

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

2001 OCT 10 AM 10:00

CLERK
MIDDLE DISTRICT OF FLORIDA
FT. MYERS, FLORIDA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

CIVIL ACTION NO.
2:00 CV 265 FTM 29D

v.

SANCTUARY GOLF CLUB, INC.

Defendant.

FILED
MIDDLE DISTRICT OF FLORIDA
FT. MYERS, FLORIDA

01 OCT 15 AM 10:46

FILED

CONSENT DECREE

1. This Consent Decree (the "Decree") is made and entered into by and between Plaintiff, the Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC"), and Defendant, Sanctuary Golf Club, Inc. (hereinafter referred to as "the Sanctuary"). The Commission and the Sanctuary are collectively referred to herein as "the Parties."

2. On June 15, 2000, EEOC initiated this action by filing its Complaint against Sanctuary Golf Club, Inc. in the United States District Court for the Middle District of Florida, Fort Myers Division, Civil Action No. 2:00 CV 265 FTM 29D based upon a charge filed by Samuel Alexander Hulsinger (EEOC Charge No. 150-98-1719). EEOC's Complaint alleges that the Sanctuary violated Title VII of the Civil Rights Act of 1964, as amended, including but not limited to, amendments authorized by the Civil Rights Act of 1991, 42 U.S.C. Section 2000e *et seq.* ("Title VII") by subjecting an employee, Samuel A. Hulsinger, to unlawful racial harassment

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in the form of a hostile work environment. The Complaint further alleges that Mr. Hulsinger was constructively discharged.

3. In the interest of resolving this matter and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by entry of this Decree. This Decree is final and binding upon the Parties, their successors and assigns.

4. The Parties agree that this Decree resolves all claims arising out of EEOC Charge Number 150- 98- 1719 and the Complaint filed in this action, and constitutes a complete resolution of all claims under Title VII that were made by the Commission in this action.

5. NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Decree, and based on the pleadings filed by the parties, it is **ORDERED, ADJUDGED AND DECREED THAT:**

JURISDICTION

6. This Court has jurisdiction of the subject matter of this action and over the Parties for the purposes of entering and enforcing this Decree.

7. No party shall contest jurisdiction of this federal court to enforce this Decree and its terms or the right of the EEOC to bring an enforcement suit upon breach of any of the terms of this Decree.

GENERAL PROVISIONS

8. Defendant, the Sanctuary, its officers and/or employees, agree not to engage in conduct which violates Title VII of the Civil Rights Act of 1964, as amended, by adversely affecting the terms and conditions of any individual's employment because of the race of that

individual and/or by subjecting an individual to racial harassment or circumstances which lead to the constructive discharge of an individual due to racial harassment.

9. Defendant, the Sanctuary, its officers and/or employees, agree not to discriminate against any employee who opposes any of Defendant's practices which the employee believes to be a violation of the Title VII; who files a charge of discrimination with the EEOC alleging violation(s) of such statute; who cooperates with the EEOC in the investigation and/or prosecution of any charge of discrimination; or who cooperated in the investigation or prosecution of this case.

RACIAL HARASSMENT POLICY AND TRAINING

10. Defendant, the Sanctuary, has established a written policy against racial harassment, which is attached as Exhibit A. Defendant, the Sanctuary, agrees that all its employees and managers will have been provided with a complete copy of their policy against racial harassment within thirty (30) days of the entry of this Decree.

11. In order to further ensure the effective implementation of Defendant the Sanctuary's anti-discrimination policy, the Sanctuary will conduct training for all of its managers and supervisory personnel on racial discrimination with specific emphasis on recognizing racial harassment and the proper procedure to be followed if they become aware of racial harassment in the workplace or if they receive a complaint of such harassment. The Sanctuary agrees to provide the EEOC, at least two weeks notice before it conducts its training session(s), with the date(s) and location(s) of the training, copies of all training materials to be used at the training session, and a list of the names and titles of each employee who will be in attendance at the training. The training will be conducted by Stephanie Yelenosky, attorney with Jackson, Lewis

et al. Additionally, the Sanctuary agrees that the EEOC shall, at the EEOC's discretion, be in attendance at each training session(s).

12. Defendant, the Sanctuary, agrees that the training described in paragraph 11 shall be conducted within sixty (60) days of the entry of this Decree. And, should thereafter take place annually for the duration of this Decree. The Sanctuary further agrees that the training described in paragraph 11 shall be given to all new managers and supervisors, who did not attend the annual training, within forty-five (45) days of being placed in a management or supervisory position.

13. The Sanctuary agrees that all new employees shall be given a copy of its Policy Against Racial Harassment; and the Sanctuary further agrees that new employees will be advised that any complaints of racial harassment should be reported in accordance with that policy.

