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DATE: JUN - 8 2000
DEPUTY CLERK

FILED
JUN - 5 2000
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

THIS CONSTITUTES NOTICE OF ENTRY AS REQUIRED BY FRCP, RULE 77(d).

ENTERED
CLERK U.S. DISTRICT COURT
JUN - 8 2000
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

LOGGED

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17 INTERNATIONAL LONGSHORE AND
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18 UNITED STATES DISTRICT COURT
19 CENTRAL DISTRICT OF CALIFORNIA

21 U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

22 Plaintiff,

23 v.

24 PACIFIC MARITIME ASSOCIATION,
INTERNATIONAL LONGSHORE AND
25 WAREHOUSE UNION AND
INTERNATIONAL LONGSHORE AND
26 WAREHOUSE UNION, LOCAL 13,

27 Defendants.

CASE NO. CV 00-01516 DT (JWJx)

TABE CONSENT DECREE; ORDER

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JS - 5 / JS - 6
JS - 2 / JS - 3
CLSD

LB

I.

INTRODUCTION

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3 Plaintiff U.S. Equal Employment Opportunity Commission ("EEOC"
4 or the "Commission") brought this class action under Title VII of
5 the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e
6 et seq., ("Title VII"), alleging that Defendant Pacific Maritime
7 Association ("PMA"), and Defendants International Longshore and
8 Warehouse Union (the "International") and International Longshore
9 and Warehouse Union Local 13 ("Local 13") (collectively referred to
10 as "ILWU") utilized a Test of Adult Basic Education ("TABE") to
11 screen applicants for employment as identified casual longshore
12 workers which the Commission believes has an unlawful disparate
13 impact on Blacks, Hispanics and Asians. The lawsuit was brought on
14 behalf of Johnnie Howard and other similarly situated Black,
15 Hispanic and Asian applicants for identified casual status as
16 longshore workers. Defendants PMA and ILWU deny the allegations of
17 the Complaint and any wrongdoing in connection with those
18 allegations.

19 II.

20 PURPOSES OF THE CONSENT DECREE

21 The parties have entered into this Consent Decree (the
22 "Decree") for the following purposes:

- 23 1. To provide appropriate relief to the Class;
24 2. To avoid expensive and protracted costs incident to this
25 litigation; and
26 3. To provide a final and binding settlement upon the
27 parties as to all Title VII claims alleged by the
28 Commission in the Complaint filed in this action.

1 III.

2 DEFINITIONS

3 A. "Class Member" refers to all Black, Hispanic and Asian
4 applicants for identified casual status who between September 1,
5 1997, the date the TABE was first administered and the present,
6 either (1) took the TABE twice and failed it both times; (2) failed
7 the test the first time it was offered and did not take it a second
8 time, or (3) failed the test the first time but passed it the
9 second time. The Class does not include applicants who passed the
10 TABE but subsequently took, and twice failed, any other of the
11 tests including the clerk cognitive.

12 B. "Eligible Class Member" refers to each Class member who
13 signs and returns a release, as provided in Provision XI.B.1.

14 C. "Successful Class Member" refers to each Eligible Class
15 Member who successfully completes the re-opened identified casual
16 selection process.

17 D. "Effective Date" refers to the date upon which the final
18 approval of the Decree is entered by the United States District
19 Court for the Central District of California.

20 E. "Best Efforts" means reasonable steps to realize or
21 comply with the specified objectives of this Decree to which the
22 best efforts are directed. Business conditions, available work,
23 port needs and the operation of the Pacific Coast Longshore and
24 Clerk's Agreement may be taken into account.

25 F. "Original Random Draw/Lotto Group" means the applicant
26 group within which an identified casual applicant was processed
27 initially.

1 IV.

2 JURISDICTION

3 The Court has jurisdiction over the parties and the subject
4 matter of this lawsuit. The Complaint asserts claims that, if
5 proven, the Commission believes would authorize the Court to grant
6 the monetary and equitable relief set forth in this Decree. The
7 terms and provisions of this Decree are fair, reasonable and just.
8 This Decree conforms with the Federal Rules of Civil Procedure and
9 Title VII and is not in derogation of the rights and privileges of
10 any person. The Court shall retain jurisdiction of this action
11 during the duration of the Decree for the purposes of entering all
12 orders, judgments and decrees which may be necessary to implement
13 the relief provided herein.

