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21 UNITED STATES DISTRICT COURT
22 CENTRAL DISTRICT OF CALIFORNIA

23 U.S. EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION,
25 BY

26 Plaintiff,

27 v.

28 ZENITH INSURANCE COMPANY
AND DOES 1-10, inclusive,

Defendants.

CASE NO. CV 05-7134 PA (Ex)

~~PROPOSED~~ CONSENT
DECREE; ORDER

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

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CENTRAL DISTRICT OF CALIFORNIA
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I.

INTRODUCTION

Plaintiff U.S. Equal Employment Opportunity Commission ("EEOC" or "Commission ") and Defendant Zenith Insurance Company, ("Zenith") hereby stipulate and agree to entry of this Consent Decree to resolve the Commission's Complaint (the "Complaint"), filed under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII"). This Consent Decree resolves all issues raised by the EEOC in the present lawsuit involving the Charging Party, Charles E. Dennis, ("Charging Party") and other similarly situated Claimants, (known collectively hereafter as "Claimants".)

II.

PURPOSES AND SCOPE OF THE CONSENT DECREE

A. The parties to this Consent Decree ("Decree") are EEOC and Zenith. This Decree shall be binding on and enforceable against Zenith and its officers, directors, agents, successors and assigns, and against the Commission for the effective period of the Decree as noted in section V.

B. The parties have entered into this Decree for the following purposes:

- 1. To provide relief agreed upon for the Claimants;
- 2. To ensure that Zenith's employment practices comply with federal law;
- 3. To avoid expensive and protracted costs incident to litigation;

and,

- 4. To provide a final and binding settlement upon the parties as to all claims alleged by the Commission in the Complaint filed in this action.

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III.

RELEASE OF CLAIMS

A. This Decree fully and completely resolves all issues, claims, and allegations made by the EEOC against Zenith that are raised in the Complaint filed in this action in the United States District Court, Central District of California on September 30, 2005, captioned *U.S. Equal Employment Opportunity Commission v. Zenith Insurance Company and DOES 1 to 10, Inclusive*, Case No. CV 05-7134 PA (Ex).

B. Nothing in this Decree shall be construed to preclude the Commission from bringing suit to enforce this Decree in the event that any party hereto fails to perform the promises and representations contained herein.

C. Nothing in this Decree shall be construed to limit or reduce Zenith's obligation to comply fully with Title VII or any other federal employment statute.

D. This Decree in no way affects the EEOC's right to bring, process, investigate, or litigate other charges, unrelated to this case or this investigation, that may be in existence or may later arise against Zenith in accordance with standard EEOC procedures.

IV.

JURISDICTION

A. The Court has jurisdiction over the parties and the subject matter of this lawsuit pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1345, 1367 and 42 U.S.C. § 2000e-5(f). The Complaint asserts claims that, if proven at trial, would authorize the Court to grant the equitable relief set forth in this Decree. The terms and provisions of this Decree are fair, reasonable, and just. This Decree conforms with the Federal Rules of Civil Procedure and Title VII and is not in derogation of the rights or privileges of any person. The entry of this Decree will further the objectives of Title VII and will be in the best interests of Zenith, the Commission, and those for whom the Commission alleges relief is appropriate.

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1 B. The Court shall retain jurisdiction of this action during the duration of
2 the Decree for the purposes of entering all orders, judgments and decrees that may be
3 necessary to implement the relief provided herein.

4 V.

5 **EFFECTIVE DATE AND DURATION OF DECREE**

6 A. The provisions and agreements contained herein are effective
7 immediately upon the date which this Decree is entered by the Court ("the Effective
8 Date").

9 B. The duration of this Consent Decree shall be three years from the date
10 of the Effective Date.

11 VI.

12 **MODIFICATION AND SEVERABILITY**

13 A. This Decree constitutes the parties' complete understanding with respect
14 to the matters contained herein. By the parties' mutual agreement, this Decree may
15 be amended or modified in the interests of justice and fairness in order to effectuate
16 the provisions of the Decree. No waiver, modification, or amendment of any
17 provision of this Decree will be effective unless made in writing and signed by an
18 authorized representative of each of the parties and approved by the Court.

