

AUG 25 2000

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JAMES W. McORMACK, CL
By: *V. Turner* DEPT

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

PLAINTIFF,

v.

CASE NO. LR-C-99-122

LANDERS AUTO SALES, INC.,

DEFENDANT.

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission (hereinafter the "Commission") against the Defendant, Landers Auto Sales, Inc., pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to remedy unlawful practices alleged in the Complaint filed in this action.

In the event this proposed Consent Decree is not approved or does not become final, then it shall not be admissible in evidence in any subsequent proceeding in this action. This Decree shall not constitute evidence of any violation by the Defendant of the Americans with Disabilities Act, as amended, and shall not be admissible in any other civil actions other than actions arising out of the rights and obligations of the parties under this Decree. Further, nothing herein shall be deemed to be an admission by Landers Auto Sales, Inc., that it has at any time, place or in any manner whatsoever violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.



The Court has reviewed the terms of the proposed Consent Decree in light of the applicable laws and regulations, the statements of counsel for all parties, and hereby approves the Consent Decree.

NOW, THEREFORE, the Court being fully advised in the premises, it is hereby **ORDERED, ADJUDGED AND DECREED:**

I. JURISDICTION

The United States District Court for the Eastern District of Arkansas, Western Division, has jurisdiction over the parties and subject matter of this litigation.

II. SCOPE AND DURATION OF DECREE

A. This Consent Decree resolves all issues and claims arising out of the Commission's Complaint in this cause alleging unlawful employment policies and practices maintained by the Defendant and arising out of Charge No. 251-98-1064 filed by the Charging Party Steve Hart with the Commission. Notwithstanding any provisions contained in this Decree, this agreement shall not be considered in any manner to be dispositive of any charge now pending before any office of the Commission other than Charge No. 251-98-1064.

B. The provisions of this Consent Decree shall continue to be effective and binding upon the parties to this action for a period of one year from the date of the entry of this decree.

III. NON-DISCRIMINATION PROVISION

A. The Defendant, its officers, agents, employees, and all persons acting in concert with the Defendant shall not fail to

provide reasonable accommodations to any employee with a disability as required by the Americans with Disabilities Act, as amended.

B. The Defendant, its officers, agents, employees, and all persons acting in concert with the Defendant shall not engage in any employment practice which has the purpose or effect of discriminating against any individual on the basis of a disability under the Americans with Disabilities Act.

C. Defendant agrees to conduct a training session on the requirements of the Americans with Disabilities Act for all the management employees at Defendant's Chrysler dealership in Benton, Arkansas. This training session will be conducted within ninety (90) days of the entry of this decree. A list of the employees that attend the training session, a copy of the syllabus, and a copy of the training materials will be provided to Plaintiff within thirty (30) days of the training session.

D. Defendant will provide a copy of its Americans with Disabilities Act policy to all of its employees at Defendant's Chrysler dealership in Benton, Arkansas, within thirty (30) days of the entry of this decree.

E. Defendant will maintain a wheelchair accessible workplace, including accessible doors, parking facilities, work areas, computers, telephones, and restrooms.

IV. NON-RETALIATION PROVISION

Defendant, its officers, agents, employees, and all persons acting in concert with Defendant shall not take any retaliatory measure against Steve Hart or any other person for opposing

practices made unlawful under the Americans with Disabilities Act or for making a charge or complaint to the Commission, testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing under the Americans with Disabilities Act.

V. NOTICE

Defendant shall continue to conspicuously post at Defendant's Chrysler dealership in Benton, Arkansas, the notice (poster) required to be posted pursuant to the Americans with Disabilities Act, as amended. Furthermore, Defendant shall conspicuously post the notice at Appendix A of this Decree at its Chrysler dealership in Benton, Arkansas, for a one year period commencing within ten (10) days after entry of this Decree by the Court.

VI. INDIVIDUAL RELIEF

A. Defendant shall expunge from Steve Hart's personnel records any unfavorable or adverse personnel comments regarding any aspect of his employment with Defendant. Defendant shall expunge from Steve Hart's personnel records any reference to EEOC Charge No. 251-98-1064 and Mr. Hart's participation in this litigation.

B. Defendant shall deliver to Steve Hart a cashier's check made payable to "Steve Hart" in the amount of \$160,000 at the following address within ten (10) days after entry of this Decree by the Court:

Silas Brewer, Esq.
Kaplan, Brewer & Maxey, P.A.
415 Main Street
Little Rock, Arkansas 72201

C. Defendant shall forward a copy of the check to William A. Cash, Jr., Esq., at the EEOC office in Little Rock, Arkansas.

D. Defendant agrees to give a neutral reference to any potential employers of Steve Hart who request a job reference. Any such neutral reference shall be identical to the form demonstrated in Appendix B. No mention of Steve Hart's charge of discrimination or this action will be made as part of the neutral reference.

E. Defendant agrees that the van provided to him by Defendant is a gift. Defendant shall immediately execute the necessary documents to transfer title of the van to Steve Hart, and Defendant will pay the sales tax on the van.

VII. COSTS

Defendant agrees to pay the attorneys' fees of Steve Hart in the amount of \$30,000. EEOC and Defendant shall bear their own costs, including attorneys' fees.

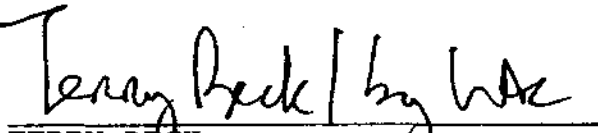
SO ORDERED THIS 25th DAY OF August,
2000.

