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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY :  
COMMISSION,

Plaintiff,

CV 97-2617(DH)(MLO)

BWD GROUP, LTD.,

Defendant.

CONSENT DECREE

On May 8, 1997, the Equal Employment Opportunity Commission (hereinafter "EEOC"), an agency of the United States Government, filed a complaint alleging that BWD Group, Ltd., (hereinafter "BWD") violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 et seq., ("Title VII"), by engaging in sexual harassment, retaliation and constructive discharge against female employees, and by impeding the investigatory and enforcement responsibilities of the EEOC. On July 7, 1997, BWD filed an answer denying the material allegations of the complaint.

This case involves complex legal and factual issues. The parties agree that it is in their mutual interests to fully resolve the issues which were raised, or could have been raised in this action, EEOC v. BWD Group, Ltd., CV 97-2617 (D.H.)(MLO), under Title VII. This Consent Decree is not an admission of liability by BWD.

Subject to the terms and conditions set forth below, the EEOC and BWD do hereby stipulate and consent to the entry of this Consent Decree as final and binding between the parties

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signatory hereto and their successors or assigns. The parties have agreed that this Consent Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Consent Decree, the sufficiency of which is hereby acknowledged, it is agreed and IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. This Decree resolves all of the issues raised by EEOC Charge Numbers 160-97-0167, 160-97-0464, 160-97-0394, 160-97-0463, 160-97-0378, and the Complaint in this litigation numbered Civil Action 97-2617(D.H./MLO). (See Complaint attached hereto as Exhibit A.)

2. The parties agree that this Court has jurisdiction of the subject matter of this action and of the parties, that venue is proper, and that all administrative and statutory prerequisites have been met.

3. No party shall contest the jurisdiction of this Court to enforce this Consent Decree and its terms or the right of any party to bring an enforcement suit upon breach of any of the terms of this Consent Decree by any other party. Breach of any term of this Consent Decree should be deemed to be a substantive breach of this Consent Decree. Nothing in this Consent Decree shall be construed to preclude either party from bringing proceedings to enforce this Consent Decree in the event that a party fails to perform any of the promises and representations contained herein.

4. BWD agrees to provide sexual harassment training as approved by the EEOC for all BWD employees within 4 (four) months of the effective date of this Consent Decree. All current BWD employees shall attend this training, with separate comprehensive training for all management personnel (i.e. any employee with the authority to hire, fire, promote, demote or

discipline any other employee), which shall be conducted by outside consultants. BWD shall provide the names of the consultants and proposed curriculum to the EEOC prior to the training for its approval. If BWD seeks credit for employees who have previously attended sexual harassment training, BWD shall also submit to the EEOC any existing and signed attendance records, hours attended, topics covered with time allotment for each topic, and the name and resume of the trainer or consultant for each of the employees for whom BWD seeks training credit. The EEOC shall notify BWD of its approval of or suggested changes to the proposed training and credit for prior training within two weeks of the EEOC's obtaining all applicable documents.

5. Michael Cooperstein, currently on disability leave, will be required to attend six (6) hours of sexual harassment counseling, to be provided separately and to be completed as a condition for his returning to work at BWD premises either during the week or on weekends. Prior to the counseling, the name of the consultant designated to do the counseling shall be submitted to the EEOC for approval, along with a letter of intent from the consultant. Notice of completion of the counseling shall also be provided to the EEOC. If Mr. Cooperstein does return to BWD from disability leave, he will not have any "supervisory responsibilities" such as hiring, firing, promoting, demoting or evaluating the performance of employees.

6. BWD represents that Archie Wilkins is no longer employed by BWD in any capacity, and BWD further agrees not to hold company-sponsored social or business functions at the personal home(s) of Archie Wilkins or Michael Cooperstein.

7. Within ten (10) days of the effective date of this Decree, BWD will post and distribute to all employees the Notice of Non-discrimination attached as Exhibit B. The posting shall remain visible in a centralized, conspicuous location for three months.

