

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

OCT 24 2007

DAVID J. MALAND, CLERK
BY
DEPUTY _____

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

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Plaintiff,

and

LISA ARRIOLA, CHARLINDA WELLS
MARTHA PADILLA and
TIFFANY MCINTEE

Plaintiff-Intervenors

CIVIL ACTION NO. 9:06-cv-00226

JURY TRIAL DEMANDED

v.

NATIONAL VISION, INC.
d/b/a THE VISION CENTER

CONSENT DECREE

Plaintiff, the United States Equal Employment Opportunity Commission ("Commission") and Defendant, National Vision, Inc. d/b/a The Vision Center ("NVI" or "Defendant") agree to entry of this Consent Decree.

I. Background and History of Proceedings

A. Charging Parties Lisa Arriola, Charlinda Wells, Martha Padilla and Tiffany McIntee ("Charging Parties") filed charges of discrimination with the Commission (Charge Nos. 330-2004-06547, 330-2004-06556, 330-2004-06559, 330-2004-06587) alleging Defendant violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.* ("Title VII").

B. On September 25, 2006, after investigating the Charges and finding discrimination, the Commission commenced this action alleging that Defendant's conduct constituted sexual harassment in violation of Section 703 (a) of Title VII.

C. Defendant denied the allegations in the complaint.

D. The parties wish to avoid the risks, uncertainties and expenses of continued litigation. Accordingly, the parties have agreed to settle this lawsuit. Neither Defendant's consent to the entry of this Decree nor any of the terms set forth in it shall constitute or be construed as an admission of any Title VII violation. Both parties agree that this Consent Decree is being entered into for the sole purpose of compromising disputed claims without the necessity for protracted litigation.

E. The Commission and Defendant stipulate to the jurisdiction of the Court and the satisfaction of all administrative prerequisites. The parties further waive hearing and entry of findings of fact and conclusions of law on all issues.

IT IS ORDERED that:

1. This Consent Decree is entered in full and complete settlement of any and all claims brought by the EEOC arising out of or asserted in Civil Action No. 9:06-cv-00226 and the above-referenced Charges on behalf of Charging Parties. This Consent Decree remains in effect for three years from the date of entry. ("Consent Period")
2. During the Consent Period, Defendant is enjoined from sexually harassing or otherwise discriminating against any employee because of such person's sex.
3. During the Consent Period, Defendant is permanently enjoined from creating, facilitating or permitting the existence of a work environment that is hostile to any employee on the basis of sex, in violation of Title VII.
4. During the Consent Period, Defendant is enjoined from discriminating or retaliating in any manner against any individual because the person has made a charge, testified, assisted, or participated in any manner in the investigation,

proceeding or hearing by the Commission or the court proceeding in connection with this case, in violation of Title VII.

5. During the Consent Period, on an annual basis, Defendant will provide, using either an attorney or an independent experienced training person or group, a live and interactive program on employment discrimination, including the law prohibiting sexual harassment, to all human resources employees responsible for receiving and/or investigating complaints of sexual harassment and all district managers. The first such training for the human resources employees shall be completed within three (3) months from the date the Consent Decree is entered. The training shall be presented by NVI's legal department and/or its designated representative. Defendant shall submit to the EEOC, each year at least thirty days in advance of the program, the name of the program provider and a curriculum outline indicating the information to be addressed during the program and copies of all agendas and materials to be distributed at the training seminar. The person who administers the training shall have at least five years of experience in labor and employment law. Written acknowledgment of receipt of the training shall be obtained by Defendant from all individuals attending the training and retained among the employment records of Defendant and also copies shall be forwarded to the EEOC within thirty (30) days of the delivery of the training.
6. Defendant will require Charendoff to re-sign NVI's Code of Conduct Policy, containing provisions prohibiting sexual harassment, and he shall acknowledge receipt of the policy and to abide by its terms.


7. In addition to the training described in paragraph 5 above to be completed by Charendoff, Defendant will require Charendoff, within ninety (90) days of entry of the Decree, to complete the training mandated in its 11/9/04 letter to him regarding workplace sexual harassment. Defendant will provide Charendoff with a provider for this training within thirty (30) days of entry of the Decree.
8. As NVI enters into new or renewed sub-occupancy agreements with optometrists, such optometrists will be provided with copies of NVI's Code of Conduct Policy, containing provisions prohibiting sexual harassment, and Defendant shall require them to sign acknowledgement and receipt of the policy.
9. During the Consent Period, Defendant will provide to the EEOC a quarterly report for the States of Texas and Louisiana concerning complaints of sexual harassment received by human resources and shall identify the type of complaint, date the complaint was received by human resources, the date the complaint resolved, the identity of the investigator and the resolution of the complaint.
10. Defendant agrees that within ten (10) days after entry of this Decree, it will remove from Charging Parties' personnel files any documents referencing their charges of discrimination, the Commission's lawsuit or this Consent Decree entered in resolution of the lawsuit. These documents shall not be part of their personnel files but shall be kept segregated in separate, confidential folders. Further, Defendant agrees not to reference any facts or information relating to the charges, the lawsuit or the Consent Decree to any potential employer of Charging Parties. It further agrees to provide in response to any written or verbal inquiries from potential employers a neutral job reference, stating their dates of employment,

position or title, ending salary and that they are eligible for rehire. Defendant shall not reference the charges of discrimination, the Commission's lawsuit or this Consent Decree.

