Pepsi to Pay $3.13 Million and Made Major Policy Changes to Resolve EEOC Finding of Nationwide Hiring Discrimination Against African Americans

***Company’s Former Use of Criminal Background Checks Discriminated Based On Race, Agency Found***

MINNEAPOLIS – Pepsi Beverages (Pepsi), formerly known as Pepsi Bottling Group, has agreed to pay $3.13 million and provide job offers and training to resolve a charge of race discrimination filed in the Minneapolis Area Office of the U.S. Equal Employment Opportunity Commission (EEOC).  The monetary settlement will primarily be divided among black applicants for positions at Pepsi, with a portion of the sum being allocated for the administration of the claims process. Based on the investigation, the EEOC found reasonable cause to believe that the criminal background check policy formerly used by Pepsi discriminated against African Americans in violation of Title VII of the Civil Rights Act of 1964.

The EEOC’s investigation revealed that more than 300 African Americans were adversely affected when Pepsi applied a criminal background check policy that disproportionately excluded black applicants from permanent employment.  Under Pepsi’s former policy, job applicants who had been arrested pending prosecution were not hired for a permanent job even if they had never been convicted of any offense.

Pepsi’s former policy also denied employment to applicants from employment who had been arrested or convicted of certain minor offenses. The use of arrest and conviction records to deny employment can be illegal under Title VII of the Civil Rights Act of 1964, when it is not relevant for the job, because it can limit the employment opportunities of applicants or workers based on their race or ethnicity.

“The EEOC has long standing guidance and policy statements on the use of arrest and conviction records in employment,” said EEOC Chair Jacqueline A. Berrien.  “I commend Pepsi’s willingness to re-examine its policy and modify it to ensure that unwarranted roadblocks to employment are removed.”

During the course of the EEOC’s investigation, Pepsi adopted a new criminal background check policy.  In addition to the monetary relief, Pepsi will offer employment opportunities to victims of the former criminal background check policy who still want jobs at Pepsi and are qualified for the jobs for which they apply.  The company will supply the EEOC with regular reports on its hiring practices under its new criminal background check policy.  Pepsi will conduct Title VII training for its hiring personnel and all of its managers.

“When employers contemplate instituting a background check policy, the EEOC recommends that they take into consideration the nature and gravity of the offense, the time that has passed since the conviction and/or completion of the sentence, and the nature of the job sought in order to be sure that the exclusion is important for the particular position.  Such exclusions can create an adverse impact based on race in violation of Title VII,” said Julie Schmid, Acting Director of the EEOC’s Minneapolis Area Office. “We hope that employers with unnecessarily broad criminal background check policies take note of this agreement and reassess their policies to ensure compliance with Title VII.”

“We obtained significant financial relief for a large number of victims of discrimination, got them job opportunities that they were previously denied, and eradicated an unlawful barrier for future applicants,” said EEOC Chicago District Director John Rowe. “We are pleased that Pepsi chose to work with us to reach this conciliation agreement and that through our joint efforts, we have been able to bring about real change at Pepsi without resorting to litigation.”

The EEOC enforces federal laws against employment discrimination.  The EEOC issued its first written policy guidance regarding the use of arrest and conviction records in employment in the 1980s.  The Commission also considered this issue in 2008 and held a meeting on the use of arrest and conviction records in employment last summer.  The EEOC is a member of the federal interagency Reentry Council, a Cabinet-level interagency group convened to examine all aspects of reentry of individuals with criminal records.

The Minneapolis Area Office is part of the EEOC’s Chicago District.  The Chicago District   is responsible for investigating charges of discrimination in Minnesota, Illinois, Wisconsin, Iowa and North and South Dakota.  Further information is available at www.eeoc.gov.