14 V.

15 EFFECTIVE DATE AND DURATION OF DECREE

16 A. The provisions and agreements contained herein are
17 effective immediately upon the Effective Date.

18 B. Except as otherwise provided herein, the Decree shall
19 remain in effect for two (2) years from the Effective Date,
20 provided that all provisions of the Decree have been carried out
21 and all corresponding required final reports are submitted within
22 ninety (90) days before the expiration date of the Decree. In the
23 event the provisions of the Decree have not been carried out or
24 that corresponding final reports are not timely submitted, the
25 Decree will automatically be extended for a period of ninety (90)
26 days from the date on which the final reports are received by the
27 Commission.

VI.

MODIFICATION AND SEVERABILITY

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3 A. This Decree constitutes the complete understanding of the
4 parties with respect to the matters contained herein. No waiver,
5 modification or amendment of any provision of this Decree will be
6 effective unless made in writing and signed by an authorized
7 representative of each of the parties.

8 B. If one or more provisions of the Decree are rendered
9 unlawful or unenforceable, the parties shall make good faith
10 efforts to agree upon appropriate amendments to this Decree in
11 order to effectuate the purposes of the Decree. In any event, the
12 remaining provisions will remain in full force and effect unless
13 the purposes of the Decree cannot be achieved or if the deletion
14 works a hardship on one of the parties and is otherwise unfair.

15 C. By mutual agreement of the parties, this Decree may be
16 amended or modified in the interests of justice and fairness in
17 order to effectuate the provisions of this Decree.

18 D. Any change in the business operations of PMA, the
19 International or Local 13, which results in PMA's, the
20 International's or Local 13's inability to comply with the terms of
21 this Decree shall be communicated, in writing, to the Commission
22 within thirty (30) days of the change. Within thirty (30) days of
23 such notification, the parties will meet, in good faith, to
24 negotiate any modifications to this Decree that may be necessitated
25 by the change.

26 E. The PMA or the ILWU may petition the Court at any time to
27 seek clarification of their responsibilities under the Decree
28

**REQUEST FOR CERTAIN BENEFITS AND RELEASE AND WAIVER OF CLAIMS
AGAINST THE PACIFIC MARITIME ASSOCIATION
AND INTERNATIONAL LONGSHORE AND WAREHOUSE UNION**

My name is _____ I was an applicant for an identified casual card in 1997-98 in the ports of Los Angeles/Long Beach.

1. I am a member of the Class because:

- I took the TABE test twice and failed;
- I failed the TABE test the first time and never took it a second time;
- I failed the TABE test the first time and passed it the second time.

2. I have read the Notice and I believe I am a member of the class because:

I am: African American Hispanic Asian

3. I want to participate in the benefits of the Consent Decree which I understand consist of:

- (a) Priority in processing
- (b) An equal share of the \$2,751,257 dollar fund
- (c) Credit for average hours worked by identified casuals who started the 1997-98 process with me. (My original random draw/lotto group.)

4. I know that to obtain those benefits I must successfully pass all remaining tests and requirements and release the PMA and ILWU from any claim of discrimination I have against them that relates to the TABE test.

5. I want to sign this release because I believe it will be in my best interest.

6. I know I have the right to discuss my decision with anyone including friends, family or an attorney.

RELEASE

I hereby release the PMA, the ILWU and Local 13 from any claim of discrimination I have against them which relates in any way to the use, administration, or impact of the TABE test on me.

I understand that this means I cannot sue the PMA or ILWU because they administered the TABE test or because I did not pass it.

I have not received any promise or representation other than those contained in the Notice from anyone to sign this release.

Date: _____

Signature

Witness Signature

Name (Print)

Witness (Print)

Social Security No.

**BE CERTAIN TO RETURN THIS WITH
PAGE 5 OF THE NOTICE**

WAIVER AND RELEASE OF CLAIMS
BY JOHNNY HOWARD

I, Johnny Howard, having filed charges of discrimination against Pacific Maritime Association ("PMA"), International Longshore and Warehouse Union and Local 13 (collectively called "ILWU") in EEOC Charge Nos. 340981182 and 340981183 concerning my not being hired as an Identified Casual longshore worker in the Port of Los Angeles/Long Beach due to the use and administration of the Test of Adult Basic Education ("TABE"), and having the Equal Employment Opportunity Commission fully investigate and prosecute these charges do hereby agree as follows:

1) I accept the provisions of the TABE Consent Decree negotiated by the parties and accept the benefits provided for me in Section XV of the TABE Consent Decree.

2) In consideration of the benefits provided to me in Section XV of the TABE Consent Decree, I do hereby, on behalf of myself, my heirs and executors, forever waive and release all claims, grievances and causes of action under state and federal law, known or unknown, pertaining in any way to my efforts to obtain longshore employment in the Port of Los Angeles/Long Beach, my past employment as a longshore casual in the Port, my taking the TABE test and concerning any alleged discrimination, harassment or retaliation related to such matters or related to the filing of the EEOC charges, as against and with respect to the PMA and ILWU, as well as their officers, employees, agents, successors and affiliated members.

