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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity Commission,  
Plaintiff,  
vs.  
American Home Furnishings, Inc.,  
Defendant.

No. CV 02-472-TUC-RCC  
**ORDER**

On March 23, 2005 the Court entered Judgment and awarded damages against Defendant because American Home Furnishings, Inc. was found guilty of committing discrimination against Ms. LaWanda Glenn when it failed to promote her due to racial animus (Docket No. 140). On March 30, 2005 Plaintiff filed it's Motion for Equitable Relief (Docket No. 143) pursuant to 42 U.S.C. § 2000e-5(g)(1) and 42 U.S.C. § 1217(a). That motion is granted.

**FACTUAL BACKGROUND**

LaWanda Glenn began working for Defendant American Home Furnishings in November 1992 as a salesperson in the Housewares Department. She later worked in the Credit Department (serving as a lead for about six years) and currently works in the Operations Department. Sometime in 2000, Ms. Glenn applied for the position of

1 Merchandise Coordinator and during the interview with the store manager, Melissa Roe,  
2 she was encouraged to apply for the position of Assistant Home Products Manager. Ms.  
3 Glenn applied for that position and was presented to Ted Leveque, Vice President of  
4 Stores, as the only qualified candidate. Although he has not before (and has not since)  
5 interviewed anyone else for an assistant manager position, Mr. Leveque interviewed Ms.  
6 Glenn for the position and then asked Ms. Roe for another candidate. Holly Schroeder was  
7 then asked to apply for the position, which she received without interviewing with Mr.  
8 Leveque. Ms. Glenn filed a complaint with the Arizona Civil Rights Division claiming racial  
9 discrimination and it issued a Reasonable Cause Determination on September 20, 2001. The  
10 EEOC issued its finding on June 17, 2002 and filed suit on behalf of Ms. Glenn on  
11 September 19, 2002.

12 This matter was tried to a jury, beginning March 15, 2005. The jury rendered its  
13 verdict on March 18, 2005, finding for the Plaintiff and against the Defendant and awarding  
14 \$5,000 in back pay, \$30,000 in compensatory damages, and \$85,000 in punitive damages.  
15 On March 23, 2005, a Judgment was entered consistent with the jury's findings.

## 16 **DISCUSSION**

17 “If the court finds that the respondent has intentionally engaged in or is  
18 intentionally engaging in an unlawful employment practice charged in the complaint, the  
19 court may enjoin the respondent from engaging in such unlawful employment practice, and  
20 order such affirmative action as may be appropriate . . . .” 42 U.S.C.A. § 2000e-5 (g)(1). The  
21 evidence presented at trial shows that American Home violated Title VII by discriminating  
22 against Ms. Glenn because of her race. American Home did not present “clear and  
23 convincing proof of no reasonable probability of further noncompliance with the law” nor  
24 is there any proof that American Home will not discriminate against other employees by  
25 way of retaliation for opposing unlawful practices or filing a charge of discrimination.

26 Based upon the evidence deduced at trial the jury found in pertinent part that; (1)  
27 American Home intentionally discriminated against Mr. Glenn because of her race when  
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1 it denied her a promotion to the position of Assistant Home Products Manager; and (2) the  
2 discriminating officials were American Home's owner and President, Lee Blaugrund, and  
3 its Vice President, Theodore Leveque. The EEOC seeks to enjoin American Home from  
4 future discrimination or retaliation against any of American Home's similarly situated  
5 employees. Injunctive relief would deter American Home from future unlawful  
6 discrimination and would protect the aggrieved employee and others similarly situated from  
7 the fear of retaliation for filing a Title VII charge. *See EEOC v. Goodyear Aerospace Corp.*,  
8 813 F.2d 1539, 1543 (9th Cir. 1987).

9 The injunctive relief sought by the EEOC would deter American Home from future  
10 unlawful discrimination and would protect the aggrieved employee and others similarly  
11 situated from the fear of retaliation for filing a Title VII claim. *EEOC v. Goodyear*  
12 *Aerospace Corp.*, 813 F.2d at 1543. In this case an injunction would (1) instruct Mr.  
13 Blaugrund and American Home that they must comply with federal law; (2) subject the  
14 company to the contempt power of the federal courts if American Home commits future  
15 violations; and (3) reduce the chilling effect of any retaliation on American Home's  
16 employees' exercise of their Title VII rights. *Id.* at 1544.

