



BJR 8/6/03 15:40
3:02-CV-01908 EEOC V. BAZAAR DEL MUNDO INC
15
STIPO.

ORIGINAL

1 ANNA Y. PARK, SBN 164242
2 PETER F. LAURA, SBN 116421
3 CONNIE LIEM, TX SBN 791113
4 U.S. EQUAL EMPLOYMENT
5 OPPORTUNITY COMMISSION
255 East Temple Street, 4th Floor
Los Angeles, CA 90012
Telephone: (213) 894-1076
Facsimile: (213) 894-1301

FILED



03 AUG -5 PM 2: 34

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

6 Attorneys for Plaintiff
7 U.S. EQUAL EMPLOYMENT
8 OPPORTUNITY COMMISSION

BY: DEPUTY

9 BELLE C. MASON, SBN 86981
10 BARRY M. APPELL, SBN 174324
11 SILVER & FREEDMAN, PLC
2029 Century Park East, 19th Floor
Los Angeles, CA 90067-2722
12 Telephone: (310) 556-2356
13 Facsimile: (310) 556-0832

14 Attorneys for Defendant
15 BAZAAR DEL MUNDO, INC.

16 **UNITED STATES DISTRICT COURT**
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 U.S. EQUAL EMPLOYMENT
19 OPPORTUNITY COMMISSION,

CASE NO. 02 CV 01908 W (RBB)

20 Plaintiff,

CONSENT DECREE

21 v.

22 BAZAAR DEL MUNDO, INC., a
California corporation;
and DOES 1 through 5, inclusive,

23 Defendants.

24
25 //
26 //
27 //
28 //

ENTERED ON 8/16/03

AUG 01 2003

OK

15

THE LITIGATION

In this action filed by Plaintiff, United States Equal Employment Opportunity Commission (the "Commission" or "EEOC"), the Commission alleged that Defendant, Bazaar Del Mundo, Inc., ("BDM") violated Title VII of the Civil Rights Act of 1964, as amended, by failing to hire Trina Akins and other similarly situated job applicants because of their race, African-American.

BDM denies that it violated Title VII of the Civil Rights Act of 1964, as amended. BDM contends that it hires all employees on the basis of job qualifications only and does not discriminate against any protected group.

As a result of their having engaged in settlement negotiations, the Commission and BDM have resolved their differences and have agreed that this action should be finally resolved by entry of this Consent Decree.

II.

FINDINGS

Having examined the terms and provisions of this Consent Decree and based on the pleadings, record and stipulations of the parties, the Court finds the following:

- A. The Court has jurisdiction of the subject matter of this action and of the parties;
- B. The terms and provisions of this Consent Decree are adequate, fair reasonable, equitable and just. The rights of BDM, the Commission and those for whom the Commission seeks relief are protected adequately by this Consent Decree;
- C. This Consent Decree conforms with the Federal Rules of Civil Procedure and Title VII, and is not in derogation of the rights and privileges of any person.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

III.

EFFECT OF DECREE

This Consent Decree resolves all issues and claims arising out of the Complaint filed by the EEOC herein alleging unlawful employment practices by BDM in violation of Title VII of the Civil Rights Act of 1964, as amended, and this Consent Decree shall be binding and final as to all such issues and claims.

This Consent Decree does not constitute an adjudication by this Court on the merits of the allegations of the EEOC's Complaint. Neither the agreement to enter into this Consent Decree nor any provisions herein constitute any admission whatsoever by either party as to the claims or defenses of the other.

This Consent Decree in no way affects the EEOC's rights to process charges against BDM not otherwise covered by this Consent Decree in accordance with standard EEOC procedures and to commence civil action on any such charges.

IV.