19 B. If one or more provisions of the Decree are rendered unlawful or
20 unenforceable, the parties shall make good faith efforts to agree upon appropriate
21 amendments to this Decree in order to effectuate the purposes of the Decree. In any
22 event, the remaining provisions will remain in full force and effect unless the
23 purposes of the Decree cannot, despite the parties' best efforts, be achieved.

24 VII.

25 **COMPLIANCE AND DISPUTE RESOLUTION**

26 A. The parties expressly agree that if the Commission has a reason to
27 believe that Zenith has failed to comply with any provision of this Consent Decree,
28 the Commission may file a motion before this Court to enforce the Decree. Prior to

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1 initiating such action, the Commission will notify Zenith and its legal counsel of
2 record, in writing, of the nature of the dispute. This notice shall specify the
3 particular provision(s) that the Commission believes has/have potentially been
4 breached. Absent a showing by either party that the delay will cause irreparable
5 harm, Zenith shall have thirty (30) days to attempt to resolve or cure the breach in a
6 manner satisfactory to both parties.

7 B. The parties agree to cooperate with each other and use their best efforts
8 to resolve any dispute referenced in the EEOC notice.

9 C. After thirty days have passed with no resolution or agreement to extend
10 the time further, the Commission may petition this Court for resolution of the
11 dispute, seeking all available relief, including an extension of the term of the Decree,
12 attorneys fees and costs, and any other relief the Court deems appropriate.

13 **VIII.**

14 **MONETARY RELIEF**

15 A. Zenith shall pay a total of \$180,000.00 to the Claimants in full
16 settlement of EEOC's action. EEOC has the sole discretion in determining who is a
17 Claimant, and the allocation of monetary amount(s) to each of them. EEOC's
18 determination is final, and Zenith agrees that it will neither participate in, nor object
19 to the EEOC's designation of a Claimant.

20 B. Upon entry of this Consent Decree, the EEOC shall provide in writing
21 to Zenith the specific monetary distribution that is to be provided to the Claimants,
22 the Social Security numbers of each Claimant, and their respective addresses to
23 where the checks should be delivered (known hereafter as the "distribution list").
24 Zenith shall issue and deliver by certified mail with return receipt requested, a check
25 to each Claimant specified by the EEOC within 5 (five) business days of receiving
26 the distribution list. Zenith shall provide by mail a copy of each check and related
27 correspondence to Regional Attorney Anna Y. Park, c/o United States Equal
28 Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los

1 Angeles, CA 90012.

2 C. The parties agree that the \$180,000.00 represents compensatory
3 damages under Title VII. Zenith shall issue a 1099 form or the equivalent as
4 required by law for the payment made to each Claimant. The EEOC shall be notified
5 when the 1099s are issued.

6 IX.

7 GENERAL INJUNCTIVE RELIEF

8 A. Injunction

9 Zenith, its officers, agents, management (including all supervisory
10 employees), successors, assigns, and all those in active concert or participation with
11 them, or any of them, hereby agree to comply with Title VII, including by not: (a)
12 engaging in any hiring practices that discriminate based upon race (Eilack); (b)
13 discriminating against persons on the basis of race in the terms and conditions of
14 employment; or (c) engaging in or being a party to any action, policy or practice that
15 is intended or is known to them to have the effect of harassing or intimidating any
16 employee on the basis of race.

17 Zenith, its officers, agents, management (including all supervisory
18 employees), successors, assigns, and all those in active concert or participation with
19 them, or any of them, hereby agree to comply with Title VII, including by not
20 engaging in, implementing or permitting any retaliation against any current or
21 former employee or applicant of Zenith, as defined under Title VII.