3) I confirm my understanding and agreement that this waiver and release extends to all claims of every nature and kind, known or unknown, and that all rights under Section 1542 of the California Civil Code are hereby expressly waived. Section 1542 of the California Civil Code reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

It is understood and agreed that this waiver and release resolves disputed claims with the express intention of implementing the full legal consequences provided in Section 1541 of the California Civil Code, namely the extinguishment of all claims I may have against the PMA and ILWU.

Exhibit "D"

tests was called The Test of Adult Basic Education or TABE. Over the next nine months following September 1, 1997, the test was administered to thousands of applicants.

Approximately 2200 minority applicants, including African Americans, Hispanics and Asians failed to pass the TABE test on either the first or second try. Upon investigation of a complaint, the Equal Employment Opportunity Commission ("EEOC") alleged that the test adversely impacted (was discriminatory against) African Americans, Asians and Hispanics. The PMA and ILWU vigorously dispute this claim and believe that the TABE test, as well as all other tests and training, were and are designed solely to ensure that persons who become longshore workers can successfully and safely perform longshore work. Nevertheless, in order to avoid litigation expenses and to resolve the issues the EEOC believes are outstanding, a settlement and Consent Decree have been executed between the parties. If you fit within the definition of the class, you are invited to participate in the relief and benefits the Decree provides.

B. **The Class.** The class consists of all African American, Hispanic or Asian applicants for identified casual cards who in the course of the 1997-98 identified casual selection process either (1) failed the TABE test twice or (2) failed the TABE test the first time and did not take it a second time for whatever reason or (3) failed the TABE test the first time but passed it the second time. The class does not include anyone who has twice taken and failed any other test including the clerk cognitive test.

C. **Summary of Consent Decree.** If you fall within the class, you are eligible for the benefits under the Decree. The terms of the Consent Decree are relatively straightforward and provide five key benefits: (1) The TABE test will no longer be used as a selection device and was discontinued in mid 1998. (2) All class members will be given an opportunity to rejoin the identified casual testing and training process with the opportunity of eventually receiving an identified casual card for the ports of Los Angeles/Long Beach. (3) A fund of \$2,751,257 ("The Class Fund") has been established for equal distribution to class members who successfully pass all remaining tests and complete all required training and who sign a Release which releases any claim a class member has against the PMA or ILWU relating to the TABE (discussed below). (4) All class members who successfully pass all remaining tests and complete all required training and who sign the Release (discussed below) will be credited with average hours per year earned by those applicants who started the process with you in 1997 or 1998 (your original

Random draw/lotto group) and (5) Finally, class members who sign the release will receive priority in being processed for identified casual cards in the order in which their signed release is returned to the PMA.

D. The Options You Have Include Obtaining A Right To Sue Letter From The EEOC. You have four options if you are a member of the class.

First, if you sign the release you will receive priority in processing and the opportunity to receive the benefits listed above which include the distribution of monies from the fund and average hours credit if you successfully complete each step of the identified casual process. To obtain these benefits you must sign the attached Release which releases the ILWU and PMA from any claim you may have related to the use or administration of the TABE, specifically any claim that it was discriminatory toward you.

Second, you have the option to refuse to sign the Release and to ask the EEOC for a right to sue letter. A right to sue letter will allow you to sue the PMA and the ILWU in Federal Court. There is no guarantee that you will be successful and you must hire your own attorney. The EEOC will not provide one for you. If you elect to receive a right to sue letter, you will not receive any monies from the fund, you will not receive average hours credit as explained above, and you will not receive priority in being processed for an identified casual card. However, you still can rejoin the identified casual selection process but you will be processed after all persons who signed the release are processed.

Third, you can elect not to sign the Release or ask for a right to sue letter. You are still eligible to rejoin the identified casual selection process.

Fourth, if you do not want to obtain a right to sue letter and do not want to pursue an identified casual card, you may disregard this notice.

E. What You Have To Do in Order to Select an Option. You must select one of the options listed below and return page 5 of this Notice within fifty (50) days of the date this Notice was mailed. Please look at the date on the front page of this Notice. It is _____, 2000. Fifty (50) days from that date is _____, 2000. By _____, 2000 you must check one of the below boxes and mail page 5 of this Notice to: Joint LRC "Casual Process", P.O. Box 21618, Long Beach, California 90801-4443.

