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MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
 PLAINTIFF,)
)
 v.)
)
 CHARLES AGATHE ET AL.)
)
 PLAINTIFFS/INTERVENERS,)
)
 v.)
)
 SUN-RICH OF IMMOKALEE,)
 INC. f/k/a SUN-RICH OF)
 FLORIDA CITY, FLORIDA,)
)
 DEFENDANT.)

Civil Action No.: 00-CIV-264-FTM-2ID

CONSENT DECREE

1. This Consent Decree (the "Decree") is made and entered into by and among the Plaintiff, the Equal Employment Opportunity Commission (the "Commission" or "EEOC"), Plaintiffs/Interveners Florida Rural Legal Services, Inc. and Defendant Sun-Rich of IMMOKALEE, Inc. f/k/a Sun-Rich of Florida City, Florida ("Sun-Rich"). The Commission, Plaintiffs/Interveners and Sun-Rich are collectively referred to herein as the "Parties."

2. On June 15, 2000, EEOC initiated this action by filing its Complaint against Sun-Rich in the United States District Court for the Middle District of Florida, Ft. Myers Division, Civil Action No.: 00-CIV-FTM-21D. EEOC's Complaint alleged that Sun-Rich violated Title VII of the Civil Rights of 1964, ("Title VII"), as amended. The Complaint arose out of

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allegations in EEOC charges filed by Antonin (a/k/a Antoine) Leveque, Wislin Damas, Marie Semervil, Islande Regis, Anne Marie Joseph, Georges Jean-Denis, Michelle Dubois, Eugenie Belsnice, Agathe Charleus, Erilia Francois, Examene Dorvilus, Antonia Benjamin, EEOC Charge Nos. 150-A0-0953 through 150-A0-0961 and 150-A0-1247 through 150-A0-1249, against their former employer, Sun-Rich. Specifically, the Commission's Complaint alleges that Sun-Rich violated Title VII and discriminated against the Charging Parties on the basis of race and national origin when it temporarily laid off, and then refused to re-hire, the Charging Parties, and similarly situated individuals, and replaced them with non-blacks and non-Haitians.

3. Sun-Rich answered the Complaint, and denied liability and specifically denied engaging in any discriminatory employment practices. Neither this Decree nor the furnishing of any payment to any Individual Claimant under this Decree shall be construed as an admission by Sun-Rich of any liability or unlawful conduct. To the contrary, Sun-Rich denies that it is in any way liable to the EEOC or any Individual Claimant.

3.A. In the interests of resolving this matter, to avoid the costs of litigation, and as a result of having engaged in extensive settlement negotiations, the Parties have agreed that this action should be finally resolved by the entry of this Consent Decree ("Decree"). This Decree is final and binding upon the Parties, their successors and assigns.

4. The Parties agree that this Decree resolves all issues raised against Sun-Rich in EEOC Charge Nos. 150-A0-0953 through 150-A0-0961 and 150-A0-1247 through 150-A0-1249, and the EEOC's Complaint filed in this action, and constitutes a complete resolution of all claims that were made by the Commission against Sun-Rich in this action. The Parties further agree that this Decree does not resolve any Charges of Discrimination that may be pending with the EEOC, other than the Charges referred to in this paragraph or those that may be released by

Identified or Eligible Claimants pursuant to this Consent Decree. The Parties acknowledge that there are no other charges pending with the EEOC alleging unlawful employment practices by Sun-Rich at its Immokalee, Florida facility other than the Charges referred to in this paragraph, and this Consent Decree resolves any and all issues between the parties hereto regarding any and all Charges filed against the Defendant alleging unlawful employment practices in Immokalee, Florida.

5. This Decree constitutes the complete and exclusive agreement between the Parties with respect to the matters referred to herein. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Decree. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this Decree and approved or ordered by the Court.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings filed by the parties, it is **ORDERED, ADJUDGED AND DECREED THAT:**

JURISDICTION AND VENUE

6. This Court has jurisdiction of the subject matter of this action and over the Parties for the purposes of entering and enforcing this Decree. Venue is proper.

