CC: TO JUDGE PM

THE HONORABLE BARBARA ROTHSTEIN

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Plaintiff, and CLEVELAND GAMBLE Plaintiff-Intervenor v. WASHINGTON ENERGY SERVICES CO., and BLUE DOT SERVICES CO. OF WASHINGTON Defendant.	CIVIL NO. C01-0836R ~~PROPOSED~~ BJR CONSENT DECREE AND ORDER DISMISSING ACTION

CV 01-00836 #00000025

CTC, BJR, jgm bk

I. INTRODUCTION

1. This action originated with a discrimination charge filed by Cleveland Gamble with the Equal Employment Opportunity Commission ("EEOC or the Commission") on

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March 21, 2000. Mr. Gamble alleged that Washington Energy Services Co and Blue Dot Services Co. of Washington ("WESCO/Blue Dot" or "defendants") discriminated against Mr. Gamble based upon his race (Black) and sex (male) in violation of Title VII of the Civil Rights Act of 1964, 42 U.S C.§ 2000e, et seq. ("Title VII"). Mr. Gamble further alleged that when he complained about the unlawful discrimination, he was retaliated against and ultimately terminated from his employment.

2. On March 26, 2001, the EEOC issued a Letter of Determination with a finding of reasonable cause that WESCO/Blue Dot violated Title VII by discriminating against Mr. Gamble on the basis of his race and sex and by retaliating against and ultimately terminating him when he complained of the discrimination.

3. The Commission filed its First Amended Complaint on August 6, 2001 in the United States District Court for the Western District of Washington at Seattle. The complaint alleges that WESCO/Blue Dot violated Title VII by discriminating against Mr. Gamble based upon his race (Black) and sex (male) in violation of Title VII. The complaint further alleged that when Mr. Gamble complained about the unlawful discrimination, he was retaliated against and ultimately terminated from his employment.

4. Cleveland Gamble filed a motion to intervene in the lawsuit filed by EEOC and the Court entered an order granting intervention on September 10, 2001.

5. Defendant denied the allegations of discrimination in the EEOC's complaint and in Plaintiff-Intervenor's complaint and asserted several affirmative defenses.

6. The parties want to conclude fully and finally all claims arising out of EEOC's complaint, Plaintiff-Intervenor's complaint and the charge of discrimination filed with EEOC

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by Cleveland Gamble. They enter into this Consent Decree to further the objectives of equal employment as set forth in Title VII.

II. NONADMISSION OF LIABILITY AND NONDETERMINATION BY THE COURT

7. This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission by defendant of a violation of Title VII.

III. JURISDICTION AND VENUE

8. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a The employment practices alleged to be unlawful in the complaint filed herein occurred within the jurisdiction of the United States District Court for the Western District of Washington.

IV. SETTLEMENT SCOPE

9. This Consent Decree is the final and complete resolution of all allegations of unlawful employment practices contained in Mr. Gamble's discrimination charge, in the EEOC's administrative determinations, and in the complaints filed herein, including all claims by the parties for attorney fees and costs.

V MONETARY RELIEF

10. In settlement of his complaint under Title VII, WESCO/Blue Dot agrees to pay Cleveland Gamble Seventy-five Thousand Dollars ($75,000.00). Distribution of settlement funds will be handled by Plaintiff-Intervenors' private counsel.

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VI. AFFIRMATIVE AND OTHER RELIEF

A. General Provisions

11. WESCO/Blue Dot affirms its obligations under Title VII of the Civil Rights Act of 1964, 42 U.S.C.§ 2000e, et seq

12. WESCO/Blue Dot will institute the policies and practices set forth below, in paragraphs 13 through 18, at its Magnolia location for its Magnolia employees. Such paragraphs shall not apply to Defendants' other locations or employees.

B. Anti-Discrimination Policies and Procedures

13. WESCO/Blue Dot shall institute and carry out anti-discrimination policies, procedures and training for employees, supervisors and management personnel, to the extent not already established. WESCO/Blue Dot will train their managers and supervisors to understand its Equal Employment Opportunity (EEO) policies and how those policies define and identify what constitutes employment discrimination.

14. Within forty-five (45) days of the date of the effective date of this Consent Decree, WESCO/Blue Dot will distribute a written copy of its EEO policy to all present and future employees, both management and non-management. WESCO/Blue Dot will provide EEOC with a written copy of its EEO policy as part of its first semi-annual report as provided in paragraph 18 below.

C. Training

15. Within one hundred twenty (120) days after entry of this Consent Decree, WESCO/Blue Dot will develop and present to all managers and supervisors a minimum of two (2) hours of training on employment discrimination and a minimum of two (2) hours of

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such training to non-management employees.

16. WESCO/Blue Dot will notify the EEOC of the completion of the training and will specify the names and job titles of the employees who participated in and completed the training as part of its first semi-annual report to the EEOC.