MONETARY RELIEF

BDM agrees to pay an aggregate amount of One Hundred Twenty Thousand Dollars (\$120,000.00)(the "Settlement Amount") to resolve this lawsuit as follows. Within ten (10) days of the entry of this Decree, EEOC shall mail to Charging Party and each claimant a letter informing them of the resolution of this suit and a release agreement in the form attached hereto as Exhibit A. The Charging Party and each claimant shall have twenty one (21) days from the date of their receipt of the release agreement to return to the EEOC the executed release agreement. Upon receipt of the executed release agreements from the Charging Party and the claimants, EEOC will forward the executed release agreements to BDM. Within fifteen days of its receipt of the executed releases, BDM shall mail, via certified mail, checks payable to the Charging Party and claimants in amounts determined by the EEOC. A copy of the checks and accompanying transmittal papers shall be contemporaneously forwarded to the attention of the Regional Attorney, US EEOC, 255 East Temple Street, 4th Floor,

2 Any of the Settlement Amount which is not distributed to the Charging Party
3 and claimants will be donated by BDM to a mutually agreed upon non-profit
4 organization benefitting African American job seekers.

5 V.

6 **INJUNCTIVE RELIEF**

7 BDM and its officers, agents, employees, successors and assigns, and all of
8 those in active concert or participation with them, or any of them, are enjoined from
9 engaging in any hiring practice which discriminates against African-Americans.

10 VI.

11 **EQUAL EMPLOYMENT OPPORTUNITY CONSULTANT**

12 Within sixty (60) days of the date of entry of this Consent Decree and for a
13 period of three (3) years from the date of entry of the Consent Decree, BDM shall
14 retain an Equal Employment Opportunity Consultant ("Consultant") with
15 demonstrated experience in the area of employment discrimination and sexual
16 harassment issues to implement and monitor BDM's compliance with Title VII and
17 with the provisions of this Consent Decree. The Consultant shall be subject to the
18 Commission's approval, which will not be unreasonably withheld. If the Commission
19 does not approve BDM's proposed consultant, the Commission shall provide BDM
20 with a list of at least three suggested candidates acceptable to the Commission. If
21 BDM is not in agreement with those suggested candidates, BDM and the Commission
22 shall attempt for 15 days to reach agreement on the identity of a consultant. If they
23 are not able to do so in that time frame, a consultant will be appointed by the Court
24 from the respective lists (of not more than two candidates each) submitted by each
25 party

26 The EEO Consultant's responsibilities shall include the development of
27 recruiting, screening, and hiring procedures, assisting in training BDM's supervisory
28 employees, assisting in the auditing procedures set forth in Section X(A) of this

1 Consent Decree, and ensuring compliance with this Consent Decree.

2 Any proposed changes in the designation of the EEO Consultant shall be
3 communicated to the EEOC in writing, within thirty (30) days of such designation, as
4 follows: BDM shall submit the name and credentials of the proposed Consultant to
5 the EEOC's Los Angeles District Office Regional Attorney for approval. If the
6 Regional Attorney does not approve the person proposed, she shall provide BDM with
7 a list of three acceptable candidates, from which list BDM shall select the EEO
8 Consultant. Subsequent replacement of the EEO Consultant requires the Regional
9 Attorney's approval, as set forth, above.

10 **VII.**

11 **POSTING OF NOTICE**

12 Within ten (10) business days of the entry of this Consent Decree, BDM shall
13 give a copy of the Notice attached as Exhibit "A" to each employee then employed by
14 BDM. At the same time, BDM shall conspicuously post a copy of the Notice at an
15 agreed upon location readily accessible to and commonly frequented by BDM's
16 employees. The Notice shall remain posted during the term of this Consent Decree.
17 BDM shall certify to the EEOC within twenty (20) business days of the entry of this
18 Consent Decree that the Notice has been properly distributed and posted.

19 **VIII.**

20 **TRAINING PROGRAM**

21 A minimum of four (4) hours of training on equal employment laws will be
22 provided at least once per year to all of BDM's supervisory employees over the term
23 of this Consent Decree. The trainings shall be monitored by the EEO Consultant.
24 Such training shall accurately and completely advise the BDM's supervisors of laws
25 and regulations concerning the prohibitions against discrimination with specific and
26 practical emphasis on applying such legal requirements within BDM's business
27 environment.