GENERAL INJUNCTIVE PROVISIONS

7. Defendant Sun-Rich, its officers and/or employees, agree not to engage in conduct which violates Title VII by adversely affecting the terms and conditions of any individual's employment because of the race and/or national origin of that individual. Sun-Rich is specifically enjoined from a) discharging or laying off an employee; and/or b) failing to hire an applicant for employment based on race and/or national origin.

8. Defendant Sun-Rich, its officers and/or employees, agree not to discriminate against any employee or applicant for employment who opposes any of Defendant's practices which the employee believes to be a violation of Title VII; who files a charge of discrimination with the EEOC alleging violation(s) of such statute; who cooperates with the EEOC in the investigation and/or prosecution of any charge of discrimination; or who cooperated in the investigation or prosecution of this case.

POLICY AND TRAINING

9. Sun-Rich shall maintain written policies and procedures of compliance with Title VII and against discrimination based on race and national origin. A copy of Defendant's Title VII compliance policy is attached hereto as Exhibit A. Sun-Rich shall ensure that a complete copy of its Title VII policy is issued to: 1) all of Sun-Rich's current employees at all of its facilities located in Florida within one (1) month of the entry of this Decree; and 2) all new Sun-Rich employees within ten (10) days of employment. The written policy and procedures shall be given to the aforementioned employees in English, Spanish and Creole.

10. In order to further ensure the effective implementation of Defendant's anti-discrimination policies and procedures, Sun-Rich will conduct training on all aspects of Title VII for all of its managers and supervisory personnel at its Immokalee facility located in Florida. This training will include special emphasis on the proper procedure to be followed in the event that a layoff becomes necessary. Such training will be at least four (4) hours in length during the first year of this Decree and two (2) hours thereafter each year for the duration of this Decree, and will be conducted by either Baker & McKenzie or Averill G. Marcus, Esq. The training must be completed within three (3) months of the entry of this Decree, but no later than July 31, 2002. The training would be videotaped for viewing by any newly hired supervisors who are

hired after the training session. The curriculum would be on general avoidance of employment discrimination problems and abiding by federal employment discrimination laws in making personnel decisions such as terminations and layoffs. Sun-Rich will notify the EEOC two weeks in advance of the training, including the names of employees scheduled to attend the training. Sun-Rich agrees to furnish the EEOC with at least two (2) weeks notice before it conducts any of its training sessions including, but not limited to, notice regarding the dates and locations of the training, copies of any and all training materials, including videotapes, to be used at the training sessions, and a complete list of names and titles of all employees who were in attendance at the training sessions.

11. Sun-Rich also agrees that the training described in paragraph 10 above shall be given to all new managers and supervisors to be employed by Sun-Rich within two (2) months of being placed in a management or supervisory position.

POSTING

12. Within fourteen (14) days from the entry of this Decree, Sun-Rich will post 11"x17" size copies of the Notice attached hereto as Exhibit B. Specifically, the Notice will be posted in Creole, Spanish and English on an employee bulletin board, in or around the water drinking area, and any bulletin board accessible to tomato packers. Said Notice shall be posted in conspicuous locations accessible to all employees at all of Defendant's facilities in Florida. This Notice shall remain posted for the term of this Consent Decree.

REPORTING AND MONITORING

13. Within four (4) months of the entry of this Decree, or no later than July 31, 2002, Sun-Rich will provide the EEOC with a complete list of all managers and supervisors who have received the training described in paragraphs 10 and 11 above. Thereafter, on an annual basis,

and continuing annually throughout the duration of this Decree, but not later than July 31, Sun-Rich will provide the EEOC with: a) a certification that they conducted the training referenced in paragraph 10 and 11 above within fourteen (14) days after each session occurs; and b) a complete list of all managers and supervisors who received the training described in paragraphs 10 and 11 above, along with the date each individual was placed in a management or supervisory position.