DISCIPLINE TO OFFENDING EMPLOYEES

14. The Sanctuary agrees that within fifteen (15) days of the entry of this Decree it will discipline the following current employees of the Sanctuary for having violated the Sanctuary's policy against unlawful racial harassment: Peter Lallas and Fred Fulford. Such discipline shall consist of a written warning to be placed in each employee's file explicitly stating that the employee is being disciplined for violating the Sanctuary's policy against racial harassment and stating that any future violations will result in immediate discharge. The Sanctuary further agrees that it will provide the EEOC with copies of such written warnings once they have been issued to the offending employees.

POSTING

15. The Sanctuary will post the Notice, attached as Exhibit B, within ten (10) days of the entry of this Decree. Said notice shall be posted at its Sannibel facility for the duration of this

Decree in the area designated as the lunch room area for employees as well as on the scheduling board for employees' daily assignments and/or notices.

MONITORING

16. The Sanctuary will retain all employment records relating in any way to any complaint or allegation of racial harassment at its facilities for the duration of this Decree and as required under federal law.

17. The Sanctuary will certify to the EEOC every six months throughout the duration of this Decree that it is in compliance with all aspects of this Decree. The first such certification will be due no later than thirty(30) days from the first training provided pursuant to paragraph 10. With each certification the Sanctuary will further provide the EEOC with the name, address, and phone number of any person who alleges they have been racially harassed while working at any of the Defendant's facilities during the preceding six month period. Defendant, the Sanctuary, will also state its actions taken in response to each such allegation and provide any and all documentation associated with such complaint.

MONETARY RELIEF

18. The Sanctuary agrees to pay by certified check to Samuel Alexander Hulsinger a total of \$50,000.00 (fifty thousand dollars) representing compensatory and punitive damages, within ten (10) calendar days from the Court's execution of this Decree. Payments to Mr. Hulsinger shall be forwarded directly to him at 709 Zepplin Place, Fort Myers, Fl 33913, by certified mail with a return receipt requested. The Sanctuary will issue Mr. Hulsinger an IRS form 1099 as required by law.

19. The Sanctuary agrees to simultaneously provide the EEOC with copies of the

payment set forth in paragraph 18 above. Said copies shall be forwarded to the attention of Carla Von Greiff, Trial Attorney, at the Tampa Area Office of the EEOC, 501 East Polk Street, Room 1020, Tampa, Florida, 33602.

20. If the Sanctuary fails to tender the above-mentioned payment within the ten-day period agreed upon, the Sanctuary shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs incurred by the EEOC caused by the non-compliance or delay of the Defendant.

ENFORCEMENT OF DECREE

21. The Commission shall have independent authority to seek the judicial enforcement of any aspect, term or provision of this Decree.

22. The Court will take whatever measures it deems appropriate to effectuate the enforcement of the terms of this Decree.

COSTS

23. Each Party shall bear its own costs and attorneys' fees associated with this litigation.

DURATION OF DECREE

24. This Decree shall remain in effect for three (3) years from the date of the Court's execution of the Decree.

**AGREED TO:
FOR THE PLAINTIFF,
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

by: Delner Franklin Thomas Date: 10-5-01
Delner Franklin-Thomas
Regional Attorney
Miami District Office
United States Equal Employment Opportunity Commission
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131

AGREED TO:
FOR THE DEFENDANT,
SANCTUARY GOLF CLUB, INC.

by: Stephanie A. Yelenosky Date: 10/1/01
Stephanie Yelenosky, Esq.
Donald Works, Esq.
Jackson, Lewis et al.
Attorneys for Defendant
390 N. Orange Avenue
Suite 1285
Orlando, FL 32801-1641

by: Robert T. Berend Date: 9/27/01
President of the Sanctuary Golf Club, Inc.

SO ORDERED, ADJUDGED AND DECREED, this 15th day of October,
2001.

John E. Steele
John E. Steele
United States District Judge

EXHIBIT A: SANCTUARY'S ANTI-DISCRIMINATION POLICY

ANTI-HARASSMENT POLICY

Sanctuary has a zero tolerance for harassment and is committed to a workplace free of any harassment. Harassment of any employee by another employee, supervisor/manager or third party for any reason, including but not limited to race, color, religion, creed, age, sex, national origin or ancestry, marital status, sexual preference, veteran's status, or status as a qualified individual with a disability, and any other protected characteristic under applicable law is strictly prohibited. Harassment of third parties by our employees is also prohibited.

A. Harassment

Examples of harassment include verbal (including improper joking or teasing) or physical conduct that denigrates or shows hostility or aversion towards an individual because of any protected characteristic, and that: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment as defined by law; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or, (3) otherwise adversely affects an individual's employment opportunities.