8. BWD agrees to continue to maintain a written company policy regarding sexual harassment in the form annexed hereto as Exhibit C. In the event that the text of the policy changes, it shall state clearly that sexual harassment is prohibited; define what constitutes sexual harassment and a sexually hostile environment in accordance with the current EEOC guidelines; state what conduct is prohibited by BWD; explain the avenue for reporting sexual harassment complaints to BWD, including the provision of alternative reporting if needed to by-pass alleged harassers; outline BWD's procedure to investigate harassment complaints, and clearly state that BWD will not retaliate against any employee who makes such a complaint, supports another employee's complaint, or in any way assists in investigating a complaint. Within thirty (30) days of the effective date of this Consent Decree, BWD shall distribute Exhibit C to all current personnel. Exhibit C (or any revised sexual harassment policy in compliance with this paragraph) shall also be distributed to all new personnel or any employee hired after the said thirty (30) days of the effective date of this Decree, at the time or within ten (10) days of the date when such new employee is hired.

9. BWD agrees to pay the total sum of \$1.2 million dollars (\$1,200,000) as compensatory damages, to be allocated by the EEOC to current and former employees employed by BWD from February 19, 1994 to the present, for their claims of alleged sexual harassment including hostile work environment, retaliation and constructive discharge.

10. The \$1.2 million dollars referred to in ¶9 above shall be distributed, by agreement of the parties, to the claimants identified by the EEOC. Those claimants already identified (the "identified claimants") shall receive the amounts as provided in Exhibit D attached hereto. Exhibit D shall remain under seal. The remainder of the award (hereinafter the "remainder") shall be distributed to those employees or former employees (the currently "un-identified claimants")

who come forward and make valid claims for recovery. The EEOC shall take into consideration the severity, pervasiveness and duration of the claimed harassment, in making awards. The following procedures shall apply:

- A. Upon the effective date of this Decree, BWD shall mail, by certified, return-receipt requested mail, a letter, in the form attached hereto as Exhibit E, to each female employee who worked for BWD from February 19, 1994 to the date of entry of this Decree (the "potential claimants"), to her last known address, and proof of compliance with this provision shall be filed with the Court. Copies of the personnel rosters and mailing labels used by BWD to send these letters shall be provided to the EEOC upon completion of the mailing. The parties shall use reasonable good faith efforts to locate any potential claimant whose letter is returned as undeliverable. If the parties are unable to locate any missing potential claimants, they will confer on an appropriate alternative method of notice. Should the parties fail to reach agreement on an alternative form of notice, they shall seek a ruling from the Court on how to proceed; and
- B. BWD shall mail, by certified, return-receipt requested mail, a claim form, in the form attached hereto as Exhibit F ("Claim Form"), to each potential claimant in ¶ A above who responds to the letter provided for by ¶ A by the date specified in such letter. The completed Claim Forms shall be sent directly to the EEOC which shall determine, in accordance with its assessment of the severity, pervasiveness and duration of the claimed harassment, what proportionate share of the remainder of the settlement award, if any, each such potential claimant shall receive. The EEOC shall

complete this apportionment within twenty-one (21) days of the date the Claim Forms are due.

C. Each potential claimant who timely submits a completed Claim Form to the EEOC shall be notified of her proportionate share of the settlement award, if any, and will then have ten (10) days following the mailing of such notification to file a written objection with the EEOC if she disputes her award. If the dispute cannot be resolved informally, the Court shall determine what proportionate share of the remainder of the settlement award, if any, the potential claimant filing such objection shall receive.

11. If there are no disputed claims, or when any disputed claims are finally resolved, EEOC, upon the Court's entry of an order approving the awards made by the EEOC, shall notify BWD, which shall issue checks to these claimants or their designated attorney, within fourteen (14) days of EEOC's notification, in the amounts specified. BWD shall provide verification to the EEOC upon its completion of the mailing of these checks, and proof of compliance with this provision shall be filed with the Court.

12. If the remainder of the settlement award is not depleted after the completion of the procedures outlined in ¶¶ 10 and 11 above, such remaining sum shall be pro-rated and apportioned by the EEOC to be distributed to the entire group of claimants in paragraphs 10 and 11 who received payments. BWD shall be notified of this additional distribution and the amounts for each individual, and shall send checks directly to these claimants or their designated attorney within fourteen (14) days of EEOC's notification, and shall send verification to the EEOC upon its completion of the mailing of these checks, and proof of compliance with this provision shall be filed with the Court.