17 The EEOC states the evidence shows that each element of equitable relief sought  
18 is appropriate and necessary to accomplish the goal of eradicating discrimination and  
19 preventing the recurrence of discrimination in American Home's workplace. The Court  
20 agrees. Accordingly,

21 **IT IS HEREBY ORDERED** that EEOC's Request for Equitable Relief (Docket No. 143) is  
22 **GRANTED** as follows:

- 23
- 24 1. American Home Furnishings (“American Home”), and its officers, agents,  
25 employee(s), successors, assigns and all persons in active concert or participation  
26 within, are permanently enjoined from discriminating against any individual based  
27 on his or her race and from retaliating against any employee or former employee of  
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1 American Home who has opposed any act or practice made unlawful by Title VII of  
2 the Civil Rights Act of 1964, or because he or she made a charge, testified, assisted,  
3 or participated in any manner in an investigation, proceeding, or hearing under Title  
4 VII.

5 2. To the extent necessary, American Home will expunge from the personnel files of  
6 Ms. Glenn (a) all references to the charges of discrimination filed against Defendant  
7 that formed the basis of this action; (b) all references to Ms. Glenn's participation  
8 in this action since she filed her charge of discrimination.

9 3. Within thirty (30) business days after entry of the final Judgment in this matter,  
10 American Home shall provide LaWanda Glenn a letter of recommendation addressed  
11 "To Whom It May Concern." In this letter, Defendant shall provide Ms. Glenn with  
12 a positive recommendation, reflecting her work history with Defendant and job  
13 performance as reported in her performance evaluations prior to Ms. Glenn filing a  
14 charge of discrimination. The letter shall be subject to the approval of Ms. Glenn.  
15

16 4. American Home shall provide training on Title VII according to the following terms.:  
17 A. American Home shall retain and pay for a consultant. The consultant shall  
18 also evaluate American Home's training programs on Title VII and on  
19 recruiting, hiring, and promoting, including all videotapes and training  
20 manuals and make a written report, including recommendations. The  
21 evaluation shall include an assessment concerning the adequacy of  
22 Defendant's training programs as well as recommendations to improve such  
23 programs. The evaluation shall be submitted to American Home and to the  
24 Regional Attorney of the Phoenix District Office of the Equal Employment  
25 Opportunity Commission at the address in paragraph 8 within ninety (90)  
26 days of entry of the Final Judgment in this matter.  
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B. The consultant shall be a person(s) acceptable to the Commission. American Home shall submit the name, address, telephone number, and resume of the proposed consultant(s) together with the dates of the proposed training seminars and the details of the contents of the training to the Regional Attorney of the Phoenix District Office of the Equal Employment Opportunity Commission at the address in paragraph 8 at least ninety (90) days prior to the proposed date of the training. The Commission shall have thirty (30) days from the date of the receipt of the listing of the proposed consultant(s) and contents of the training program. If the Commission does not approve American Home's consultant and/or the contents of the seminar, the Commission and American Home make every reasonable attempt to resolve the matter. In the event the Commission and American Home are unable to resolve the matter, the parties shall bring the issue(s) to the Court for resolution at least thirty days prior to the scheduled training session.

C. The consultant shall provide training to all American Home employees in the States of Arizona and New Mexico, including, but limited to, all supervisors, managers, management officials, and all Human Resource officials, including employees eligible to pre-screen applicants. All employees, including, but not limited to, supervisors, managers, management officials, and employees who recruit, hire, promote and discipline employees, and all human resource employees shall attend the training sessions. American Home may, at its election, have more than one training session each year to accommodate staffing needs. The training session shall include classroom instruction by the consultant and not be provided exclusively by videotape, self-directed or self-paced use of training manuals and/or satellite. The first training session shall be conducted within four months of the entry of Final Judgment in this matter. The second, third, fourth and fifth training session

1 for each store shall be conducted between nine and twelve months after the  
2 completion of the proceeding session.

