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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 **EQUAL EMPLOYMENT**
11 **OPPORTUNITY COMMISSION,**

12 **Plaintiff,**

13 **ABDELLATIF HADJI,**

14 **Plaintiff-Intervener,**

15 **v.**

16 **ALBION RIVER INN, INC.**

17 **Defendant.**

CIVIL ACTION NO. 06-5356 SI

[PROPOSED] CONSENT DECREE

18
19 Plaintiff U.S. Equal Employment Opportunity Commission (“Commission” or “EEOC”)
20 brought this lawsuit under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights
21 Act of 1991, to correct alleged unlawful employment practices and to provide appropriate relief to
22 Charging Party Abdellatif Hadji, who was allegedly adversely affected by such practices.

23
24 In the interest of resolving this matter the Commission and Albion River Inn, Inc.,
25 (hereinafter referred to as “the Parties”) have agreed that the above-captioned lawsuit (the
26 “Lawsuit”) should be finally resolved by entry of this Consent Decree.

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28 **CONSENT DECREE**
CV-06 – 06-5356 SI

1 This Consent Decree shall not constitute an adjudication and/or a finding on the merits of the
 2 Lawsuit and shall not be construed as an admission of liability. This Consent Decree resolves all
 3 claims raised by the EEOC and/or Intervenor Hadji which stem from EEOC Charge No. 370-2005-
 4 01017 (Abdellatiff Hadji vs. Albion River Inn) and the EEOC Complaint in this Lawsuit and Mr.
 5 Hadji's Complaint in Intervention, and constitutes a complete resolution of all claims of
 6 discrimination under Title VII that were made or could have been made by the EEOC and/or
 7 Intervenor Hadji based on this charge. This Consent Decree does not, however, resolve any future
 8 charges or charges that may be pending with the EEOC other than the charges and Complaint
 9 specifically referenced in this paragraph.
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11 This Consent Decree comprises the full and exclusive agreement of the EEOC and Defendant
 12 Albion River Inn, Inc. with respect to the matters discussed herein. No waiver, modification or
 13 amendment of any provision of this Consent Decree shall be effective unless made in writing and
 14 duly executed by each of all the Parties to this Decree, and any substantive change, modification or
 15 amendment of any provision of this Consent Decree shall also require approval by the Court.
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17 The Court has reviewed this Consent Decree in light of the pleadings, the record herein, and
 18 now approves this Consent Decree.

19 **THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

20 **I. GENERAL PROVISIONS**

21 This Court has jurisdiction over the subject matter and the Parties to this Lawsuit. This Court
 22 will retain jurisdiction over this Decree for all purposes until the expiration of Defendant's
 23 obligations as set forth herein.
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25 This Consent Decree is final and binding upon the Parties, their agents, successors and
 26 assigns. The Parties will each bear their own costs and attorney fees in this action.
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1 **II. GENERAL INJUNCTIVE RELIEF: NON-DISCRIMINATION AND NON-**
 2 **RETALIATION**

3 **Race and/or National Origin Discrimination:** Consistent with Section 703 of Title VII, 42
 4 U.S.C. §2000e-2, Defendant and their officers, agents, managers (including supervisory employees),
 5 successors and assigns, agree not to discriminate against persons on the basis of race and/or national
 6 origin by creating, allowing or otherwise supporting race and/or national origin harassment in the
 7 workplace. For purposes of this paragraph, the procedures of 42 USC § 2000e, et. seq. will apply.