22 ///

23 B. Recruiting and Hiring

24 Zenith shall endeavor in good faith to increase diversity in the workforce by
25 undertaking recruitment activities in the African-American community. For each
26 year during the term of this Consent Decree, Zenith shall endeavor in good faith to
27 obtain a hiring rate of at least 18.3% percent African Americans in the clerical
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1 positions at Zenith's Woodland Hills Home Office facilities. In pursuing this
2 endeavor, Zenith shall engage in the following activities:

- 3 1. Continue to advertise to and actively recruit African Americans;
- 4 2. Continue to advertise to and actively recruit applicants through
5 print media, including minority publications and newspapers catering to African
6 Americans;
- 7 3. Participate in job/career fairs in the African American
8 communities;
- 9 4. Implement a hiring procedure that does not rely solely on word-
10 of mouth for publicizing openings that includes a systematic, predetermined hiring
11 procedure that is disclosed to all applicants to ensure that applicants are evaluated
12 based upon their qualifications and interest in the open positions and not on race;
- 13 5. Provide written job descriptions for all job openings; and
- 14 6. Any other procedures recommended by the EEO Consultant.

15 **C. Equal Employment Opportunity Consultant**

16 Within forty-five days after the Effective Date, Zenith shall retain an outside
17 Equal Employment Opportunity Consultant ("Consultant") with demonstrated
18 experience in the area of employment discrimination, particularly in the context of
19 recruitment and hiring so as to assist in the implementation and monitoring of
20 Zenith's compliance with Title VII and the provisions of this Decree. The
21 Consultant shall be subject to the Commission's approval, which shall not be
22 unreasonably withheld. If the Commission does not approve Zenith's proposed
23 Consultant, the Commission shall provide Zenith with a list of at least three
24 suggested candidates acceptable to the Commission. Zenith shall bear all costs
25 associated with the selection and retention of the Consultant and the performance of
26 his/her/its duties. The Consultant's responsibilities shall include:

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1 1. Analyzing, creating, and revising Zenith's recruitment and hiring
2 policies, procedures, and practices, as necessary, to comply with Title VII and the
3 terms of this Decree;

4 2. Implementing an internal complaint and reporting procedure to
5 enable applicants to the Woodland Hills Home Office facilities to file complaints of
6 discrimination and notifying such applicants on the application that they may contact
7 an identified Zenith representative or the EEOC if they have questions about the
8 hiring process ;

9 3. Training managerial and staff/hourly employees at the Woodland
10 Hills Home Office facilities on their obligations under Title VII, particularly the
11 responsibilities of managerial employees in hiring and recruitment;

12 4. Ensuring that the defendant properly communicates with
13 applicants and employees regarding the complaint procedure, status of the
14 complaint/investigation, results of the investigation, and any remedial action taken;

15 5. Ensuring that all reports required by this Decree are accurately
16 compiled and timely submitted;

17 6. Creating appropriate and consistent disciplinary policies to hold
18 employees and managers accountable for failing to take appropriate action and/or for
19 engaging in conduct prohibited under this Decree;

20 7. Creating a centralized system of tracking hiring decisions by
21 managers or supervisors; and

22 8. Further ensuring compliance with the terms of this Decree.