28 Within sixty (60) days of the entry of this Consent Decree, BDM shall retain a

1 Trainer with demonstrated experience in training in the area of employment
2 discrimination issues. The Trainer shall be subject to the Commission's approval,
3 which will not be unreasonably withheld. If the Commission does not approve BDM's
4 proposed Trainer, the Commission shall provide BDM with a list of at least three
5 suggested candidates acceptable to the Commission. If BDM is not in agreement with
6 those suggested candidates, BDM and the Commission shall attempt for 15 days to
7 reach agreement on the identity of a Trainer. If they are not able to do so in that time
8 frame, a Trainer will be appointed by the Court from the respective lists (of not more
9 than two candidates each) submitted by each party.

10 Any proposed changes in the designation of the person or entity providing the
11 trainings shall be communicated to the EEOC in writing, within thirty (30) days of
12 such designation, as follows: BDM shall submit the name and credentials of the
13 proposed trainer to the EEOC's Los Angeles District Office Regional Attorney for
14 approval. If the Regional Attorney does not approve the person or entity proposed,
15 she shall provide BDM with a list of three acceptable candidates, from which list
16 BDM shall select the trainer. Subsequent replacement of the trainer requires the
17 Regional Attorney's approval, as set forth, above.

18 **IX.**

19 **RECRUITING AND HIRING**

20 BDM shall endeavor to increase diversity in the workforce by undertaking
21 recruitment activities in the African-American community. For each twelve month
22 period beginning with the Effective Date during the term of this Consent Decree,
23 BDM shall endeavor to obtain a hiring rate of at least five (5) percent African-
24 American for each such twelve month period. In pursuing this endeavor, BDM may
25 engage in the following activities:

- 26 1. Advertise and actively recruit in the Black community in the San Diego
27 Metropolitan Area;
- 28 2. Advertise and actively recruit in minority publications such as the

Diversity Employment Journal;

- 3. Participate in job/career fairs in the Black community;
- 4. Advertise and actively recruit applicants in minority organizations of major colleges and universities in the San Diego Metropolitan Area; and
- 5. Any other procedures recommended by the EEO Consultant.

The EEOC agrees to assist BDM in this hiring endeavor by suggesting the following community resources:

- (i). Diversity Employment Journal
Attn: Oran Brown, Publisher
P.O. Box 740948
San Diego, CA. 92174-0948
(619) 264-4555
- (ii) Educational Cultural Complex
4343 Oceanview Blvd. Room 176
San Diego, CA. 92113
- (iii) Tubman/Chavez Community Center
415 Euclid Ave.
San Diego, CA. 92114

If BDM fails to meet this annual hiring endeavor, the EEOC shall review BDM's good faith compliance with its obligations under the Decree in order to determine whether BDM has violated the Decree. If BDM has acted in good faith in its hiring and recruiting practices, but, in spite of its good faith efforts, has not attained the hiring endeavor for that year, BDM will be excused from such non-compliance and shall not be deemed in violation of this section of the Decree. If, however, the EEOC contends that BDM has violated this provision of the Decree, the parties shall follow the procedure set out in Section XI for resolution of any dispute or enforcement of the Decree.

X.

RECORD KEEPING AND REPORTING

A. Audit Report

BDM shall work with the Consultant to establish an auditing procedure that provides for the monitoring of job applicant flow. Within sixty (60) calendar days

1 after each annual anniversary date of the Effective Date, BDM shall conduct an annual
2 audit of the previous twelve month period (the "Audit Period") and submit a written
3 report (the "Audit Report") to the EEOC stating the total number of persons in the
4 protected and unprotected classes who during the Audit Period:

- 5 1. Applied for jobs;
- 6 2. Were interviewed;
- 7 3. Were hired;
- 8 4. Were offered positions but declined the employment offer;
- 9 5. Voluntarily withdrew from consideration for a position and the reason(s)
10 for the withdrawal, if known by BDM; and
- 11 6. Were unresponsive to BDM's attempts to conduct in-person interviews
12 for positions.

