



April 18, 2023

Ms. Judy Keenan
Director, New York District Office
U.S. Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, NY 10004

Re: Investigation Request/BlackRock, Inc.¹

Dear Director Keenan:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans. We write pursuant to 29 C.F.R. § 1601.6(a), providing that “Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination,” to request that the Equal Employment Opportunity Commission open an investigation into BlackRock, Inc. (the “Company”) for engaging in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964.²

The Company is a publicly traded corporation incorporated under the laws of the State of Delaware with its principal executive offices located at 50 Hudson Yards, New York, NY. Its Form 10-K for the fiscal year ending December 31, 2022, states that it is “a leading publicly traded investment management firm with \$8.6 trillion of assets under management (“AUM”) at December 31, 2022.”³ With approximately 19,800 employees in more than 30 countries who serve clients in over 100 countries across the globe, BlackRock provides a broad range of investment management and technology services to institutional and retail clients worldwide.”⁴

As you know, an unlawful employment practice is established when the evidence demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice.⁵ The Commission also recognizes that it is an unlawful employment practice to discriminate in hiring or firing based “on homosexuality or transgender status [as it] necessarily entails discrimination based on sex; the first

¹ Copies of this letter are also addressed to each Member of the Commission and AFL makes the same request of them pursuant to 29 C.F.R. § 1601.6(a).

² 42 U.S.C. § 2000e-2.1.

³ BlackRock, Inc., Form 10-K at 3, <https://bit.ly/40IMiUU>, (last visited Mar. 28, 2023).

⁴ *Id.* at 74.

⁵ 42 U.S.C. § 2000e-2(m).

cannot happen without the second.”⁶ Here, the evidence is that the Company is knowingly and intentionally discriminating with respect to compensation, terms, conditions, or privileges of employment because of race and sex in violation of 42 U.S.C. § 2000e-2(a)(1).

The BlackRock Founders Scholarship is a program that is described on its website as:

“[A]n accelerated Summer Analyst internship interview process and scholarship program for diverse students who have demonstrated leadership while exemplifying the BlackRock Principles in their communities. In addition to a summer internship, candidates may also receive a merit award of \$17,500. This program is designed for undergraduate or master’s students who self-identify as Black or African American, Hispanic or Latino, Native American, LGBTQ+ or disabled.”⁷

BlackRock’s Founders Scholarship is unlawful in that it limits, segregates, and/or classifies applicants for employment in a manner that deprives or tends to deprive certain individuals of employment opportunities because of race, color, sex, or national origin in violation of 42 U.S.C. § 2000e-2(a)(2).⁸

This program is just one piece of a long-term practice of BlackRock to use unlawful discriminatory employment practices to build its workforce. Indeed, BlackRock has affirmatively and repeatedly represented to its shareholders, to its investors, and to the Securities and Exchange Commission, that its employment practices are infused with facially unlawful considerations of race, color, sex, and/or national origin.

In its most recent 10-K filing, BlackRock states that it “has made a long-term commitment to cultivating diversity, equity, and inclusion in its workforce and leadership team through its hiring, retention, promotion, and development practices” and that it “has aligned its DEI strategy with the firm’s business priorities and long-term objectives.”⁹ As part of that long-term strategy, BlackRock has “set goals for increasing the overall workplace representation of US Black and Latinx employees

⁶ *Sexual Orientation and Gender Identity (SOGI) Discrimination*, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMM’N (last visited Mar. 26, 2023), <https://bit.ly/3npFQ6Y> (citing *Bostock v. Clayton Cnty, Ga.*, 140 S.Ct. 1731, 1747 (2020)).

⁷ *Diversity, Equity and Inclusion - Be Yourself. Be Valued for it.*, BLACKROCK, (last visited Mar. 28, 2023), <https://bit.ly/42MAGSz>.

⁸ See also *Bostock v. Clayton Cnty., Ga.*, 140 S. Ct. 1731 (2020) (holding that discrimination based on sexual orientation or behavior constitutes unlawful sex discrimination).

⁹ BlackRock, Inc., Form 10-K at 11, <https://bit.ly/40IMiUU>, (last visited Mar. 28, 2023).

and growing the number of senior women globally and US Black and Latinx leaders at the Director level and above.”¹⁰

These “goals” are affirmed and repeated by the Company on its website where it specifically commits to “increasing overall representation of Black and Latinx employees by 30% [and] to doubling the number of Black and Latinx senior leaders in the U.S.”¹¹

BlackRock admits it is racially balancing to ensure its workers meet management’s approved race, color, national origin, and sex ratios. However, racial, color, national origin, and sex-based “balancing” in hiring, training, compensation, and promotion is patently illegal.¹² Decades of case law holds that — no matter how well-intentioned — such policies are prohibited.¹³ If BlackRock is engaged in such conduct, then it is knowingly and intentionally violating federal civil rights laws. If BlackRock is not engaged in such conduct, but merely pretending to do so, then it is cynically and intentionally misleading consumers, workers, investors, and its ESG “stakeholders.” There is no third alternative.

Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority” in its victims “that may affect their hearts and minds in a way unlikely to ever be undone.”¹⁴ More broadly, the discrimination here necessarily foments contention and resentment. It is “odious and destructive.”¹⁵ It truly “is a sordid business, this divvying us up” by race, color, national origin, or sex.¹⁶ It always has been, and it always will be. The Company’s admissions, as described above, provide a compelling reason for the Commission to open a comprehensive investigation of the company’s hiring, training, compensation, and promotion practices.

Sincerely,

/s/ Gene P. Hamilton
Vice President and General Counsel
America First Legal Foundation

¹⁰ *Id.*

¹¹ *Diversity, Equity, and Inclusion – Be yourself. Be valued for it*, BLACKROCK, (last visited Mar. 28, 2023).

¹² 42 U.S.C. §§ 2000e-2(a), (d).

¹³ *See, e.g., United Steelworkers of Am. v. Weber*, 443 U.S. 193, 208 (1979); *Johnson v. Transp. Agency*, 480 U.S. 616, 621-641 (1987). *See Also Bostock v. Clayton Cnty., Ga.*, 140 S. Ct. 1731 (2020).

¹⁴ *Brown v. Board of Education*, 347 U.S. 483 (1954).

¹⁵ *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

¹⁶ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

Cc: The Honorable Charlotte A. Burrows, Commission Chair
The Honorable Jocelyn Samuels, Commission Vice Chair
The Honorable Keith E. Sonderling, Commissioner
The Honorable Andrea R. Lucas, Commissioner