IF YOU HAVE ANY QUESTIONS PLEASE CALL: BRIAN NELSON

If you want a right to sue letter you must, no later than fifty (50) days from the date this Notice was mailed, request a right to sue letter, in writing, addressed to:

**Brian Nelson
Equal Employment Opportunity Commission
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012**

OPTIONS

If you choose Option 1, you must include the Release (signed by you) which is enclosed herewith: CHECK ONE BOX ONLY.

Option 1 I am signing the enclosed Release because I wish to receive priority processing for the opportunity to obtain an identified casual card, average hours credit, and participate in the \$2.8 million dollar class fund if I successfully complete each step in the identified casual selection process.

Option 2 I decline to sign the Release. Within fifty (50) days of the date on the Notice, I will ask the EEOC, in writing, to send me a right to sue letter. I understand I am declining any priority in processing, hours credits or the right to share in the distribution of the \$2.8 million dollar class fund. I want or do not want to rejoin the identified casual selection process.

Option 3 I am not interested in signing the release or obtaining a right to sue letter but I do want to continue the identified casual testing and training process. I understand I am declining any priority in processing, hours credits or the right to share in the distribution of the \$2.8 million dollar class fund. I want or do not want to rejoin the identified casual selection process.

Option 4 If you do not want to obtain a right to sue letter and do not want to pursue an identified casual card, you may disregard this notice.

Date: _____

Signature

Print Name

Address: _____

Telephone No. _____

Social Security No. _____

SIGN AND MAIL TO:

**Joint LRC "Casual Process"
P.O. Box 21618
Long Beach, CA 90801-4443**

NO LATER THAN _____, 2000

1 and/or affirmation of whether they are meeting, or have met, the
2 "Best Efforts" test.

3 **VII.**

4 **DISPUTE RESOLUTION**

5 A. It is expressly agreed that if the Commission has reason
6 to believe that the Decree has been breached, the Commission may
7 bring an action before this Court to enforce the Decree. Prior to
8 initiating such action, the Commission will notify the other
9 parties, in writing, of the nature of the dispute, including a
10 concise factual statement summarizing the dispute. A forty five
11 (45) day dispute resolution period will be provided from the date
12 of notice prior to the institution of any legal proceeding.

13 B. At the request of PMA, ILWU or the Commission, the
14 parties shall meet, in good faith, to resolve any disputes
15 regarding the interpretation or implementation of the Decree.

16 C. After the expiration of the forty five (45) day dispute
17 resolution period, the Commission may initiate an enforcement
18 action in this Court after providing written notice to the other
19 parties.

20 **VIII.**

21 **NON-ADMISSION OF LIABILITY**

22 This Decree represents the compromise of disputed claims which
23 the parties recognize would require protracted and costly
24 litigation. Defendants' entry into this Decree is not and may not
25 be used by any person as an admission or evidence that Defendants
26 have engaged in discriminatory employment practices. The
27 Defendants believe, and continue to maintain, that all pre-
28 employment measures used by PMA and ILWU are lawful and were

1 designed to ensure that persons performing longshore work can do so
2 successfully and safely.

3 IX.

4 MISCELLANEOUS PROVISIONS

5 A. This Decree fully and completely resolves all issues
6 which were raised in the charges of discrimination filed by Johnny
7 Howard Nos. 340981182 and 340981183. The Commission will take no
8 further action against PMA or ILWU regarding any of the issues of
9 law or fact which were raised in the charges or surrounding the
10 adoption, administration, use or adverse impact of the TABE from
11 March of 1997, the date the Labor Relations Committee approved the
12 TABE, through the Effective Date;

13 B. Nothing in this Agreement shall be construed to limit or
14 reduce PMA's or ILWU's obligations to fully comply with Title VII;

15 C. This Decree in no way affects the Commission's rights to
16 process charges against PMA or ILWU not otherwise covered by this
17 Decree in accordance with standard Commission procedures and to
18 commence civil action on any such charges;

19 D. The Commission expressly reserves the right to initiate
20 further challenges to PMA's or ILWU's selection and testing
21 criteria.

22 E. The parties shall use their Best Efforts to defend this
23 Decree from any legal challenge whether by appeal, collateral
24 attack or objection.

1 X.

2 GENERAL RELIEF

3 A. Notice of Non-Discrimination

4 1. PMA and ILWU reaffirm their long standing commitment
5 not to discriminate against any employee on the bases of race or
6 national origin in any aspect of employment;

7 2. PMA and ILWU agree that they will not retaliate
8 against any person because that person is a beneficiary of this
9 Decree, or has provided information, assistance or participated in
10 any other manner in any investigation or proceeding relating to
11 Charge Nos. 340981182 and 340981183 filed by Johnny Howard; and

12 3. PMA and ILWU will sign and conspicuously post copies
13 of the "Notice of Non-Discrimination", attached hereto as
14 Exhibit "A" in the jointly run Los Angeles/Long Beach longshore
15 dispatch hall, Local 13's union hall, and the PMA offices in Long
16 Beach.