3 D. The training session(s) shall be designed by the consultant. The training  
4 instruction shall include time permitted for questions and answers. The  
5 initial training sessions shall include an overview of Title VII and its  
6 purposes; what constitutes discrimination under Title VII including the  
7 definition of discrimination, types of prohibited activities including steering  
8 and/or limiting individuals from specific job positions because of an unlawful  
9 basis; that discrimination in the hiring, firing, promoting, compensation,  
10 assignment or other terms, conditions or privileges of employment and  
11 retaliation violate Title VII; a clear and unequivocal statement that  
12 discrimination based on race or retaliation is prohibited and will not be  
13 tolerated; American Home's policies and procedures for hiring and promoting  
14 individuals; a clear and strong encouragement of persons who believe they  
15 have been discriminated or retaliated against to report such concerns as well  
16 as to whom and by what means employees may complain; a if they feel they  
17 have been subjected discrimination because of any basis protected by Title  
18 VII; a promise of maximum feasible confidentiality for persons who believe  
19 that they have been subjected to unlawful discrimination based on race or  
20 retaliation; a description of the consequences, up to and including  
21 termination, that will be imposed upon violators of Defendant's of  
22 Defendant's anti-discrimination policies.

23 5. Within ninety (90) days of entry of the final Judgment in this matter, American Home  
24 shall update its employee manuals and its promotion procedures to include a section which  
25 address the issue of steering and limiting persons to specific job positions, including Title  
26 VII's prohibition against steering and limiting persons because of a basis protected by Title  
27 VII, what constitutes steering and limiting, a statement that American Home opposes  
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1 steering and limiting applicants and employees because of any protected basis, and the  
2 need to consistently follow its promotion and transfer policies and procedures. When  
3 these policies are updated, they shall be discriminated to all employees and management  
4 officials.

5 6. The Commission, at its discretion, may designate Commission representatives to  
6 attend and participate in the training sessions described in the Order and the  
7 representatives shall have the right to attend and fully participate in the sessions.

8 7. American Home shall evaluate its policies prohibiting race discrimination and  
9 retaliation for its accuracy and effectiveness in preventing violations of Title VII in  
10 its work places. Within ninety (90) days from its entry of final Judgment in this  
11 matter, American Home shall distribute its policies concerning race discrimination  
12 and retaliation with revisions, if any, to all employees at its facilities located in the  
13 States of Arizona and New Mexico.

14 8. American Home shall report in writing and in affidavit form to the Regional Attorney  
15 of the Commission's Phoenix District Office at 3300 N. Central Ave., Suite 690,  
16 Phoenix, Arizona 85012-1848, beginning six months from the date of the entry of the  
17 Court Order, and thereafter every six months for the duration of the Order the  
18 following information:

19 A. Any changes, modifications, revocations, or revisions to its policies and  
20 procedures which concern or affect the subject of disability discrimination  
21 and retaliation, including those changes required in this Order.

22 B. The name, address, position, social security number, and telephone number  
23 of any employee who has brought allegations of race discrimination, or  
24 retaliation against American Home personnel in the States of Arizona and  
25 New Mexico, including but not limited to management officials, vendors,  
26 agents, or employees during the six months preceding the report, and whose  
27 allegations are known to American Home. The nature of the complaint,  
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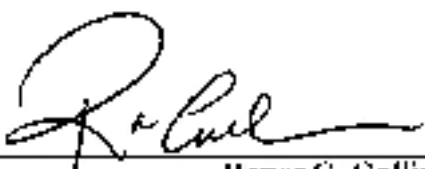
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investigatory efforts made by American Home and the corrective action taken, if any, shall be specified. The report required in paragraph 8 shall also be provided.

C. The registry of persons attending each training seminar required by this Order and a list of current personnel employed by each store in the States of Arizona and New Mexico on the day(s) of the seminar training sessions(s) within thirty (30) days after each training seminar.

D. American Home shall maintain a log of all requests for transfer and/or promotion. The log at a minimum shall include the individual's name, race, requested position, and the name and race of the individual selected for the position. The log shall be provided to the EEOC with the six-month reports required herein.

DATED this 11th day of May, 2006.

  
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Ramer C. Collins  
United States District Judge