D. Reporting

17. WESCO/Blue Dot shall report in writing to the EEOC on a semi-annual basis, beginning six (6) months from the date of the entry of this decree, and thereafter every six (6) months for the duration of the decree the following information:

a. Certification of the completion of two (2) hours of training and list of attendees; (first report only)

b. Certification that its EEO policy has been distributed to all current and newly hired employees;

c. A list of any changes, modifications, revocations or revisions to its EEO policies and procedures which concern or affect the subject of discrimination based on race, sex or retaliation.

d. A summary of complaints of discrimination based on race and sex, if any, filed with the Human Resource person(s) responsible for the Magnolia operation by employees working at WESCO/Blue Dot's Magnolia location, and the resolution of each complaint; and

e. A statement listing the other provisions of this decree that defendants are required to perform and certifying that WESCO/Blue Dot has complied with the terms of the Decree. If WESCO/Blue Dot has not complied with any term of the Decree, the statement will specify the areas of noncompliance, the reason for the noncompliance, and the steps taken to bring the defendants into compliance.

E. Posting

18. The company will post a notice, attached as Exhibit 1 to this Consent Decree. The notice shall be posted on a centrally located bulletin board at WESCO/Blue Dot's

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Magnolia offices for thirty (30) days.

VII ENFORCEMENT

19. If the EEOC determines that WESCO/Blue Dot has not complied with the terms of this Decree, the EEOC will provide written notification of the alleged breach to WESCO/Blue Dot. The EEOC will not petition the court for enforcement of the Decree for at least sixty (60) days after providing written notification of the alleged breach. The 60-day period following the written notice shall be used by the parties for good faith efforts to resolve the dispute.

VIII. RETENTION OF JURISDICTION

20. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of the Decree.

IX. DURATION AND TERMINATION

21. This Decree shall be in effect for two (2) years beginning January 1, 2002 and ending January 1, 2004. If the EEOC petitions the Court for breach of the Decree, and the Court finds WESCO/Blue Dot to be in violation of the terms of the Decree, the Court may extend the duration of the decree.

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X. CONCLUSION

22. The parties are not bound by any provision of this Decree until it is signed by authorized representatives of each party and entered by the court.

Dated this 4th day of January 2002

A. LUIS LUCERO, JR.
Regional Attorney

KATHRYN OLSON
Supervisory Trial Attorney

LISA MORELLI GUARNERO
Senior Trial Attorney

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

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BY: Kathryn Olson

Attorney for Plaintiff

GWENDOLYN YOUNG REAMS
Associate General Counsel

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WAYNE HANSEN, ESQ

BY:_____

Attorney for Defendant

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ORDER APPROVING CONSENT DECREE

The Court having considered the foregoing stipulated agreement of the parties, IT IS HEREBY ORDERED THAT the foregoing Consent Decree be, and the same hereby is, approved as the final decree of this Court in full settlement of this action. This lawsuit is hereby dismissed with prejudice and without costs or attorneys' fees to any party The Court retains jurisdiction of this matter for purposes of enforcing the Consent Decree approved herein.

DATED this 14th day of January, 2002.

Barbara J. Rothstein
UNITED STATES DISTRICT JUDGE

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NOTICE TO ALL EMPLOYEES

This notice is being posted pursuant to an agreement between Washington Energy Services Co. and Blue Dot Services Co. of Washington and the U.S. Equal Employment Opportunity Commission, entered as the result of a settlement of a lawsuit pending in the federal district court for the Western District of Washington at Seattle, Civil No. C01-0836R.

Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, and the Americans with Disabilities Act of 1990 are enforced by the EEOC and require the following:

> That there be no discrimination against any employee or applicant for employment because of the employee's race, sex, color, religion, national origin, age (over age 40), or disability with respect to hiring, firing, compensation, or other terms, conditions or privileges of employment.
>
> It is an unlawful employment practice for an employer to retaliate against any employees or applicants for employment because they have opposed a practice or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under these statutes.

WESCO/Blue Dot will institute a training program to train its managers regarding the requirements of the above statutes, with particular emphasis on race, sex and retaliation discrimination.

DATED _____

Washington Energy Services Co. and
Blue Dot Services Co. of Washington

_____

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of **Consent Decree and Order Dismissing Action** to the party(s) listed below:

Lisa N. W. Dublin, Esq.
Wayne Hansen, Esq.
Jackson Lewis Schnitzler & Krupman
1420 5th Ave., Suite 2000
Seattle, WA 98101

Attorneys for Defendant

by the following indicated method or methods:

- by **mailing** a copy thereof in a sealed, first-class postage-paid envelope, addressed to the attorney(s) listed above, and deposited with the United States Postal Service at Seattle, Washington, on the date set forth below.

DATED This 4th Date of January, 2001.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Victoria Richardson

VICTORIA RICHARDSON
Paralegal

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