13 BDM will request voluntary disclosure of racial data from applicants for the
14 limited purpose of assembling data and submitting the Audit Report to the EEOC as
15 provided herein. The parties agree that BDM's submission of incomplete data to the
16 EEOC in any Audit Report due to withholding of such data by any applicant shall not
17 constitute a violation of this Decree.

18 The EEOC shall have forty five (45) days from receipt of each Audit Report in
19 which to inspect the records and documents reviewed or relied upon by BDM in
20 compiling the Audit Report. If, after reviewing the Audit Report and BDM's records
21 and documents regarding the recruiting, screening, interviewing, selecting, rejecting
22 and/or hiring process for positions during the Audit Period, the EEOC believes that
23 BDM has violated any provision of the Decree during the Audit Period, it shall notify
24 BDM in writing of the alleged violation (the "Notification"). BDM shall have thirty
25 (30) days from receipt of the Notification to respond to the EEOC in writing regarding
26 the alleged violation. If the parties cannot reach agreement regarding the alleged
27 violation, the EEOC may apply to the Court pursuant to Section XI for enforcement of
28 the provisions of the Decree alleged to have been violated by BDM.

B. Reporting

In addition to providing the Audit Report to the EEOC specified above, BDM shall provide the following reports to the EEOC in writing, by mail or facsimile:

1. Within ninety (90) days after the Effective Date, BDM shall submit to the EEOC an initial report which contains:

(a) A copy of its recruiting, screening, and hiring procedures; and

(b) A summary of the procedures for auditing applications developed with the EEO Consultant for monitoring applicant flow.

2. BDM shall provide a report to the EEOC detailing any changes to the recruiting, selection, and hiring procedures and auditing methods for monitoring applicant flow within thirty (30) days before implementing such changes.

3. BDM shall also provide within twenty (20) days of completing the training pursuant to Section VIII above the attendance lists of all attendees for all training sessions required under this Decree that took place during the previous year.

XI.

COMPLIANCE AND DISPUTE RESOLUTION

In the event that the Commission believes that BDM has failed to comply with any provision of this Consent Decree, the Commission shall notify BDM's president in writing of such belief and the basis for its belief and afford BDM a reasonable period of not less than ten (10) business days to remedy the alleged non-compliance.

If BDM disagrees that it has failed to comply with a provision of this Consent Decree, it shall notify the EEOC in writing within ten (10) business days and the Commission may then apply to this Court for appropriate relief, including but not limited to a resolution of the dispute, a determination of whether BDM is in compliance and, if not, an appropriate order to enforce the provisions of this Consent Decree. If the Commission brings a matter before the Court, the opposing party shall be provided with appropriate notice under the Local Rules of the Court and the Federal Rules of Civil Procedure.

XII.

DURATION OF DECREE AND RETENTION OF JURISDICTION

All provisions of this Consent Decree shall be in effect for a period of three years.

For the duration of this Consent Decree, this Court shall retain jurisdiction for the purpose of enforcing the provisions of this Consent Decree.

XIII.

COSTS OF ADMINISTRATION AND IMPLEMENTATION

OF CONSENT DECREE

BDM and the Commission shall each bear its own costs associated with the administration and implementation of this Consent Decree.

XIV.

COURT COSTS AND ATTORNEYS' FEES

BDM and the Commission shall each bear its own court costs and attorneys' fees.

XV.

MISCELLANEOUS PROVISIONS

When this Consent Decree requires the submission by BDM of reports, notices or other materials to the Commission, such materials shall be mailed by certified mail to: Regional Attorney, U.S. Equal Employment Opportunity Commission, Los Angeles District Office, 255 East Temple Street, 4th Floor, Los Angeles, California 90012.