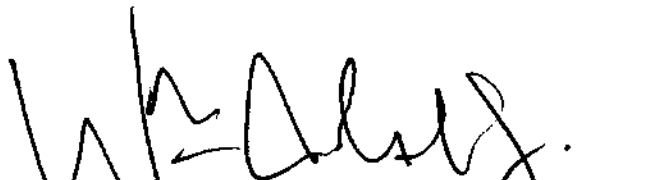

UNITED STATES DISTRICT JUDGE


THIS DOCUMENT ENTERED ON DOCKET SHEET IN
COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP
ON 8-28-00 BY U

COUNSEL FOR THE PLAINTIFF


KATHARINE W. KORES
Regional Attorney



TERRY BECK
Supervisory Trial Attorney


WILLIAM A CASH, JR.
Senior Trial Attorney



PAMELA B. DIXON
Trial Attorney

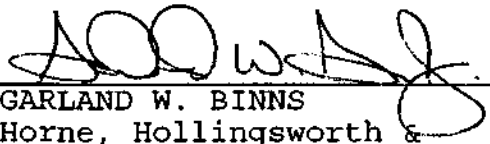
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
425 W. Capitol, Suite 625
Little Rock, Arkansas 72201
Telephone: (501) 324-5539

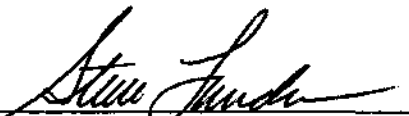
COUNSEL FOR PLAINTIFF INTERVENOR


SILAS BREWER
Kaplan, Brewer & Maxey, P.A.
415 Main Street
Little Rock, Arkansas 72201

COUNSEL FOR THE DEFENDANT


MICHAEL R. JONES
Gilker and Jones, P.A.
9222 North Highway 71
Mountainburg, Arkansas 72946


GARLAND W. BINNS
Horne, Hollingsworth &
Parker
401 West Capitol, Suite 501
Little Rock, Arkansas 72201

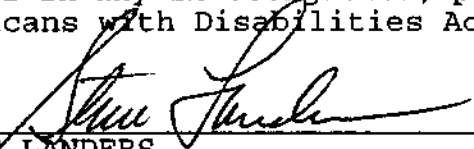

STEVE LANDERS
Landers Auto Sales, Inc.

APPENDIX A

NOTICE

NOTICE

1. Landers Auto Sales, Inc. has agreed as part of a settlement with the EEOC to post this notice for one year to reinforce the company's policies concerning the Americans with Disabilities Act.
2. Federal law prohibits an employer from discriminating against applicants for employment or employees who are qualified individuals with disabilities.
3. Federal law prohibits an employer from taking retaliatory action against any employee for opposing practices made unlawful under Title VII of the Civil Rights Act of 1964, as amended.
4. Landers Auto Sales, Inc. supports and will comply with such Federal laws in all respects. Landers Auto Sales, Inc. will not discriminate against applicants for employment or employees who are qualified individuals with disabilities. Landers Auto Sales, Inc. will not take any action against employees because they have exercised their rights under the law by filing charges with the Equal Employment Opportunity Commission and/or testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under the Americans with Disabilities Act.



STEVE LANDERS
LANDERS AUTO SALES, INC.

DATE

APPENDIX B
NEUTRAL REFERENCE

Dear _____,

This letter is in reference to your request for information regarding the employment of Steve Hart while employed at Landers Auto Sales, Inc.

Mr. Hart worked at Landers Auto Sales, Inc. from _____ through _____. Company policy does not permit us to give out any more information concerning Mr. Hart's employment.

I am sure Mr. Hart can provide you with the details concerning his tenure at Landers Auto Sales, Inc. I hope this information is helpful and that it satisfactorily answers your inquiry.

Very truly yours,

LANDERS AUTO SALES, INC.

UNITED STATES DISTRICT COURT
Eastern District of Arkansas
U.S. Post Office & Court House
600 West Capitol, Suite 402
Little Rock, Arkansas 72201-3325

August 28, 2000

* * MAILING CERTIFICATE OF CLERK * *

Re: 4:99-cv-00122.

True and correct copies of the attached were mailed by the clerk to the following:

Silas H. Brewer Jr., Esq.
Kaplan, Brewer & Maxey, P.A.
Metro Centre Mall
415 Main Street
Little Rock, AR 72201-3801

picked up

Garland W. Binns Jr., Esq.
Horne, Hollingsworth & Parker
401 West Capitol, Suite 501
Post Office Box 3363
Little Rock, AR 72203-3363

Michael R. Jones, Esq.
Gilker & Jones
9222 North Highway 71
Mountainburg, AR 72946

Pamela B. Dixon, Esq.
Equal Employment Opportunity Commission
425 West Capitol Avenue
Suite 625
Little Rock, AR 72201

William A. Cash Jr., Esq.
Equal Employment Opportunity Commission
425 West Capitol Avenue
Suite 625
Little Rock, AR 72201

Terry Beck, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
Suite 621
Memphis, TN 38104

Katharine W. Kores, Esq.
Equal Employment Opportunity Commission
1407 Union Avenue
Suite 621
Memphis, TN 38104

cc: press, post

James W. McCormack, Clerk

V. Turner

Date: 8/28/00

BY: _____