13. BWD agrees that it will not discriminate against any employee on the basis of sex. BWD further agrees not to retaliate against any individual, including but not limited to former or current employees, for asserting their rights under Title VII or for participating in the matter of this lawsuit in any capacity during investigation or litigation. In accordance with this provision, BWD agrees within thirty (30) days of the effective date of this Consent Decree to:

- A. Remove from BWD personnel files any written performance warnings issued by BWD to any claimant from September 1, 1996 to the date of the entry of the Consent Decree.
- B. Direct any inquiries from claimants' potential employers only to BWD's Human Resources Officer(s) who will not divulge the fact of this lawsuit or any circumstances of the subject matter of this lawsuit. The Human Resources Officer will merely confirm dates of employment and position(s) held.

14. In the event that BWD chooses to request or require employees or former employees to enter into "confidentiality agreements," BWD agrees not to use wording in any such "confidentiality agreements" between BWD and its employees or former employees that is intended or may reasonably be interpreted as prohibiting or discouraging such employees or former employees from assisting in any way the EEOC's investigatory or enforcement obligations. In accordance with this provision, BWD agrees to include in any such agreement, on the first page in bold letters, a paragraph which states that the agreement in no way prohibits any employee from providing information or otherwise assisting the EEOC in its investigation or litigation of potential or alleged employment discrimination.

15. All documents and communications relating to this settlement or the negotiation of this settlement shall be deemed inadmissible in any court proceedings with the sole exception of actions to enforce this Consent Decree.

16. Each party and claimant shall bear its own attorneys' fees, costs and expenses incurred in this action.

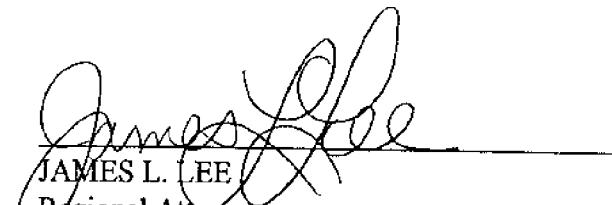
17. This Decree constitutes the complete understanding between the parties. No other promises or agreement shall be binding unless agreed to in writing and signed by these parties.

18. Should any reviewing court refuse to approve this consent Decree, or desire to modify it in any way, the Consent Decree shall be null and void unless both parties expressly approve in writing any such modification by the reviewing court.

19. This Consent Decree shall become effective as of the date upon which the Court's approval of the Settlement Agreement in Bjorkman et al. v. BWD Group, Ltd., et al., Civil Action No. 97-0882 (DH/MLO) becomes effective ("effective date"), and shall remain in effect for three (3) years from that date.

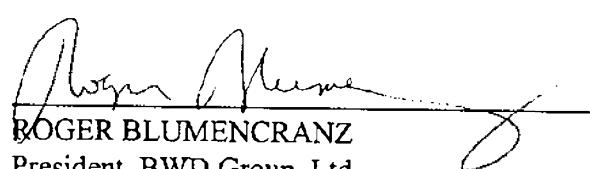
Dated: New York, NY

May 28, 1998

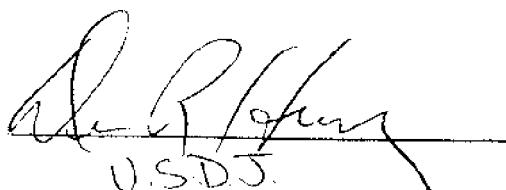
  
JAMES L. LEE  
Regional Attorney  
LISA SIRKIN  
Trial Attorney  
FOR PLAINTIFF EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
New York District Office  
7 World Trade Center, 18th Floor  
New York, NY 10048  
(212) 748-8512

Dated:

\_\_\_\_\_, 1998

  
ROGER BLUMENCRANZ  
President, BWD Group, Ltd.  
FOR DEFENDANT BWD GROUP, LTD.  
3000 Marcus Ave.  
Lake Success, NY 11042

SO ORDERED:

  
Sheri R. Kline  
U.S.D.J.