17 B. Equal Opportunity Officers

18 Within thirty (30) days of the Effective Date and for a period
19 of three (3) years from the Effective Date of this Decree, PMA the
20 International and Local 13 shall each designate an Equal
21 Opportunity Officer ("EEO Officer") to implement and monitor PMA's,
22 the International's and Local 13's compliance with Title VII and
23 with the provisions of this Decree. The EEO Officers'
24 responsibilities shall include ensuring that all reports required
25 by this Decree are accurately compiled and timely submitted. Any
26 changes in designation of the EEO Officers shall be communicated to
27 the Commission, in writing, within thirty (30) days of such
28 designation.

1 C. Reaffirmation of EEO Policy

2 1. Within thirty (30) days of the approval of the
3 Decree, the PMA and ILWU shall post at the jointly run Los
4 Angeles/Long Beach longshore dispatch hall, Local 13's union hall
5 and PMA's Long Beach offices, the PMA/ILWU's equal employment
6 opportunity policy. Additionally, members of the Joint Port Labor
7 Relations Committee ("JPLRC") in Los Angeles/Long Beach shall sign
8 an acknowledgment attesting to their understanding of the Consent
9 Decree and their familiarity with all PMA/ILWU/PCLCA non-
10 discrimination and EEO policies.

11 2. Within thirty (30) days of the Effective Date, PMA
12 and ILWU shall distribute copies of the PMA/ILWU's equal employment
13 opportunity policy to all employees of PMA, ILWU and all identified
14 casual and registered longshore workers in the Los Angeles Long
15 Beach Port.

16 D. Elimination of the TABE

17 PMA and ILWU have already discontinued using the TABE test and
18 will not again use it as part of its application or selection
19 process.

20 XI.

21 CLASS NOTICE AND RELIEF

22 A. Class Notice

23 Within ten (10) days of the Effective Date of the Decree, PMA
24 shall, at its own expense, send a written Notice and Release, via
25 first class United States mail, to each Class member advising
26 him/her of his/her rights pursuant to this Decree. Copies of the
27 Notice and Release are attached hereto as Exhibits "B" and "C."
28 For each notice that is returned as undeliverable by the postal

1 service, PMA, no later than seven (7) days after receipt of the
2 undeliverable notice shall arrange through IRSC, or a comparable
3 service, for a computer database trace for such potential Class
4 member, and shall promptly re-mail the notice to each address
5 obtained for such Class member. The cost of the IRSC or other
6 locator service is to be paid by PMA. Additional Notice and
7 Release forms will be made available to potential Class Members at
8 the PMA offices in Long Beach.

9 B. Re-Opening the Identified Casual Process

10 Within thirty (30) days of the Effective Date, the PMA,
11 International and Local 13 agree to re-open the identified casual
12 process to all Eligible Class Members as follows:

13 1. Each Class Member who signs and returns a release
14 form to PMA within fifty (50) days of mailing of the notice and
15 release, shall be eligible to receive the benefits of this Decree;

16 2. Each Eligible Class Member will be assigned a new
17 processing number on the date that he or she returns a signed
18 release and will be processed in the same order as the release is
19 returned to the PMA;

20 3. To the extent feasible, Eligible Class Members will
21 be processed for the next applicable test with Eligible Class
22 Members whose releases are post-marked on the same date;

23 4. Eligible Class Members will be required to
24 successfully complete the following to qualify for identified
25 casual status:

- 26 a. Clerk cognitive
27 b. Strength and agility [modified]
28 c. Lashing

- 1 d. UTR training
- 2 e. Physical examination
- 3 f. Drug/alcohol screen
- 4 g. GST [General Safety Training]

5 Eligible Class Members will be treated no differently than all
6 simultaneously processed identified casual applicants in terms of
7 scheduling and test administration.

8 5. Defendants will make best efforts to begin the
9 processing of Eligible Class Members within 60 days of the
10 Effective Date of the Decree.

11 6. Defendants will make best efforts to complete all
12 testing of Eligible Class Members no later than ten (10) months
13 from the Effective Date of the Decree.

14 7. Nothing herein shall preclude the PMA/ILWU from re-
15 opening the identified casual process to non-Class members so long
16 as both Class members and non-Class members are processed
17 simultaneously.