14. Commencing one (1) month after the entry of this Decree, and continuing on an annual basis throughout the duration of this Decree, Sun-Rich will provide the EEOC with copies of the following: (1) all applications received from applicants; (2) entries made in the applicant log book; (3) certified letters mailed to applicants for employment interviews; (4) names of hires; (5) dates of hire; and (6) race of persons hired, if indicated.

15. Sun-Rich will retain all employment records relating in any way to any complaint, allegation and/or investigation of racial discrimination or national origin discrimination at any of Defendant's facilities. Sun-Rich will also retain copies of all employment records relating to all of its employees in Florida including, but not limited to, all applications for employment. The records referenced herein will be maintained for the duration of this Decree, or as required by federal law, whichever is longer.

16. Sun-Rich agrees to provide the EEOC with certification that they posted the Notice referenced in paragraph 12 within fourteen (14) days from the Court's execution of this Decree.

17. Sun-Rich will forward all certifications and reporting and monitoring information referenced in paragraph 13 through 15 herein, as well as any copies of their training sessions as referenced in paragraphs 10 and 11 above, to the attention of M. Teresa Rodriguez, EEOC Trial

Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

MONETARY RELIEF, NOTICE AND CLAIMS PROCEDURE

18. Sun-Rich agrees to pay the aggregate amount of Two Hundred, Ten Thousand Dollars (\$210,000.00) in full settlement of this cause of action. The monies will be paid to the claimants identified in Exhibit C and in the dollar amounts set forth therein. These dollar amounts are representative of compensatory damages. In order to receive any payment from the Defendant, an Individual Claimant must sign a release of claims as provided by Sun-Rich. This Decree will be presented to the Court after all Individual Claimants have agreed to the terms of the individual settlement amount and have each signed a release of claims agreement.

19. *Claimants' Responsibilities.* It shall be the sole responsibility of each claimant referred to herein to advise the EEOC promptly of his or her change of address.

ENFORCEMENT OF DECREE

20. The Commission shall have independent authority to seek the judicial enforcement of any aspect, term or provision of this Decree. No party shall contest the validity of this Decree, nor the jurisdiction of the Federal District Court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement action upon breach of any term of this Decree by any party. Nothing in this Decree shall be construed to preclude the EEOC from enforcing this Decree in the event that Sun-Rich fails to perform the promises and representations contained herein. The EEOC shall determine whether Sun-Rich has complied

with the terms of this Decree and shall be authorized to seek compliance with the Decree by civil action filed with this Court. The Court shall retain jurisdiction over any such proceeding arising from any act, or failure to act occurring during the duration of this Decree.

ATTORNEY'S FEES AND COSTS

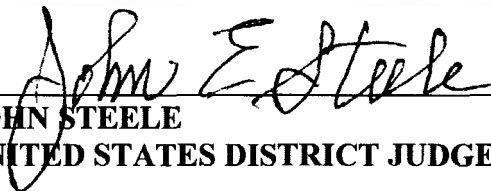
21. Each Party shall bear its own costs and attorney's fees associated with this litigation.

DURATION AND ENFORCEMENT OF CONSENT DECREE

22. The effective date of this Decree shall be the date when the Court enters its Order approving the Decree.

23. This Consent Decree shall continue in full force and effect for a period of three (3) years from the date of entry of the Decree.

SO ORDERED, ADJUDGED AND DECREED, this 14th day of March, 2002 ~~December, 2001~~.

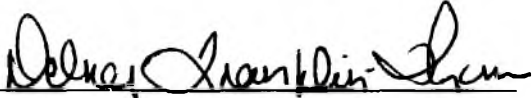


JOHN STEELE
UNITED STATES DISTRICT JUDGE

2002 MAR 14 AM 11:09
CLERK U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

FILED

AGREED TO:
FOR THE PLAINTIFF,
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

By: 
Delner Franklin-Thomas, Esq.
Regional Attorney
U.S. Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131

Date: 1/14/02

AGREED TO:
FOR THE DEFENDANT,
SUN-RICH OF IMMOKALEE, INC.