Dated: Hauppauge, NY  
June 9, 1998



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY : Civil Action No.  
COMMISSION, :  
: Plaintiff,  
-against- :  
: COMPLAINT  
BWD GROUP, LIMITED, :  
: AND JURY DEMAND  
Defendant. :  
-----x

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and protected activity, and to provide appropriate relief to all individuals who were and continue to be adversely affected by such unlawful practices. Specifically, the Equal Employment Opportunity Commission alleges that BWD Group, Limited has perpetuated a continuing pattern or practice of discrimination by sustaining a hostile work environment, by retaliating against employees who complained about the hostile environment, and by the constructive discharge of employees. Defendant additionally has impeded and interfered with the investigatory and enforcement responsibilities of the Equal Employment Opportunity Commission by requiring that its employees enter into "non-cooperation" agreements. These allegations are set forth with more particularity in paragraphs 6 through 11 below.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq. ("Title VII") and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A..

2. The unlawful employment practices alleged below were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) and 707 of Title VII, 42 U.S.C. §2000e-5(f)(1).

4. At all relevant times, Defendant, BWD Group, Ltd. ("BWD" or "Employer") has continuously been a New York corporation doing business in the State of New York and the county of Nassau, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant BWD has continuously been an employer engaged in an industry affecting commerce within

the meaning of Section 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, five BWD employees and former employees, Betty Bjorkman, Adele Kuncze, Marisa Kuncze, Bonnie Levine and Karen Ramsden filed charges with the Commission alleging violations of Title VII by Defendant BWD. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least January 1992, Defendant BWD has engaged in a pattern or practice of unlawful employment practices at its Lake Success, New York facility, in violation of Sections 703, 704, 707 and 710 of Title VII, 42 U.S.C. §§2000e-2(a), 3(a), 6 and 9. These practices include but are not limited to the following:

a) Archie Wilkins, a principal of Defendant Employer, and Michael Cooperstein, a vice-president of Defendant Employer, engaging in sexually offensive conduct, including but not limited to the touching of female employees' breasts and buttocks, sexually explicit discussions, the propositioning of female employees for sexual acts, the questioning of employees about the size and shape of female clients' breasts, and other unwelcome and offensive conduct which created a hostile work environment;

b) Defendant Employer failing to take prompt and appropriate remedial action to end the hostile environment, even after receiving complaints from employees;

c) Defendant Employer constructively discharging employees by its failure to eliminate the hostile environment;

d) Defendant Employer retaliating against employees engaging in protected activity, including those who complained about the hostile work environment, those who filed charges with or otherwise assisted the Commission; and

e) Defendant Employer interfering with and impeding the Commission's investigation and enforcement by threatening and intimidating employees against engaging in protected activity, including but not limited to Defendant's monitoring of employees and termination of employees who complained of the hostile environment, Defendant's denouncement at meetings of employees who complained about the hostile environment, and Defendant's demand that employees sign an agreement prohibiting them from reporting Defendant's discriminatory practices or from assisting the Commission's investigation of and enforcement against those discriminatory practices.

8. The effect of the practices complained of above has been to deprive former and current employees of equal employment opportunities, and otherwise adversely affect their status as employees on the basis of sex and protected activity.

9. The aggrieved employees suffered physical and emotional pain, including but not limited to mental anguish, humiliation, embarrassment, inconvenience and loss of enjoyment of life as a result of Defendant's discriminatory conduct described above.

10. The unlawful employment practices complained of above were intentional.

11. Defendant at all relevant times has been acting with malice or reckless indifference to the federally protected rights of its employees in violation of Title VII, 42 U.S.C. §2000e et seq.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant BWD, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of sex or engaging in protected activity, or which impedes or interferes with Commission investigations and enforcement.

B. Order Defendant BWD to institute and carry out policies, practices and programs which provide equal employment opportunities for women and employees assisting the Commission or engaging in

other protected activity, and which eradicate the effects of Defendant's past and present unlawful employment practices.