18 C. Issuance of Identified Casual Cards

19 Each eligible Class Member who successfully completes each
20 step in the identified casual selection process outlined in
21 Provision XI.B.4 shall be issued an identified casual card within
22 five (5) days of successful completion of the General Safety
23 Training.

24 D. Hours Credit

25 Each Successful Class Member shall receive hours credit equal
26 to the average hours per year worked by his/her original Random
27 Draw/Lotto Group through the date upon which his or her identified
28 casual card is issued.

XII.

CLASS MONETARY RELIEF

Within thirty (30) days of the Effective Date, PMA and ILWU agree to establish a Class Fund by placing the amount of \$2,751,257, plus all interest accrued since May 15, 1999, into an interest bearing account. Within fourteen (14) days of the completion of the re-opened identified casual selection process (pursuant to Provision XI.B.6) and upon resolution of all appeals filed by any Eligible Class Members under the PCLCA, PMA shall distribute all funds contained in the Class Fund equally among each of the Successful Class Members up to a maximum of \$30,000 per individual successful Class member. Any remaining monies shall be distributed to the PMA/ILWU diversity training program in Los Angeles/Long Beach.

XIII.

APPEALS UNDER THE PACIFIC COAST

LONGSHORE AND CLERKS AGREEMENT

All appeals under the PCLCA must be resolved by the PMA/ILWU within sixty (60) days of the completion of the identified casual selection testing described in provision XI.B. Class members shall have ten (10) days from the date the challenged action or event occurred within which to file their appeals with the PMA. No extensions of the ten (10) day appeal period will be granted by the PMA/ILWU and all appeals will be handled under the provisions of the Pacific Coast Longshore and Clerks Agreement.

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XIV.

RIGHT TO SUE LETTER

Class members may seek a right to sue letter rather than sign a Release but they must do so in writing. The Equal Employment Opportunity Commission will only issue right to sue letters to Class members who request a right to sue, in writing, within fifty (50) days of the mailing of the Notice and Release. No right to sue letters will be issued by the EEOC after the 120th day following the date that the original Notice and Release are mailed.

XV.

INDIVIDUAL RELIEF FOR JOHNNY HOWARD

A. Provided that Johnny Howard ("Howard") signs and returns a waiver, attached hereto as Exhibit "D", to PMA within thirty (30) days of the Effective Date, Howard shall be eligible for the following relief:

1. Within five (5) days of receipt of Howard's waiver, Defendants, in consultation with Howard, shall schedule Howard for all tests which he is required to complete as a condition of obtaining identified casual status. All required tests shall be administered within sixty (60) days of the date on which he returns a signed waiver.

2. Within five (5) days of successful completion of the identified casual selection process, Howard shall be issued an identified casual card.

3. Within five (5) days of successful completion of the identified casual selection process, Howard shall be issued hours credit in the amount of 1000 hours.

1 4. Within five (5) days of successful completion of the
2 identified casual process, PMA and ILWU shall issue directly to
3 Howard a check in the amount of thirty thousand dollars (\$30,000).

4 B. Should Howard fail to return a signed waiver form within
5 thirty (30) days of the Effective Date, Howard will be entitled to
6 processing and relief only in accordance with Provisions XI and XII
7 of this Decree.

8 **XVI.**

9 **RECORD KEEPING AND REPORTING**

10 A. For the duration of the Decree, PMA, ILWU and Local 13
11 agree to maintain all records required by the Reporting and Record
12 keeping provisions of 29 C.F.R. § 1602 and the provisions of the
13 Uniform Guidelines on Employee Selection Procedures, 29 C.F.R.
14 § 1607.

15 B. For the duration of the Decree, PMA, ILWU and Local 13
16 agree to maintain such records as are necessary to demonstrate
17 their compliance with this Decree and to verify that the reports
18 submitted are accurate.

19 C. Within one hundred twenty (120) days of the Effective
20 Date, PMA and ILWU shall submit the following reports to the Los
21 Angeles District Office of the U.S. Equal Employment Opportunity
22 Commission at 255 E. Temple Street, 4th Floor, Los Angeles,
23 California 90012, Attention: Brian Nelson, Systemic Investigator:

- 24 1. The name, address and telephone number of the EEO
- 25 Officers designated by PMA, the International and Local 13;
- 26 2. Confirmation that the TABE has been eliminated;
- 27 3. Confirmation of the posting of Non-Discrimination
- 28 Notices;

1 4. Confirmation of the Reaffirmation of the PMA/ILWU's
2 EEO Policy, along with all signed acknowledgment statements;

3 5. A list of all Class Members by name, race, national
4 origin and date of first taking of TABE to whom Notice has been
5 sent;