8 **Retaliation:** Consistent with Section 704 of Title VII, 42 USC § 2000e-3, Defendant, their
 9 officers, agents, managers (including supervisory employees), successors and assigns, are enjoined
 10 from engaging in, implementing or permitting any action, policy or practice with the purpose of
 11 retaliating against any current or former employee because he or she has in the past, or during the
 12 term of this Consent Decree (a) opposed any practice of harassment or other discriminatory acts
 13 related to this lawsuit on the basis of race/national origin; (b) filed a Charge of Discrimination
 14 alleging any such practice in this case; (c) testified or participated in any manner in any investigation
 15 (including, without limitation, any internal investigation undertaken by Defendant), proceeding or
 16 hearing in connection with this Lawsuit; (d) was identified as a possible witness in this Lawsuit; or
 17 (e) asserted any rights under this Consent Decree.
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20 **III. MONETARY RELIEF**

21 Defendant shall pay the total sum of \$165,000.00 (the “Settlement Payment”) as allocated
 22 and described below.

23 a. Defendant shall pay the Settlement Payment as follows:

24 Within the 120 days following the entry of this Consent Decree, Defendant shall deliver the
 25 Settlement Payment in the form of three business checks in the following manner: one check in the
 26 amount of \$75,000 made payable to “Abdellatiff Hadji” as compensation for emotional distress; one
 27 check in the amount of \$75,000 made payable to “Chapman, Popik and White, LLP” as
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1 compensation for attorneys' fees; and one check in the amount of \$15,000 made payable to
 2 "Chapman, Popik and White, LLP" as compensation for litigation costs.

3 b. The Settlement Payment shall be sent via Federal Express or other certified delivery to
 4 David Nied, Chapman, Popik and White, LLP, 650 California Street, 19th Floor, San
 5 Francisco, CA 94108.

6 c. Photocopies of checks to be mailed to Linda Ordonio-Dixon, EEOC, 350 The
 7 Embarcadero, Suite 500, San Francisco, CA 94105.

8 d. Defendant shall report the entirety of the Settlement Payment as being made to A. Hadji
 9 by issuance of a single IRS Form 1099 under the name and Social Security Number of A. Hadji.
 10 Abdellatif Hadji understands and agrees that he will be solely responsible for the payment of any
 11 taxes and penalties assessed on these payments and will defend, indemnify and hold defendant free
 12 and harmless from and against any and all costs or liabilities (including attorney's fees incurred in
 13 defense, payroll taxes, penalties or interest) arising out of any claim that defendant was obligated to
 14 withhold or pay taxes with respect to these payments.

15 e. Upon full satisfaction of the entire Settlement Payment, as described in this Section III,
 16 Intervenor Abdellatif Hadji shall dismiss with prejudice his Complaint in Intervention filed in this
 17 Action.
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21 **IV. SPECIFIC INJUNCTIVE RELIEF**

22 **EEO and Anti-Discrimination Policies :** Defendant shall revise their respective
 23 discrimination complaint investigation policies within sixty (60) days of the date of entry of the
 24 Consent Decree, such that the policies: (i) include definitions of discriminatory treatment, with
 25 specific reference to race and national origin harassment; (ii) include examples of race and national
 26 origin harassment, particularly by customers; (iii) provide for appropriate discipline and/or
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corrective action for incidents of harassment designed to deter future acts of discrimination; (iv) include strong non-retaliation language with examples to supplement the definition of retaliation; (v) provide for appropriate discipline for incidents of retaliation designed to deter future acts of retaliation; (vi) provide that complaints of discrimination and/or retaliation will be accepted irrespective of whether they are made verbally or in writing; (vii) provide a set procedure for documenting a complaint and/or investigation of harassment in writing; and, (vii) provide for a procedure which allows onsite restaurant management the authority to address worksite harassment to protect employees.

The revised policies shall be submitted to the Commission for review to ensure that the terms above had been met.

Within thirty (30) days after the Commission has reviewed and approved the policies, Defendant shall effectively disseminate the revised policies and procedures by:

- i. Distributing copies to all current employees within 90 days of the entry of this Consent Decree;
- ii. Giving a copy to all new employees upon the employees' hire.

Complaint Procedure: Defendant shall develop or reaffirm a complaint procedure designed to encourage employees and applicants to come forward with complaints about violations of its discrimination policy. As part of the policy, Defendant shall provide employees with convenient, confidential and reliable mechanisms for reporting incidents of discrimination and retaliation. Said policy shall be continuously posted on employee bulletin boards or in an equally prominent place.