C. Order Defendant BWD to make whole those individuals affected by its discriminatory actions, including but not limited to Betty Bjorkman, Marisa Kuncze, Bonnie Levine, and Adele Kuncze, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including but not limited to rightful-place reinstatement of aggrieved individuals.

D. Order Defendant BWD to make whole Betty Bjorkman, Marisa Kuncze, Bonnie Levine, Adele Kuncze, and any other similarly situated individuals, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 through 11 above, including but not limited to medical and job search expenses, in amounts to be determined at trial.

E. Order Defendant BWD to make whole Betty Bjorkman, Marisa Kuncze, Bonnie Levine, Adele Kuncze, and any other aggrieved individuals, by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 through 11 above, including but not limited to physical and emotional pain and suffering, mental anguish, inconvenience and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant BWD to make whole Betty Bjorkman, Marisa Kuncze, Bonnie Levine, Adele Kuncze, and any other individuals affected by Defendant's unlawful actions, by providing compensation for Defendant's malicious and reckless conduct described in paragraphs 7 through 11 above, in amounts to be determined at trial.

G. Grant a permanent injunction enjoining Defendant BWD from enforcing any agreements it has entered into, and to discontinue its practice of entering into agreements with former or current employees which restrict or prohibit those employees from filing charges, or assisting the Commission, with its investigatory or enforcement responsibilities.

H. Order Defendant BWD to notify, by certified mail, all employees or past employees with whom it has entered agreements described in paragraph G. above that they have the lawful right to file charges with and/or otherwise assist the Commission.

I. Grant such further relief as the Court deems necessary and proper.

J. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Dated: New York, New York  
May 8, 1997

Respectfully submitted,

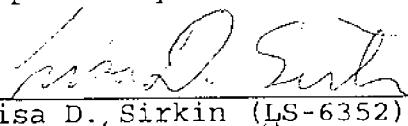
C. Gregory Stewart  
General Counsel

Rosalind D. Gray  
Associate General Counsel

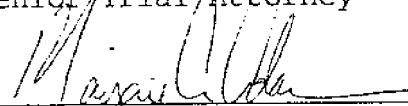
EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
1801 "L" Street, N.W.  
Washington, D.C. 20507

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Regional Attorney

Delner Franklin-Thomas  
Supervisory Trial Attorney

  
Lisa D. Sirkin (LS-6352)

Senior Trial Attorney

  
Marjorie A. Adams (MAA-3153)

Trial Attorney

New York District Office  
7 World Trade Center, 18th Floor  
New York, N.Y. 10048-1102  
(212) 748-8498

**Exhibit B**

**EXHIBIT B**

**NOTICE OF NON-DISCRIMINATION**

1. This NOTICE to all employees of BWD Group, Limited is being posted and provided as part of a Consent Decree between BWD and the U.S. Equal Employment Opportunity Commission.
2. Federal law requires that there be no discrimination against any employee or applicant for employment because that person made a complaint or discrimination because of sex, race, national origin, color or religion with respect to hiring, compensation, promotion, discharge or other terms, conditions or privileges of employment. Sexual harassment is a form of sex discrimination that violates Title VII of the CIVIL RIGHTS ACTS of 1964 and 1991. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.
3. BWD will comply with such Federal law in all aspects, and it will not take any action against employees because they have exercised their rights under the law by filing charges with the U.S. Equal Employment Opportunity Commission, by cooperating with the Commission, or by otherwise opposing employment practices made unlawful under TITLE VII of the CIVIL RIGHTS ACTS of 1964 and 1991.
4. The U.S. Equal Employment Opportunity Commission maintains offices throughout the United States. Its toll-free telephone number is 1-800-USA-EEOC. Any discrimination should be reported to this federal agency as well as BWD's Human Resources Officer.
5. This NOTICE will remain posted until December 31, 2001.

Signed under penalty of law this \_\_\_\_\_ day of \_\_\_\_\_ 1998

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Roger Blumencranz, President

**Exhibit C**

## EXHIBIT C

### *Sexual Harassment Policy and Guidelines*

Stated below is BWD's statement of policy regarding sexual harassment. This is an important topic, and the policy and guidelines should be read carefully by each employee.