6 6. A list of all Class Members whose Notices are
7 returned as undeliverable;

8 7. A written description of the efforts undertaken by
9 PMA, ILWU and Local 13 to locate those Class Members whose Notices
10 are returned as undeliverable by United States mail;

11 8. A list of all Class Members to whom Notice is re-
12 mailed pursuant to Provision XI.A;

13 9. A list of all Class Members to whom re-mailed
14 Notices were returned as undeliverable;

15 D. Within one hundred and twenty days (120) days of the
16 Effective Date the PMA and ILWU shall send to Brian Nelson at the
17 above address:

18 A list of all Class Members who return signed release
19 forms by name, race, national origin, date on which TABE was first
20 taken, Original Random Draw/Lotto Group number, date on which
21 release was received, and processing order. This list shall be
22 promptly supplemented as new information becomes known.

23 E. On the first day of each month beginning one hundred and
24 twenty (120) days from the Effective Date the PMA and ILWU shall
25 send to Brian Nelson at the above address:

26 1. A list of all Eligible Class Members disqualified
27 from the identified casual selection process by: name, race,
28

1 national origin, name and date of each test taken in the identified
2 casual selection process and reason for disqualification.

3 2. A list of each Successful Class Member by: name,
4 race, national origin, date of original TABE, Original Random
5 Draw/Lotto Group number, date of completion of re-opened identified
6 casual selection process, date of issuance of identified casual
7 card, and hours credited.

8 F. On the first day of each month beginning thirty (30) days
9 from the Effective Date, the PMA and ILWU shall send to Brian
10 Nelson at the above address, a bank account statement reflecting
11 the monetary balance of the Class Fund.

12 G. Should Defendants be unable to complete all testing of
13 Eligible Class Members within ten (10) months of the Effective
14 Date, Defendants shall submit a detailed statement describing the
15 steps taken to meet the time frame of Provision XI.B.6, the reasons
16 for the inability to meet the time frame and a proposed new time
17 frame for completion of the testing.

H. Within thirty (30) days of distribution of the Class Fund, PMA and ILWU shall provide to Brian Nelson at the above address a Final Report listing of each Successful Class Member to whom money was distributed by name, race and national origin.

Dated: 2-14-00

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

By: Anat Ehrlich
Anat Ehrlich
Attorneys for Plaintiff
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Dated: 2-11-00

GIBSON, DUNN & CRUTCHER LLP

By: Dennis A. Gladwell
Dennis A. Gladwell
Attorneys for Defendant
PACIFIC MARITIME ASSOCIATION

Dated: 2-10-00

LEONARD, CARDER, NATHAN ZUCKERMAN, ROSS, CHIN & REMAR LLP

By: Robert Remar
Robert Remar
Attorneys for Defendant
INTERNATIONAL LONGSHORE AND WAREHOUSE UNION

Dated: 2-11-00

LAW OFFICES OF MARC COLEMAN

By: Marc Coleman
Marc Coleman
Attorney for Defendant
INTERNATIONAL LONGSHORE AND WAREHOUSE UNION, LOCAL 13

ORDER

The provisions of the foregoing Consent Decree are hereby approved and compliance with all provisions thereof is **HEREBY ORDERED.**

Dated: 6-5-2000

DICKRAN TEVRIZIAN

Judge United States District Court

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NOTICE OF ILWU-PMA NON-DISCRIMINATION POLICY

TO: ALL REGISTERED AND CASUAL LONGSHOREMEN AND CLERKS

Please be advised of the following:

1) Sections 13 and 17 of the Pacific Coast Longshore and Clerks Agreement prohibit discrimination, including harassment, based on race or sex.

2) On December 21, 1981, the Joint Coast Labor Relations Committee adopted the following policy regarding sexual harassment, which continues in effect:

Discrimination on account of sex is a violation of Title VII of the Civil Rights Act of 1964 and a violation of the ILWU-PMA Pacific Coast Longshore and Clerks Agreement.

The EEOC has recently issued guidelines to define such discrimination. These include the following:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when such conduct is made explicitly or implicitly a term or condition of employment, or is used as a basis for employment decisions or has the purpose or effect of interfering with work performance or of creating an otherwise offensive working environment.

The Grievance machinery of the ILWU-PMA Pacific Coast Longshore and Clerks Agreement is available to any employee who claims that the foregoing policies and guidelines have been violated.

3) Acts of discrimination and harassment based on race, sex or other protected status in the dispatch hall or on the job are strictly prohibited and will not be tolerated.

4) Anyone found guilty of engaging in such acts of discrimination or harassment will be subject to discipline up to and including de-registration and/or termination from the industry.