By: 

Date: 1/22/02

AGREED TO:
FOR THE PLAINTIFF/INTERVENERS,
FLORIDA RURAL LEGAL SERVICES, INC.
423 Fern Street, Suite 220
Post Office Box 3623 (33402)
West Palm Beach, Florida 33401

By: Sally G. Schmidt
Sally Schmidt, Esq.

Date: 12/20/01

EXHIBIT "A"

**EQUAL EMPLOYMENT OPPORTUNITY, ANTI-HARASSMENT,
AND NON-DISCRIMINATION POLICY - NOTICE TO EMPLOYEES AND
AND MANAGERS REGARDING WORKPLACE RESPONSIBILITIES
AND THE RIGHTS OF FELLOW EMPLOYEES**

Statement Of Policy

It is the policy and practice of the Company to provide and promote equal employment opportunities for all applicants and employees. The Company is firmly committed to maintaining a workplace based on our collective values which stress the quality of our products and services, the importance of teamwork, and the need for all employees to treat each other with dignity, fairness, and respect. Therefore, it is the responsibility of all employees to ensure that the concepts of equal employment opportunity, non-harassment, and non-discrimination are understood, abided by, and carried out by everyone.

**Prohibition On
Discrimination And Harassment**

It is the policy of the Company to hire, train, promote, compensate, and administer all employment practices without regard to race, color, sex, sexual orientation, age, veteran status, marital status, religion, medical condition, national origin, disability unrelated to the ability to perform essential job functions, or on account of membership in any protected category under federal, state, or local laws. Harassment of employees or applicants because they are members or affiliated with members of any of the foregoing protected groups is also prohibited and will not be tolerated. The Company will take appropriate measures in response to any such incidents which are reported. Every good faith effort will be taken by the Company to fulfill the objectives of this policy.

The Company believes that every employee has the right to work in an environment totally free of harassment and discriminatory conduct, joking, or epithets. Such behavior does not advance the purposes of our Company; it is also morally wrong, and may subject the Company to legal exposure in certain circumstances. Toward that end, the Company's policy sets a standard of conduct that is higher than what federal, state, and local laws may require, as it forbids discriminatory or harassing conduct of the kind described in this policy even if the conduct does not rise to the level of a violation of applicable law. Consequently, any employee who engages in these types of prohibited conduct will be subject to disciplinary action, up to and including termination.

**Conduct Constituting Prohibited
Sexual Or Discriminatory Harassment**

Sexual harassment (due to one's gender) is one of the forms of harassment forbidden by this policy. The Company prohibits certain sex-related conduct regardless of whether it amounts to unlawful sexual harassment, as such conduct is deemed to be inconsistent with the Company's policy of promoting tolerance, respect, and dignity in the workplace.

For example, and without compiling an exhaustive list, the following are illustrative of conduct that the Company condemns and prohibits under this policy regardless of whether the conduct is based on gender or results in an adverse employment action and regardless of whether the conduct is severe or pervasive enough to create an unlawful hostile environment:

- (a) It is prohibited for any person to condition a benefit such as a certain salary or promotion on the granting of sexual favors or the establishment or continuance of a personal relationship, or to imply to an employee that an award of such a benefit is conditioned upon the granting of sexual favors or the establishment or continuance of a personal relationship;
- (b) It is also prohibited for any employee to state or imply that another employee's performance is attributable in whole or in part to the employee's sex or membership in any protected-group categories under federal, state, or local laws;

(c) It is also prohibited for any employee to state or imply that a fellow employee's promotion has resulted from the granting of a sexual favor or relationship; and,

(d) It is also prohibited for any person to engage in any type of conduct which has the effect of unreasonably interfering with another employee's work or creates an intimidating, hostile, or offensive work environment.

As an employee of the Company, you should be aware that the issue of whether behavior constitutes harassment or discriminatory conduct might depend on how that behavior is viewed by the employee who is subjected to the behavior. Any employee who initiates or persists in such prohibited behavior assumes the risk of violating this policy in the event that the person who is the object of the behavior views it as offensive; accordingly, such an employee may be subject to discipline even if his or his conduct might not have been intended as offensive.