#### *Sexual Harassment Policy*

The following policy applies equally to ALL employees regardless of gender or sexual orientation, regardless of position in this company.

- a.) We forbid all forms of sexual harassment, whether verbal or physical, intentional or inadvertent, that harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment. It is every employee's responsibility to maintain a work place that is free of any form of sexual harassment. Furthermore, supervisory favoritism of any kind toward any applicant or employee because of sexual conduct is strictly forbidden.
- b.) Sexual harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
  - 1.) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
  - 2.) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - 3.) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- c.) Sexual harassment may take many forms. The most obvious is the demand for sexual favors but also includes:
  - 1.) Physical contact - unwanted touching, pinching, coerced intercourse or assault.
  - 2.) Verbal abuse - lewd or sexually suggestive comments, degrading comments, jokes of a sexual nature, sexual threats, sexual propositions or graphic or suggestive comments about a person's dress or body.
  - 3.) Visually unacceptable behavior - the display of pornographic or suggestive pictures, calendars or other objects and obscene gestures.
- d.) Any employee who believes that he or she has been subjected to sexual harassment should report the conduct to a Principal, Manager or the Human Resources Department. Management will investigate the complaint in a confidential manner. However, to conduct

a meaningful investigation, we cannot promise absolute confidentiality. Only those persons necessary for the investigations will be involved in the process.

- e.) Employees will not be subject to any form of retaliation or disciplinary action for pursuing a sexual harassment complaint.
- f.) Appropriate disciplinary action, up to and including termination from employment, will be taken against any employee who violates this policy.

***Procedure for Reporting Sexual Harassment***

a.) Notification of Appropriate Staff

Individuals who believe they have been subjected to sexual harassment or have witnessed sexual harassment should discuss their concerns with a Principal, senior management, department head or Human Resources Department. Any employee receiving information regarding sexual harassment in their capacity as a Team Leader or Manager is obligated to report it to the Human Resources Department. We also encourage individuals who believe they are being harassed to promptly advise the offender that his or her behavior is unwelcome.

b.) Timeliness in Reporting an Incident

Prompt reporting of incidents is important so that an investigation may be conducted and appropriate action taken. Although no fixed period has been set for reporting sexual harassment incidents, a delay in reporting may impair BWD Group Limited's ability to investigate the matter and impede efforts to remedy the situation.

c.) Investigation Process

Any reported allegations of sexual harassment will be investigated promptly. Only those individuals who are directly involved with the incident will be involved in the investigation. Any reported allegations will be handled in as sensitive and discreet a manner as possible without interfering with the ability of BWD to investigate.

d.) Protection against retaliation

Retaliation against an individual who makes a report of alleged sexual harassment or assists in providing information relevant to a claim of sexual harassment is itself a serious violation of this policy. Acts of retaliation should be reported immediately and will be dealt with appropriately.

e.)      Responsive Action

Prompt responsive action will be taken in all cases of misconduct constituting sexual harassment. This may include, for example, training, referral to counseling and disciplinary action such as warnings, reprimands, withholding of a promotion, demotion, reassignment, suspension without pay, compensation adjustments or termination.

*Conclusion*

BWD has developed this policy to ensure that every employee can work in an environment that is comfortable and free from any form of sexual harassment. Any employee who has a question regarding this policy should address these questions to the Human Resources Department.

**Exhibit D**

Exhibit E



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**New York District Office**

**EXHIBIT E**

7 World Trade Center, 18th Floor  
New York, NY 10048-1102  
Phone: (212) 748-8500  
TDD: (212) 748-8399  
General FAX: (212) 748-8464  
Legal FAX: (212) 748-8465

**DATE**

Dear BWD Employee/Former Employee:

The Equal Employment Opportunity Commission (the "EEOC") wishes to inform you that the EEOC and BWD Group, Ltd. ("BWD") have reached a settlement of claims against BWD for alleged sexual harassment and retaliation. The terms of the settlement are contained in a Consent Decree filed in the United States District Court for the Eastern District of New York in *EEOC v. BWD Group, Ltd., Civil Action No. 97-2617 (DH)(MLO)*.