Defendant will submit a copy of the complaint procedures to the EEOC twenty (20) days before the completion of training as required below.

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1 **Posting:** An agreed upon Notice of Settlement shall be, and remain, posted in a clearly
2 visible location frequented by employees and applicants.

3 **Training of Employees:** Defendant shall conduct and require all current and new
4 employees attend anti-discrimination training once every year throughout the duration of this
5 Consent Decree. The purpose of said training shall be to give participants an understanding of
6 discrimination issues, particularly race and national origin harassment, sources of legal protection for
7 discrimination victims, the employees' obligation to report discrimination, the employer's obligation
8 to take preventive, investigative and remedial action with respect to discrimination complaints, and
9 to review company policies (including discipline policies) and practices related to discrimination and
10 retaliation with employees.

11 **Training Logistics:** The content, method of training and size of training classes is subject
12 to approval by the Commission which approval shall not be unreasonably withheld and which shall
13 take into consideration Defendant's operational needs. Defendant agrees to provide a description of
14 each training program to counsel for the Commission no later than twenty (20) days before the
15 training programs are scheduled to be held.

16 **Acknowledgment of Training Attendance:** All persons attending mandatory anti-
17 discrimination training pursuant to this Consent Decree shall sign an acknowledgment of their
18 attendance at the training. Defendant shall retain the originals of these acknowledgments and
19 provide the EEOC with a copy thereof each year.

20 **Reports to the Commission**

21 a. ***Training Report:***

22 Within thirty (30) days of completion of the training required by this Consent Decree,
23 Defendant will send the EEOC verification of its completion of discrimination/harassment training
24 for its employees.

Policies Designed to Promote Supervisor Accountability

a. Communication of Potential Discipline for Engaging in Race, National Origin Harassment and/or Retaliation.

Defendant shall impose appropriate discipline, up to and including termination, suspension without pay or demotion, upon any supervisor or manager who engages in race and/or national origin harassment or retaliation or knowingly permits any such conduct to occur in his or her work area or among employees under his or her supervision, or who retaliates against any person who complains or participates in any investigation or proceeding concerning such conduct. Defendant shall communicate this policy to all of their supervisors and managers.

b. Communication of Duty to Actively Monitor Worksite.

Defendant will advise all managers and supervisors of their duty to actively monitor their work areas to ensure employee compliance with Defendant's anti-discrimination policy, and to report any incidents and/or complaints of discrimination and/or retaliation of which they become aware to the individuals charged with handling such complaints.

V. RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT DECREE

a. This Consent Decree shall terminate three (3) years from the date of entry by the Court, unless the Commission petitions this Court for an extension of the Decree because of non-compliance by Defendant. If the Commission determines that Defendant has not complied with the Consent Decree, the Commission will provide written notification of the alleged breach and will not petition the Court for enforcement sooner than thirty (30) days after providing written notification. The thirty-day period following written notice shall be used by the parties for good faith efforts to resolve the issue. If the Commission petitions the Court and the Court finds Defendant to be in substantial violation of the terms of the Decree, the Court may extend the termination date of this

1 Consent Decree.

2 b. Except as provided in the preceding paragraph, three (3) years after the entry of this
3 Consent Decree, this lawsuit will be dismissed with prejudice, provided that Defendant have
4 complied substantially with the terms of this Consent Decree. Defendant will be deemed to have
5 complied substantially if the Court has not made any findings or orders during the term of the
6 Decree that Defendant has failed to comply with any of the terms of this Decree. This Consent
7 Decree will automatically expire without further Court Order.

9 c. For purposes of enforcing the provisions of this Consent Decree, and pursuant to
10 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381-82 (1994) and *Flanagan v. Arnaiz*,
11 143 F.3d 540, 543-44 (9th Cir. 1998), this Court will retain jurisdiction of the instant lawsuit until the
12 expiration of the Consent Decree.

