managers then stated that if any Somali-Muslim employee did not agree with the new policy decision, then they should voluntarily end their employment and seek unemployment benefits, which Ariens would not contest. Further, the managers warned the employees that if they prayed outside of the scheduled company breaks and/or requested an accommodation to pray after January 25, 2016, then Ariens would terminate their employment and challenge their unemployment benefits.

From the period of approximately January 20 to January 25, 2016, Ariens management met with Charging Parties on three separate occasions and reiterated that if they continue to request prayer accommodations, the company will terminate their employment and they would not receive any paid time off ("PTO"). However, management stated that if the employees choose to voluntarily resign, they would receive eighty (80) hours of PTO and that Ariens would not challenge their applications for unemployment benefits.

d. Ariens Disciplines and Terminates Charging Parties in Retaliation for Requesting and Taking Breaks for Purposes of Prayer.

Beginning on January 25, 2016, Ariens engaged in a systemic pattern of retaliation against Charging Parties for requesting religious accommodations to permit them to take short breaks to pray. Each time Charging Parties requested to leave their workstation to perform an obligatory prayer, their supervisors would allow them to leave. Upon completion of their prayer, Ariens' Manufacturing Leader issued Charging Parties a warning slip that stated:

The Company's policy provides employees the opportunity to take breaks for prayer or other activities during the two scheduled breaks per shift. Any pattern of repeated, unscheduled breaks is not allowed. Therefore, I need to ask you to return to your work station. If you continue to violate the Company policy and leave work without permission, you will be subject to discipline up to and including discharge.

See, Exhibit D: Ariens Break Policy Warning Slip.

On January 25, 2016, Ariens discharged and issued termination letters to several Charging Parties who had expressed their concerns about the new break policy to their supervisors and/or to media outlets prior to its enforcement. *See, e.g., Exhibit A: Nos. A-1 and A-2.* These individuals had direct and personal conversations with management in which they stated that they wanted to continue their employment with Ariens, but felt that they were no longer welcome and being forced out because of the company's new policy. The last date of employment on their termination letters reflected or referred to the date in which they made these statements to management and/or media outlets. *See, Exhibit E: Termination Letters Prior to Policy Change.* As such, these individuals never requested a prayer accommodation once the new break policy went into effect and therefore never violated the policy or received any warnings from Ariens for doing so.

On January 25, 2016, after receiving warning slips for praying, two of the Charging Parties personally met with the Manufacturing Leader (White, male, non-Muslim) in his office to express their concerns about the new break policy and again request a prayer accommodation. *See, Exhibit A: Nos. A-3 and A-4.* The two employees stated that they did not understand why they received a warning slip for praying after receiving approval from their direct supervisor to leave their workstations. In addition, the two employees emphasized the importance of prayer in their daily lives and core religious beliefs. During the meeting, the Manufacturing Leader again refused to engage in discussions with the two employees about the company's religious accommodation and break policies. Instead, the Manufacturing Leader stated that he would issue them a total of three or four warnings until Ariens would be forced to make a "bad decision" regarding their employment. The Manufacturing Leader then instructed the two employees to sign a "Resignation Notice Form" and write that the reason for separation was due to a "conflict with company policy and my faith." *See, e.g., Exhibit F: Resignation Notice Form.* He then warned the employees that if they did not sign the

form, then Ariens would subject them to some form of “punishment.” When the two employees inquired into what he meant by “punishment,” the Manufacturing Leader stated that Ariens would place “something negative” in their employment records, reject their unemployment benefits applications, and that their “future employability with other companies would be at risk.” Based on the Manufacturing Leader’s statements, the two employees signed the “Resignation Notice Form,” which indicated that January 25, 2016 as their last date of employment with Ariens.

On February 1, 2016, at approximately 3:30 p.m., management personnel called about seven of the Charging Parties to a meeting in a conference room. *See, e.g.,* Exhibit A: Nos. A-8, A-9, A-10, A-11, A-12, and A-13. The managers told these individuals that they were “troublemakers” and that if they continue to request breaks to pray, their employment would be terminated. During the meeting, the Manufacturing Leader told these individuals that they must sign a document acknowledging that they violated the policy and that if they continued to request accommodations, they would be discharged. These individuals refused to sign the document and were subsequently released from the meeting. Charging Parties requested permission from their supervisors to leave their workstations to complete their evening prayers later that day. At approximately 6:00 p.m., the Manufacturing Leader called the same individuals into an office for a second meeting that day and stated that because these individuals did not follow the new policy, Ariens was terminating their employment. The Manufacturing Leader demanded that they turn in their identification badges and leave the premises immediately. A police officer was present during the meeting and standing near the door. All seven individuals later received termination letters from Ariens indicating that their last date of employment with the company was February 1, 2016. *See, e.g.,* Exhibit G: *Termination Letters- February 1, 2016.*

The remaining Charging Parties continued to request permission to pray in accordance with their sincere religious beliefs from their respective supervisors and receive verbal or written warnings for doing so, up until their individual dates of termination from Ariens. *See, e.g.,* Exhibit A: Nos. A-5, A-7, A-14, and A-15.

II. CONCLUSION

Based on the facts outlined above, Ariens has clearly engaged in an unlawful pattern of discriminatory conduct against Charging Parties because of their Islamic faith, Somali national origin, and race, in violation of Title VII. Ariens’ unilateral and arbitrary decision to revoke the company’s break policy solely with respect to religiously-motivated requests, as well as its complete unwillingness to engage in an interactive process with aggrieved employees about its accommodation policies, directly undermines the purpose of Title VII, which is “plainly intended to relieve individuals of the burden of choosing between their jobs and their religious convictions, where such relief will not unduly burden others.” *Nottelson v. Smith Steel Workers D.A.L.U. 19806*, 643 F.2d 445, 454 (7th Cir. 1981). The outright refusal to entertain, discuss, or offer any reasonable religious accommodation options that would resolve the alleged workplace conflict is unacceptable and inconsistent with prevailing Title VII law and EEOC guidelines. By

systematically monitoring and disciplining Charging Parties simply because they requested breaks for religious purposes and attempted to open up a dialogue with their employer, Ariens further exhibited discriminatory intent and animus. Moreover, because Ariens routinely grants unscheduled breaks to employees for non-religious purposes on a daily basis, it has failed to demonstrate that accommodating and granting Charging Parties similar breaks for religious purposes would cause an undue hardship, beyond a mere *de minimis* cost, to the operation of its business. Therefore, Charging Parties respectfully request that the EEOC find probable cause that Ariens violated Title VII of the Civil Rights Act of 1964.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Maha Sayed', written over a horizontal line.

Maha Sayed
William Burgess

Enclosures