23 **D. Revision of Policies, Procedures, and Practices**

24 Zenith shall revise its Woodland Hills Home Office facilities written policy
25 relating to discrimination and retaliation, specifically in the area of recruitment and
26 hiring, as necessary. The EEOC shall be sent a copy of the revised policies within
27 sixty days after the Effective Date. The revised policy shall include:
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- 1 1. **Clear objective hiring criteria which expressly prohibit hiring**
2 **decisions on the basis of race, color, national origin, sex, age, disability,**
3 **creed/religion, retaliation, or any other protected category consistent with Title VII**
- 4 2. **A system of review by Zenith's Woodland Hills Human**
5 **Resources Department of all hiring decisions made by managers and supervisors to**
6 **ensure compliance with Title VII, including but not limited to developing a system**
7 **of accountability for all hiring decisions;**
- 8 3. **A centralized tracking system for gathering, analyzing, and**
9 **retaining of applications to ensure compliance with Title VII;**
- 10 4. **A clear statement that managers and supervisors shall be held**
11 **accountable for compliance with Title VII and EEO laws;**
- 12 5. **A clearly described complaint process to be incorporated into**
13 **Zenith's employment applications that provides accessible and confidential avenues**
14 **of complaint with contact information including name (if applicable), address, and**
15 **telephone number of persons both internal (i.e. human resources) and external to**
16 **Zenith (i.e. the Commission) to whom applicants and employees may report**
17 **discrimination and retaliation, including a written statement that the employee may**
18 **report the discriminatory behavior to designated persons outside Zenith;**
- 19 6. **Assurance that the employer will protect the confidentiality of**
20 **discrimination complaints to the extent possible;**
- 21 7. **A complaint process that provides a prompt, thorough, and**
22 **impartial investigation;**
- 23 8. **Assurance that applicants and employees who make complaints**
24 **of discrimination or provide information related to such complaints will be protected**
25 **against retaliation;**
- 26 9. **Assurance that Zenith will take immediate and appropriate**
27 **corrective action when it determines that discrimination and/or retaliation has**
28 **occurred.**

1 EEOC shall comment on the policy within forty-five (45) days of receipt.
2 Should the policy not require any revision, Zenith shall confirm distribution of the
3 policy no later than ten (10) days after the forty-five (45) day period. The policy
4 shall be distributed to all of Zenith's Woodland Hills Home Office facilities
5 employees, including management/supervisory staff, and shall be included in any
6 relevant policy or employee manuals distributed to such employees by Zenith.
7 Zenith shall collect acknowledgments from each employee who receives the revised
8 policy. Throughout the term of this Decree, Zenith shall also post the revised policy
9 in a place that is conspicuous and accessible to all employees at each of its locations
10 covered by this Decree in a legible font that is a minimum of 15 points in size.

11 **E. Training**

12 Within ninety days after the Effective Date or sixty days after hiring the
13 Consultant, whichever is later, all of Zenith's Woodland Hills Home Office facilities
14 staff/hourly and managerial/supervisory employees shall be required to attend a live
15 intensive training program of at least two hours with regard to compliance under
16 Title VII, and Zenith's Woodland Hills Home Office facilities
17 managerial/supervisory employees additionally shall be required to attend a live
18 intensive training program of at least two hours, with an emphasis on recruitment
19 and hiring practices. The training shall be mandatory. Any employee who fails to
20 attend the training shall be trained within 45 days of the live training by an
21 alternative training module, including video or WebEx.

22 1. All employees' training shall include coverage of the subjects of
23 equal employment opportunity rights and responsibilities, racial discrimination/
24 harassment, retaliation, and Zenith's revised policies and procedures. The additional
25 training for Zenith's Woodland Hills Home Office facilities managerial/supervisory
26 employees should have an emphasis on recruitment and hiring compliance under
27 Title VII.
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1 2. For the remainder of the term of this Decree, all new employees
2 and all employees recently promoted from a staff/hourly to a managerial position
3 shall receive a minimum of two hours of the managerial or staff/hourly employee
4 training, as appropriate, within forty-five days of hire or promotion.

5 3. After the initial training as specified above, all Woodland Hills
6 Home Office facilities employees shall receive the training at least every 18 months
7 thereafter for the remainder of the term of this Decree.

8 4. All employees required to attend such training shall verify their
9 attendance in writing. Zenith shall maintain all necessary documents to support
10 compliance under this section.

11 5. Within sixty days after the Effective Date or thirty days after
12 hiring the Consultant, whichever is later, Zenith shall submit to the EEOC a
13 description of the training to be provided and an outline of the curriculum developed
14 for the trainees. Zenith shall give the EEOC a minimum of twenty business days'
15 advance written notice to the EEOC of the date, time and location of each training
16 program provided pursuant to this Decree, and agrees that a EEOC representative
17 may attend any such training program.