11. Defendant agree that within ten (10) days after entry of this Decree, it will conspicuously post the attached notice (Exhibit "A") in an area accessible to all employees at each of their Texas and Louisiana locations for the duration of the Decree.
12. Defendants agree to pay the total gross sum of ONE HUNDRED SEVENTY FIVE THOUSAND AND NO/100 DOLLARS (\$175,000.00), in full and final settlement of the Commission's lawsuit to provide monetary relief to Lisa Arriola, Charlinda Wells, Martha Padilla and Tiffany McIntee. Defendant and Charging Parties have agreed to other terms that are set out in a separate release agreement. Said sum shall be paid within fifteen (15) days from the date of entry of the Decree. Defendant shall mail or deliver the settlement check to Charging Parties at the address provided by Charging Parties' counsel to Defendant. A copy of the check disbursed to Charging Parties shall be mailed to the Commission's undersigned counsel of record on the same day the check is mailed to Charging Parties.
13. Each party to this action shall bear their own costs and attorney's fees.
14. This Consent Decree shall be binding on Defendant and all of Defendant's successors-in-interest, and Defendant will notify all such successors-in-interest of the existence and terms of this Consent Decree.

15. During the Consent Period, the Court shall retain jurisdiction to assure compliance with this Decree and to permit entry of such further orders or modifications as may be appropriate. The Commission is specifically authorized to seek Court-ordered enforcement of this Decree in the event of a breach of any of the provisions herein.
16. The Commission agrees that, in the event the Commission believes Defendant is in violation of any provision of this Consent Decree, the Commission shall notify Defendant, through their undersigned counsel, of such violation and afford Defendant the opportunity to remedy as may be appropriate any such alleged violation within 30 days of such notice, before instituting any legal action to enforce such provision(s).
17. Nothing in this Consent Decree shall be construed to preclude the Commission from filing a separate action under Title VII or any other statute which the Commission enforces in the future for any alleged violations by Defendant not resolved by this Decree.
18. Each signatory certifies that he/she is authorized to execute this document on behalf of the party whom he/she represents.

Signed this 23 day of October, 2007 at Lufkin, Texas.


Thad. Heartfield
United States District Judge

AGREED AND CONSENTED TO:

ATTORNEY FOR PLAINTIFF
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

By: 

Kathy D. Boutchee
TBN: 02717500
Equal Employment Opportunity
Commission
1919 Smith Street, 7th Floor
Houston, Texas 77002
(713) 209-3399
Fax: (713) 209-3402
Email: kathy.boutchee@eeoc.gov

ATTORNEY FOR DEFENDANT
NATIONAL VISION, INC.,
d/b/a THE VISION CENTER

By: 

Curtis (Curt) W. Fenley, III
TBN: 06902010
Fenley & Bate, LLP
224 E. Lufkin Avenue
Lufkin, Texas 75902-0450
(936) 634-3346
Fax: (936) 639-5874
Email: cfenley@fenley-bate.com



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Houston District Office**

Mickey Leland Federal Building
1919 Smith Street, 7th Floor
Houston, TX 77002-8049
(713) 209-3320
TTY (713) 209-3439
FAX (713) 209-3381

**NOTICE TO THE TEXAS & LOUISIANA EMPLOYEES OF
NATIONAL VISION, INC., d/b/a THE VISION CENTER**

THIS NOTICE IS POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE EEOC AND NATIONAL VISION, INC., D/B/A THE VISION CENTER REGARDING SEXUAL HARASSMENT AND DISCRIMINATION IN THE WORK PLACE PURSUANT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED.

1. Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's sex, race, color, religion, national origin, age or disability with respect to compensation, hiring or other terms, conditions or privileges of employment.
2. NATIONAL VISION, INC. d/b/a THE VISION CENTER expressly prohibits sex discrimination and sexual harassment and will not engage in any employment practices that have the effect of creating or tolerating a hostile environment for employees because of their sex.
3. NATIONAL VISION, INC. d/b/a THE VISION CENTER support and will comply with such Federal law in all respects and will not retaliate or take any action against current or former employees because they have exercised their rights under the law by filing charges with the Equal Employment Opportunity Commission (EEOC), providing information to the EEOC, and/or participating in any manner with an EEOC investigation or lawsuit or provided information during the company's investigation of any discrimination or harassment complaint..
4. At NATIONAL VISION, INC. d/b/a THE VISION CENTER., such discriminatory employment practices will not be tolerated. NATIONAL VISION, INC. d/b/a THE VISION CENTER will promptly investigate any claims of unlawful discrimination or harassment and will take appropriate action as indicated by the results of their investigation.
5. Any employee who feels he/she have been the target of such discrimination or harassment is advised to report this action promptly to Gwen Stipetich, NVI Director of Human Resources, 296 Grayson Hwy., Lawrenceville, GA, 30045, (770) 822-3600.

SIGNED this _____ day of _____, 2007.

Jeff Busbee
Vice-President of Human Resources
NATIONAL VISION, INC. d/b/a THE VISION CENTER

This OFFICIAL NOTICE shall remain posted for three full years from date of signing.
"EXHIBIT A"