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15 **VI. ASSIGNMENT TO U.S. MAGISTRATE JUDGE FOR BINDING**
16 **DETERMINATION CONSENT TO JURISDICTION, AND WAIVER OF**
APPEAL

17 The Court assigns the determination of any issue or matter arising in the future out of this
18 Consent Decree or related in any way thereto, including all matters of interpretation and
19 enforcement, to the Honorable United States Magistrate Judge Edward M. Chen, of the Northern
20 District of California, who received the Parties agreement to this Consent Decree on the record in
21 open court on February 4, 2008.

23 This assignment is made at the specific request of the Parties, and the Court finds pursuant to
24 28 U.S.C. Section 636 and Local Rules 72 and 73, that the Parties have irrevocably consented on the
25 record to the jurisdiction of United States Magistrate Judge Chen for all such purposes. The Court
26 finds on the consent and express waiver of the Parties on the record that any determination hereunder
27 by United States Magistrate Judge Chen shall be binding and nonappealable.

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2 IT IS SO ORDERED:

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4 Dated: 2/27/08


United States District Court Judge

NOTICE of SETTLEMENT

This Notice is being posted pursuant to a Consent Decree in settlement of all claims related to the federal lawsuit Equal Employment Opportunity Commission/Abdellatiff Hadji vs. Albion River Inn, Inc. (Civil Action 06-5356 SI, Northern District of California).

The Consent Decree does not constitute an adjudication and/or a finding on the merits of the Lawsuit and should not be construed as an admission of liability by Albion River Inn. Albion River Inn and the EEOC each have voluntarily entered into the Consent Decree.

The Albion River Inn has agreed to observe the anti-discrimination and anti-retaliation laws of the United States.

As detailed in the referenced Consent Decree, Defendant Albion River Inn Inc. is ordered to do the following:

1. Pay Abdellatiff Hadji certain damages and attorney fees.
2. Revise company anti-discrimination policies
3. Develop a discrimination complaint procedure
4. Provide additional training to employees in anti-discrimination issues
5. Make reports to the EEOC regarding training conducted under the Consent Decree
6. Institute new policies to promote supervisor accountability for harassment occurring in the workplace
7. Post this Notice of Settlement.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE
DEFACED OR REMOVED BY ANYONE**

This notice must remain posted for three years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice of Settlement or compliance with its terms may be directed to EEOC Attorney Linda Ordonio-Dixon at (415) 625-5654/toll free at (800) 669-4000. The EEOC charges no fees and has employees who speak languages other than English.

By Consent Decree dated: _____

1 **WILLIAM R. TAMAYO, SBN 084965**
2 **JONATHAN T. PECK SBN 12303 (VA)**
3 **LINDA S. ORDONIO-DIXON, SBN 172830**
4 **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
5 **San Francisco District Office**
6 **350 The Embarcadero, Suite 500**
7 **San Francisco, CA 94105-1260**
8 **Telephone No. (415) 625-5654**
9 **Fax No. (415) 625-5657**

10 **Attorneys for Plaintiff**

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 **EQUAL EMPLOYMENT**
14 **OPPORTUNITY COMMISSION,**

15 **Plaintiff,**

16 **ABDELLATIFF HADJI,**

17 **Plaintiff-Intervener,**

18 **v.**

19 **ALBION RIVER INN,**

20 **Defendants.**

21 **Case No. C 06-05356 SI**

22 **E-FILING CONCURRENCE FOR**
23 **[PROPOSED] CONSENT DECREE**

24 I, LINDA S. ORDONIO-DIXON, lead counsel for plaintiff Equal Employment Opportunity
25 Commission, attest that I have obtained the concurrence of David Nied, lead counsel for plaintiff-
26 intervenor Abdellatiff Hadji and Raymond Erlach, counsel for defendant Albion River Inn, Inc., for
27 the filing of the attached [Proposed] Consent Decree. I further attest that all parties have approved the
28 contents of the Decree.

Dated: February 26, 2008

By: //s//
Linda S. Ordonio-Dixon