5) Anyone who believes they are a victim of or a witness to any act of discrimination or harassment in the dispatch hall or on the job is encouraged to report it to the PMA, the Union or the Joint Port Labor Relations Committee so that the matter may be investigated and appropriate corrective action taken. All registered and casual longshore workers and clerks have the right and obligation to file a grievance under section 17 of the

Exhibit "A" to TABE Consent Decree

NOTICE OF NON-DISCRIMINATION POLICY

Page: 2

Pacific Coast Longshore and Clerks Contract to address any claim of discrimination, harassment or retaliation.

6) It is also a violation of sections 13 and 17 of the Pacific Coast Longshore and Clerks Contract to engage in any acts of retaliation in response to complaints of discrimination or harassment. Anyone found guilty of engaging in acts of retaliation will be subject to discipline up to and including de-registration and/or termination from the industry. Anyone who believes they are a victim of or a witness to any act of retaliation in the dispatch hall or on the job is encouraged to report it to the PMA, the Union or the Joint Port Labor Relations Committee so that the matter may be investigated and appropriate corrective action taken.

[INSERT DATE NOTICE IS MAILED]

**NOTICE TO ALL
AFRICAN AMERICAN, HISPANIC AND ASIAN APPLICANTS
WHO PARTICIPATED IN THE 1997-98 ILWU/PMA
LONGSHORE IDENTIFIED CASUAL PROCESS IN THE PORTS
OF LOS ANGELES/LONG BEACH AND FAILED TO PASS
THE TEST OF ADULT BASIC EDUCATION (TABE)
ON AT LEAST ONE OCCASION**

GREETINGS:

**PLEASE READ THIS NOTICE CAREFULLY BECAUSE IT MAY
AFFECT RIGHTS YOU HAVE REGARDING YOUR APPLICATION TO
BECOME AN IDENTIFIED CASUAL IN THE LONGSHORE INDUSTRY
IN THE PORTS OF LOS ANGELES/LONG BEACH.**

THIS NOTICE HAS THE FOLLOWING PURPOSES:

- (a) To provide you with a general background of the Consent Decree;
- (b) To define the class of people who may receive benefits under the Decree;
- (c) To describe the terms of the Consent Decree and the benefits it contains;
- (d) To explain the options you have to receive benefits under the Decree or, alternatively, to receive a right to sue letter from the Equal Employment Opportunity Commission; and
- (e) To explain how you choose the option you want.

A. Background of the Lawsuit and Consent Decree. In September 1997, the PMA and ILWU began processing applications for identified casual cards leading to the eligibility to be dispatched out of the ILWU/PMA casual hall in the Ports of Los Angeles/Long Beach. Each applicant was required to take a number of tests and complete specified training. One of these

4) I understand that this waiver and release does not cover any claims I may have that arise after the date I sign this document or concerning compliance with the TABE Consent Decree.

5) I have not received any promise or representation other than those contained in the TABE Consent Decree from anyone to sign this wavier and release.

Dated: _____

Johnny Howard

PROOF OF SERVICE BY MAIL

(1013A, 2015.5 C.C.P.)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am a resident of the County aforesaid, I am over the age of eighteen years and not a party to the within entitled action; my business address is: 110 Pine Avenue, Suite 510, Long Beach, California 90802-4420.

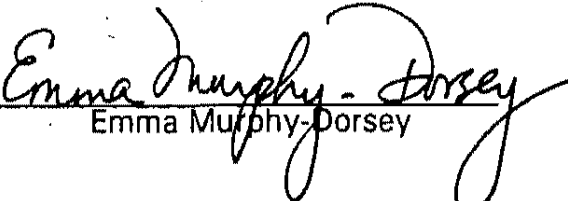
On February 14, 2000, I served the foregoing TABE CONSENT DECREE; ORDER to all interested parties in said action by placing one true copy thereof, enclosed in a seal envelope, postage prepaid, addressed as follows:

Anat Ehrlich, Esq.
U. S. Equal Employment
Opportunity Commission
255 East Temple St., 4th Floor
Los Angeles, CA 90012

Dennis A. Gladwell, Esq.
Geniene B. Stillwell, Esq.
GIBSON, DUNN & CRUTCHER
4 Park Plaza
Irvine, CA 92714-8557
Attorney for Defendant - PMA

Robert Remar, Esq.
LEONARD, CARDER, NATHAN, ZUCKERMAN,
ROSS, CHIN & REMAR
1188 Franklin Street, Suite 201
San Francisco, CA 94109
Attorneys for Defendant - ILWU

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 14, 2000, at Long Beach, California.


Emma Murphy-Dorsey