As part of the settlement, a claim fund has been established to provide monetary relief to victims of sexual harassment and retaliation. BWD current and former female employees who worked at BWD between February 19, 1994 and the effective date of the Consent Decree, \_\_\_\_\_, 1998, who believe they were subjected to sexual harassment and/or retaliation because of complaining of the harassment, are entitled to make an application for an award from this fund.

To apply for an award from this fund, please notify the EEOC in writing by mail (use certified, return-receipt requested), attention Lisa Sirkin, at the following address: EEOC, 7 WTC, 18th Flr., New York, NY 10048. To be eligible for an award, your notification to the EEOC must be postmarked no later than \_\_\_\_\_ 1998. Upon EEOC's receipt of your letter that you wish to apply for an award from the claim fund, you will be sent a Claim Form which you must fill out and return to the EEOC. This Claim Form will specify the date by which you must mail your form.

No adverse action shall be taken by BWD against you or any other current or former employee for making a claim to the claim fund. Federal Law and the Consent Decree prohibit BWD from retaliating against any person alleging sexual harassment or retaliation, or participating in any manner in this lawsuit.

If you have questions concerning this letter you may contact Lisa Sirkin, Senior Trial Attorney at (212) 748-8498. Request for Claim Forms, however, must be done by mail.

Sincerely,

Lisa D. Sirkin  
Senior Trial Attorney



## **EXHIBIT F**

### **BWD CLAIM FORM AND INSTRUCTIONS**

#### **Equal Employment Opportunity Commission v. BWD Group, Ltd.** **Instructions for Completing Claim Form**

The attached claim form must be completed if you are making a claim under the terms of the Consent Decree in EEOC v. BWD Group, Ltd. ("BWD"). It is important that each question be answered completely. Use additional paper if necessary, and please number your responses to correspond to the questions on the claim form. The following instructions provide an explanation of the questions asked on the claim form. Please read the entire instruction sheet before starting.

#### *Positions Held*

If the EEOC determines that you qualify to participate in the claim fund and experienced sexual harassment as that term is defined by Title VII of the Civil Rights Act of 1964, the EEOC may determine appropriate damages. To assist the EEOC, please list the title of the position(s) that you hold or held at BWD, the dates you held them and, if you believe you lost wages due to sexual harassment or retaliation, the pay that you received in each position.

#### *Do you believe that you were a victim of sexual harassment by BWD?*

Title VII prohibits two types of sexual harassment, quid pro quo and hostile work environment. Quid pro quo harassment occurs when a job benefit, such as a raise, promotion or transfer, is conditioned upon a response to a request for sexual favors. Hostile work environment occurs when unwelcome conduct of a sexual nature is so severe or pervasive as to alter the conditions of employment and create an intimidating work environment. If you believe that what you experienced fits either of these definitions, you should answer YES.

#### *or retaliation by BWD?*

Retaliation is also prohibited. If you believe that you have been retaliated against by BWD for complaining about harassment or assisting the EEOC or any other agency or individual in complaining about harassment, then you may have been subjected to retaliation.

*Describe in detail all incidents of sexual harassment or retaliation that form the basis of your belief.* To assist the EEOC in evaluating your claim, please describe in as much detail as possible the specific incident(s) you believe amounted to sexual harassment or retaliation. Include dates, names of witnesses or people you told about the incidents, and a description of what occurred.

#### *Describe how the incidents of sexual harassment or retaliation affected you.*

If you believe you were subjected to quid pro quo harassment, explain how you responded to the request(s) and what happened as a result of your response. If you believe you were subjected to a hostile work environment, describe if and how the harassment affected your desire or ability to perform your job. If you believe you were retaliated against, describe how the retaliation affected you. If what you experienced in the workplace had any effect on you outside of the workplace,

describe that also.

*Did you seek any treatment or counseling because of the sexual harassment or retaliation you experienced at BWD? If so, describe the treatment or counseling you received.*

If you experienced sexual harassment or retaliation, please describe any out-of-pocket expenses you experienced, providing the extent and duration of any treatment or counseling you received due to the harassment and the extent and duration of any type of emotional distress.