**Conduct Constituting Sexual
Or Discriminatory Conduct, Joking, Or Epithets**

For example, and without compiling an exhaustive list, the following are illustrative of conduct that the Company condemns and prohibits under this policy:

(a) It is prohibited for any employee to bring any item to the work premises for purposes of an offensive sexual or discriminatory joke or epithet;

(b) It is also prohibited for any employee to use Company property, bulletin boards, documents, or e-mail or voice mail systems for purposes of an offensive sexual or discriminatory joke or epithet;

(c) It is also prohibited for any employee to deface Company property or the personal property of anyone else for purposes of an offensive sexual or discriminatory joke or epithet;

(d) It is also prohibited for any employee to utter or utilize any offensive sexual or discriminatory jokes or epithets at work, or when referring to or about any other person, be they an employee or a non-employee;

(e) It is also prohibited for any employee to harass anyone else due to their sex, sexual orientation, race, color, ethnic background, age, national origin, religion, marital status, disability, or other protected-group status; and,

(f) It is also prohibited for any employee to bring to or display in the workplace any materials having an offensive content (such as pornography or due to a demeaning reference to another's protected-group status), or to circulate or disseminate any such materials through the Company's internal mail or e-mail systems.

Application Of The Policy To Non-Company Employees

The Company's policy also applies to the dealings of any employee with non-employees such as customers, vendors, and members of the public. Furthermore, the policy also applies to individuals who do business with the Company, who are present on the Company's premises, or who interact with any employee of the Company while the employee is on-duty.

Procedure Upon Occurrence Of Prohibited Conduct

Employees who believe they have been subjected or exposed to discrimination or harassment prohibited by this policy have the right to have any such activity terminated immediately. Every employee has a role in preventing discrimination and harassment. Every employee must avoid any conduct that reasonably could be interpreted as discrimination or harassment under this policy, and every employee should indicate when another person's conduct in the workplace is unwelcome. In addition, every employee should endeavor to protect other employees from discrimination and harassment. Employees are expected and encouraged to inform others in the workplace whenever their conduct is unwelcome, offensive, inappropriate, or in poor taste. Therefore, employees are required to come forward promptly and report any problems pursuant to this policy before the alleged offending behavior becomes severe or pervasive. In addition, employees should come forward with complaints about alleged problems

or violations of the Company's policy at any time. Complaints need not be limited to someone who was the target of the alleged offending conduct. Anyone who has observed an alleged violation of the policy is also encouraged to report it to the Company.

Reporting Procedures

If an employee experiences or witnesses any conduct that he or she believes is inconsistent with this policy, the Company expects the employee to notify immediately one or more of the people designated below. The Company has convenient and reliable mechanisms in place for reporting alleged violations of the policy. Complaints will be accepted in writing or orally. Complaints can be directed to multiple persons within the Company, including:

- An employee's supervisor;
- Any member of the HR staff; or,
- Any member of management.

All complaints shall be treated in a confidential manner to the extent possible. Upon receipt of a complaint or in circumstances where the Company becomes aware of alleged offending conduct, a prompt, thorough, and impartial investigation shall be made concerning any alleged offending conduct. If the investigation leads to a determination that an individual engaged in conduct in violation of the Company's policy, appropriate corrective action will be taken immediately, including the possible termination of the offending party. In investigating complaints under this policy, the Company may impose discipline for inappropriate conduct that comes to the Company's attention, without regard to whether the conduct constitutes a violation of law.

Prohibition On Retaliation

The Company will not tolerate adverse treatment of any employee because he or she reports harassment or discrimination, or provides information related to such complaints. As this policy strictly prohibits retaliation of any form against anyone who complains of alleged violations of this policy, the prohibition against retaliation also applies to any employee involved

in or cooperating with any investigation of alleged offending conduct under this policy. Thus, a supervisor is prohibited from making any personnel decision or taking any other adverse action against any employee because the employee complained or cooperated in good faith with an investigation of alleged conduct prohibited by this policy. Any acts of retaliation will be considered a violation of this policy, and corrective action will be taken immediately, including the possible termination of any individual who engages in retaliation of any form.