BDM shall provide any potential successor with a copy of this Consent Decree within a reasonable time of not less than thirty (30) days prior to the execution of any document providing for acquisition or assumption of control of BDM, or any other material change in corporate structure, and shall simultaneously inform the EEOC of same.

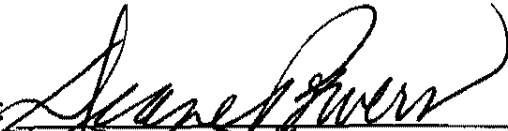
///

This Consent Decree shall be binding upon and enforceable against BDM and its respective successors and assigns.

A signature transmitted by facsimile shall have the same force and effect as a signature penned in ink.

Date: 8/1/03

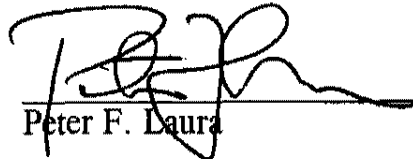
BAZAAR DEL MUNDO, INC.

By: 
Diane Powers, President

Date: July 31, 2003

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION


ANNA Y. PARK
PETER F. LAURA


Peter F. Laura

Attorneys for Plaintiff
U.S. Equal Employment Opportunity Commission

IT IS SO ORDERED.

Date: 8/5/03


Hon. Thomas J. Whelan
Judge, U.S. District Court

NOTICE TO ALL EMPLOYEES

The United States Equal Employment Opportunity Commission ("EEOC") filed a lawsuit against Bazaar Del Mundo alleging that it violated Title VII of the Civil Rights Act of 1964, as amended, by failing to hire African-American job applicants because of race. (*EEOC v. Bazaar Del Mundo, Inc.*, Case No. 02 CV 1908 W (RBB)(S.D.Cal.) Bazaar Del Mundo denies that it violated Title VII of the Civil Rights Act of 1964, as amended, and asserts that it hires all employees on the basis of job qualifications only and does not discriminate against any protected group.

Bazaar Del Mundo and the Commission engaged in settlement negotiations to resolve their differences and have agreed that they share a common interest in Bazaar Del Mundo having a workplace free from any kind of unlawful discrimination. To resolve this lawsuit the parties have entered into a Consent Decree which states that Bazaar Del Mundo will not permit race discrimination in recruiting and hiring and it will engage in recruiting activities in African-American communities with the goal of increasing diversity in the workplace. It also states that Bazaar Del Mundo will provide periodic reports to the EEOC regarding its hiring practices and it will provide training to its supervisory employees regarding laws and regulations prohibiting discrimination. Bazaar Del Mundo has agreed to pay a monetary sum and to post this Notice in a place frequented by employees for a period of three years.

It is Bazaar Del Mundo's policy to extend equal employment opportunities to all persons in all aspects of the employer-employee relationship, including recruitment, hiring, upgrading, training, promotion, transfer, discipline, layoff, recall and termination. Any employee who violates Bazaar Del Mundo's policy prohibiting discrimination will receive appropriate disciplinary action up to and including termination of employment. Bazaar Del Mundo will not retaliate in any way against persons who bring concerns about discrimination or harassment to Bazaar Del Mundo's attention.

Should you believe that you have been discriminated against because of your sex, race, color, national origin, religion, age or disability, you may file a complaint with Bazaar Del Mundo's Human Resources Department and/or you may seek assistance from:

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
401 B Street, Suite 510
San Diego, CA 92101
Tele: (619) 557-7235 Fax: (619) 557-7274

THIS NOTICE WILL BE POSTED UNTIL AUGUST 1, 2006 AND MUST NOT BE ALTERED, DEFACED OR COVERED BY ANY OTHER MATERIAL.

Diane Powers, President
Bazaar Del Mundo

Gregory Gochanour, Acting Regional Attorney
Equal Employment Opportunity Commission