*Were you asked to sign a letter or confidentiality agreement regarding sexual harassment at BWD? If yes, describe the circumstances surrounding the request, your response and if you signed.*

If you were asked to sign a letter or agreement regarding providing information to anyone (or agency) about sexual harassment at BWD, please describe how and when you were requested to sign the document, what you chose to do in response to that request, and whether there were any repercussions as a result of your choice.

*If you are no longer employed by BWD, state the reason(s) your employment ended.*

If the reason you left your employment with BWD was either resignation or an involuntary termination, please explain if you believe that the circumstances surrounding your separation from BWD included your experience of sexual harassment or retaliation.

*If you left your job with BWD because of your belief that you were a victim of sexual harassment or retaliation, provide your employment history including wages earned since you left BWD. Also describe any periods of unemployment, and indicate if you were actively seeking employment.*

If you qualify to participate in the claim fund and EEOC determines that you experienced sexual harassment or retaliation as the terms are defined by Title VII of the Civil Rights Act of 1964, the EEOC may determine appropriate damages. To assist in this determination, describe your efforts to obtain subsequent employment and the results of those efforts in as great detail as possible.

*Describe all damages incurred by you as a result of BWD's discrimination you believe you experienced.*

If you experienced sexual harassment or retaliation and believe you suffered out-of-pocket expenses or damages for emotional distress, describe here the reasons for that belief.

*Did you make any complaints about harassment or retaliation to BWD or any governmental agency? If so, for each complaint, state the date of the complaint, the person complained to, the nature of the complaint, whether the complaint was in writing and any action taken on the complaint.*

If you complained to BWD about harassment, BWD's response may be relevant to the assessment of damages. To assist the EEOC in this determination, please describe in specific detail the circumstances of any such complaint and the company's response. It may also be relevant if you complained to a governmental agency.

*Do you have any documents related to your claim against BWD? If so, please attach copies of all such documents to this form.*

If you have any documents you believe are in any way related to your claim, you should submit copies to the EEOC along with the claim form.

**EEOC v. BWD Group, Ltd. CLAIM FORM**

Name: \_\_\_\_\_

Current Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dates of Employment with BWD:  
\_\_\_\_\_  
\_\_\_\_\_

Positions Held (include dates you held each position):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you believe that you were a victim of sexual harassment or retaliation while employed by BWD?  
\_\_\_\_\_  
\_\_\_\_\_

Describe in detail all incidents of sexual harassment or retaliation that form the basis of your belief  
(use additional sheets of paper if necessary).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe how the incidents discussed above affected you.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Did you seek any treatment or counseling because of the sexual harassment or retaliation you  
experienced at BWD? If so, describe the treatment or counseling you received.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Were you asked to sign a letter or confidentiality agreement at BWD? If yes, describe the  
circumstances surrounding the request and indicate whether or not you signed the letter.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are no longer employed by BWD state the reason(s) you left your employment with BWD.

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If you left your employment with BWD because of your belief that you were sexually harassed or retaliated against, please provide your employment history including any and all wages earned since you left BWD. During any periods of unemployment indicate whether or not you were actively seeking employment, when and where.

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Describe any expenses or damages incurred by you as a result of the sexual harassment or retaliation you believe you experienced.

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Did you make any complaints about the harassment to BWD or any governmental agency? If so, for each complaint, state the date of the complaint, the person complained to, the nature of the complaint, whether the complaint was in writing and any action taken on the complaint.

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Do you have any documents related to your claim against BWD? If so, please attach copies of all those documents to this form.

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By submitting this form, I agree that the claim fund established pursuant to the Consent Decree filed in the United States District Court for the Eastern District of New York in EEOC v. BWD Group, Ltd., Civil Action No. 97-2617 (DH)(MLO), shall be my exclusive remedy under Title VII of the Civil Rights Act of 1964 on any claim of sexual harassment, sex discrimination or retaliation arising between February 19, 1994 and the date indicated below. I also understand that in the event I am awarded damages pursuant to this claims process, I will have to execute a release of claims against BWD in order to receive that award from the claims fund.

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Claimant Name

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Date