Acknowledgment Of Receipt And Understanding Of The Company's Equal Employment Opportunity, Anti-Harassment, And Non-Discrimination Policy

My signature below acknowledges and certifies that I have received, read, and understand the Company's equal employment opportunity, anti-harassment, and non-discrimination policy and complaint procedure. I have familiarized myself with the policy and complaint procedure, and I understand and agree that abiding by this policy is required by the Company.

SIGNED:

Employee Signature

DATE:

SIGNED:

Supervisor's Signature

DATE:

EXHIBIT "B"
NOTICE TO ALL EMPLOYEES

This notice is being posted pursuant to a Consent Decree entered by the Court in EEOC v. Sun-Rich, Inc. of Immokalee, Civil Action No.: 00-CIV-264-FTM-21D in the Middle District of Florida. Sun-Rich will not discriminate against employees in violation of Title VII of the Civil Rights Act, as amended, ("Title VII"). Title VII protects individuals from unlawful discrimination in all aspects of their employment, including hiring, layoffs, promotions and discharge. Title VII protects individuals from discrimination in employment because of their race, national origin, religion, color or gender. Specifically, Sun-Rich will not discriminate against its employees by subjecting them to layoff or discharge from their employment, or by failing to hire potential employees, on the basis of their race or national origin. The law also protects such employees from retaliation for opposing any employment practice deemed unlawful by Title VII, or for participating in any investigation, proceeding or hearing conducted pursuant to Title VII.

Sun-Rich does not condone discrimination of any kind as prohibited under Title VII. Furthermore, Sun-Rich assures its employees that it supports Title VII, and will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, shall be taken against any employee, including management personnel, found to violate the company's policies regarding race and national origin discrimination.

This notice shall remain posted for three (3) years from the date signed. Employees or applicants for employment who have questions about their rights under Title VII, or any other federal anti-discrimination law, may telephone the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000 or (305) 530-7100.

Signed this ____ day of _____, 2001.

President
Sun-Rich Of Immokalee, Inc.

EXHIBIT C

1. Agathe Charleus.....\$40,000.00
2. Anne Jean.....\$21,250.00
3. Leosthene Phenix.....\$21,250.00
4. Adriana Jean-Jacques.....\$21,250.00
5. Marie Adonis.....\$21,250.00
6. Rose Duclaire.....\$21,250.00
7. Shine Joseph.....\$21,250.00
8. Anita Dijeuste.....\$21,250.00
9. Maurice Pierre.....\$21,250.00

Date Printed: 03/14/2002

00-264

Notice sent to:

- Frank H. Henry, Esq.
Baker & McKenzie
1200 Brickell Ave., Suite 1900
Miami, FL 33131-2827
- Neil McGuinness, Esq.
Baker & McKenzie
1200 Brickell Ave., Suite 1900
Miami, FL 33131-2827
- Laurie L. Martin, Esq.
Baker & McKenzie
4500 Trammel Crow Center
2001 Ross Ave.
Dallas, TX 75201
- Steven A. Miller, Esq.
Baker & McKenzie
2800 One Prudential Plaza
130 E. Randolph Dr.
Chicago, IL 60601
- Gerald Maatman Jr., Esq.
Baker & McKenzie
2800 One Prudential Plaza
130 E. Randolph Dr.
Chicago, IL 60601
- Jennifer H. Zawid, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131
- C. Gregory Stewart, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131
- Gwendoln Y. Reams, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131
- Delner Franklin-Thomas, Esq.
Equal Employment Opportunity Commission
Miami District Office

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One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— Gilbert Carrillo, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— M. Teresa Rodriguez, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— Lisa A. Carmona, Esq.
Florida Rural Legal Services, Inc.
423 Fern St.
Suite 220
West Palm Beach, FL 33401

— Sally Gayle Schmidt, Esq.
Florida Rural Legal Services, Inc.
423 Fern St.
Suite 220
West Palm Beach, FL 33401