18 F. Performance Evaluations

19 For the upcoming review cycle, defendant shall revise its performance
20 evaluation forms for managers and supervisors in order to include as measures for
21 performance compliance with Title VII and Zenith's Anti-Discrimination and
22 Retaliation Policies and Procedures.

23 At least thirty (30) days prior to implementing the performance evaluation
24 forms described above, defendant will provide the EEOC and the Consultant with
25 the proposed revisions in order to provide an opportunity for comment regarding the
26 revisions. EEOC will provide comments, if any, within 30 days of receipt of the
27 proposed revisions. Defendant shall respond to any such comments within fifteen
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1 (15) days of receipt. If the parties cannot agree on the proposed revisions, any
2 disputes will be resolved as set forth in this decree.

3 X.

4 **RECORD KEEPING AND REPORTING**

5 **A. Record Keeping**

6 Zenith shall also ensure that Zenith shall maintain the following documents
7 and will make them available to the Commission within ten (10) business days
8 following a written request from the Commission:

- 9 1. All documents to support compliance with the recruitment and
10 hiring efforts outlined in this Decree;
- 11 2. All forms acknowledging employees' receipt of Zenith's revised
12 policies and procedures;
- 13 3. A list of all persons who attend training required under this
14 Decree and supporting documents;
- 15 4. All documents generated in connection with the monitoring,
16 counseling, and disciplining of persons determined to have engaged in
17 discriminatory recruitment or hiring practices; and
- 18 5. All recruitment materials and compliance with the terms of the
19 Decree;
- 20 6. All documents reflecting Zenith's efforts to monitor and hold
21 managers accountable for EEO compliance; and
- 22 7. All EEO-1 reports required by law;
- 23 8. All applications for employment at the Woodland Hills Home
24 Office facilities during the term of this Decree; and
- 25 9. Any other documents generated by Zenith to show its compliance
26 with the terms of this Decree.

27 **B. Reporting**

- 28 1. Within 120 days of the Effective Date, Zenith shall submit:

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1 a) A copy of the final revised policies and procedures;
2 b) A summary of the procedures and record-keeping methods
3 developed with the Consultant for centralized tracking of internal discrimination
4 complaints and the monitoring of such complaints;

5 c) A statement that Zenith has secured all employee
6 acknowledgment forms indicating receipt of the revised discrimination and anti-
7 retaliation policy;

8 d) A statement confirming that all employees have been trained as
9 set forth in this Decree;

10 e) A detailed description of Zenith's recruitment efforts, including
11 any and all recruitment materials; and

12 f) An analysis of its hiring practices and the impact, if any, of the
13 recruitment efforts on Zenith's hiring practices;

14 g) A statement or analysis of Zenith's effort to hold managers and
15 supervisors accountable for EEO compliance;

16 2. Zenith shall also provide the following reports semiannually
17 throughout the term of this Decree:

18 a) A description of all monitoring efforts of hiring and recruitment
19 efforts at the Woodland Hills Home Office facilities for the preceding six months
20 and the results of the monitoring efforts. This description shall include the names of
21 the individuals allegedly engaging in discriminatory hiring practices, Zenith's efforts
22 to hold managers and supervisors accountable, and any actions taken by Zenith.
23 Zenith is also to identify who investigated or resolved each incident. If no results
24 have been reached as of the time of the report, the result shall be included in the next
25 report;

26 b) Zenith's ongoing recruitment efforts;

27 c) An audit report as set forth below.

28

1 3. Zenith shall provide a report to the EEOC detailing any changes
2 of the procedures or record-keeping methods for centralized tracking of hiring
3 decisions and the monitoring of such decisions by Zenith's Woodland Hills Human
4 Resources Department within thirty (30) days before implementing such changes.

5 **C. Audit Report**

6 Defendants shall work with the Consultant to establish an auditing procedure
7 that provides for the monitoring of recruitment and hiring efforts at the Woodland
8 Hills Home Office facilities. Within sixty calendar days after each annual
9 anniversary date of the Effective Date, Zenith shall conduct an annual audit of the
10 previous six month period (the "Audit Period") and submit a written report (the
11 "Audit Report") to the EEOC stating the total number of persons identified by race
12 who during the Audit Period:

- 13 1. Applied for/Inquired about jobs at the Woodland Hills Home
14 Office facilities;
- 15 2. Were interviewed;
- 16 3. Were hired;
- 17 4. Were offered positions but declined the employment offer;
- 18 5. Voluntarily withdrew from consideration for a position and the
19 reason(s) for the withdrawal, if known by Defendants;
- 20 6. Were unresponsive to Defendants' attempts to conduct in-person
21 interviews for positions;
- 22 7. The identification of each and every decision maker for each
23 hiring; and
- 24 8. An explanation for the basis for which every person who was not
25 selected. The Audit Report shall also include the total number of positions Zenith
26 was seeking to fill at the Woodland Hills Home Office facilities by date, position,
27 and salary.
- 28

1 Zenith will request voluntary disclosure of race data from each applicant for
2 positions at the Woodland Hills Home Office facilities for the limited purpose of
3 assembling data and submitting the Audit Report to the EEOC as provided herein.
4 The parties agree that Zenith's submission of incomplete data to the EEOC in any
5 Audit Report, due to withholding of such data shall not constitute a violation of this
6 Decree.

7 **XI.**

8 **COSTS OF ADMINISTRATION AND IMPLEMENTATION OF CONSENT**
9 **DECREE**

10 Zenith shall bear all costs associated with its administration and
11 implementation of its obligations under this Consent Decree.

12 **XII.**

13 **COSTS AND ATTORNEYS' FEES**

14 Each party shall bear its own costs of suit and attorneys' fees.

15 **XIII.**

16 **MISCELLANEOUS PROVISIONS**

17 A. During the term of this Consent Decree, Zenith shall provide any
18 potential successor-in-interest with a copy of this Decree within a reasonable time of
19 not less than thirty days prior to the execution of any agreement for acquisition or
20 assumption of control of any or all of Zenith's operations, or any other material
21 change in corporate structure, and shall simultaneously inform the EEOC of same.

22 B. During the term of this Decree, Zenith and its successors shall assure
23 that each of its officers, managers, and supervisors is aware of any term in this
24 Decree which is related to his/her job duties.

25 C. This Decree may be signed in counterparts. A facsimile signature shall
26 have the same force and effect of an original signature or copy thereof.

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1 D. All parties, through the undersigned, respectfully apply for and consent
2 to the entry of this Consent Decree as an Order of this Court.

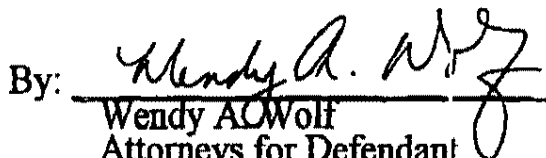
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Anna Y. Park
Peter F. Laura

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7 Date: January 12, 2006

By: 
Anna Y. Park
Attorneys for Plaintiff

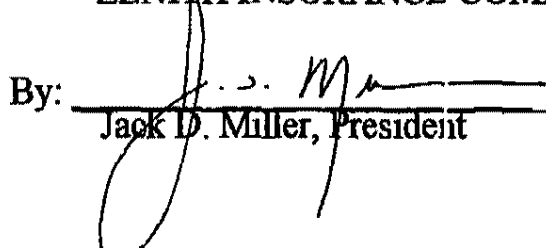
IRELL & MANELLA, LLP
Henry Shields, Jr.
Wendy A. Wolf

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11 Date: 11 January 2006

By: 
Wendy A. Wolf
Attorneys for Defendant

ZENTH INSURANCE COMPANY

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15 Date: JANUARY 11, 2006


By: 
Jack D. Miller, President

20 **[PROPOSED] ORDER**

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

23 IT IS SO ORDERED.

24 Dated: 1/12/06


The Honorable Percy Anderson
United States District Judge