B. Sexual Harassment

Examples of sexual harassment include unwelcome or unsolicited sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; or
2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; and
3. such conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

Other examples of sexual harassment include: unwelcome sexual advances, requests for sexual favors, obscene gestures, visual harassment such as derogatory cartoons, posters and drawings, sexually explicit e-mail, or voice mail and other verbal or physical conduct of a sexual nature such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, prohibited conduct can also include sexual joking, vulgar or offensive conversation or jokes, commenting about an individual's physical appearance, conversation about an individual's own or someone else's sex life, teasing or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create an unprofessional and hostile working environment. It may range from inappropriate sexual suggestions to coerced sexual relations. The harasser may be the individual's employer, supervisor, co-worker, or other third party.

C. Reporting

In the event that any harassment based on matters protected under applicable federal, state, or local law occurs, or other conduct interferes with any employee's work performance, employees should immediately report the matter to their department supervisor/manager or any other supervisor/manager with whom the employee feels comfortable. If an employee is unsure of with whom to raise an issue of harassment, or if an employee has not received a satisfactory response within five (5) business days after reporting any incident of what the employee perceives to be harassment, please immediately contact Sanctuary's Human Resource Director or General Manager. They will insure that an investigation is immediately conducted. Every report of perceived harassment will be fully investigated and corrective action will be taken where appropriate. Sanctuary will protect the confidentiality of harassment complaints to the extent possible, within the constraints of applicable law.

Violation of this policy will result in disciplinary action, up to and including discharge for any employee who violates this policy. In addition, the company prohibits any form of retaliation by any individual against individuals who report unwelcome conduct or who cooperate in the investigation of such reports in accordance with this policy and the company will take appropriate disciplinary action for any such retaliation.

Sanctuary is committed to maintaining a productive and lawful work environment, free of any harassment. Employees with questions or complaints will be provided with appropriate timely responses. An employee with questions about this policy should contact his/her supervisor/manager or any other supervisor/manager with whom the employee feels comfortable.

Date Printed: 10/15/2001

Notice sent to:

— Rachel H. Shonfield, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— C. Gregory Stewart, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— Gwendolyn Y. Reams, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— Delner Franklin-Thomas, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
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— Gilbert Carrillo, Esq.
Equal Employment Opportunity Commission
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— Jennifer H. Zawid, Esq.
Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 S. Biscayne Blvd., Suite 2700
Miami, FL 33131

— Carla J. Von Greiff, Esq.
Equal Employment Opportunity Commission
Tampa Area Office
501 E. Polk St. 10th Floor
Timberlake Federal Building Annex
Tampa, FL 33602

— Donald C. Works III, Esq.
Jackson, Lewis, Schnitzler & Krupman
390 N. Orange Ave., Suite 1285

P.O. Box 3389
Orlando, FL 32802-3389

— Stephanie A. Yelenosky, Esq.
Jackson, Lewis, Schnitzler & Krupman
390 N. Orange Ave., Suite 1285
P.O. Box 3389
Orlando, FL 32802-3389

— Philip H. Blackburn
Law Office of Philip H. Blackburn
3117 Edgewater Dr.
P.O. Box 547966
Orlando, FL 32854

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EQUAL EMPLOYMENT OPPORTUNITY

Sanctuary is committed to the full utilization of all human resources and to a policy of equal employment opportunity. Sanctuary will not discriminate against employees or applicants for employment on legally-recognized basis including, but not limited to, race, age, color, religion, sex, marital status, national origin, physical or mental disability, veteran status and/or any other protected class under federal, state, or local statute.

EXHIBIT B: NOTICE

**NOTICE TO ALL EMPLOYEES
POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
AND SANCTUARY GOLF CLUB, INC.**

This notice is being posted pursuant to a Consent Decree entered by the Court in Equal Employment Opportunity Commission v. Sanctuary Golf Club, Inc. Civil Action No. 2:00 CV 265 FTM 29D. The Sanctuary Golf Club, Inc. has agreed that it will not discriminate against employees in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from employment discrimination because of their race, religion, color, sex (including sexual harassment and pregnancy) and/or national origin. Title VII also protects individuals from retaliation for having complained of an unlawful employment practice. The Sanctuary Golf Club, Inc. will not condone discrimination of any kind as set forth in federal laws, including, but not limited to, racial harassment.

Furthermore, the Sanctuary Golf Club, Inc. assures its employees that it supports Title VII and will not take any action against an individual because he/she has exercised his/her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, shall be taken against any employee (including management personnel) found to violate the policies regarding discrimination, based upon the circumstances involved.

This notice shall remain posted for three (3) years from the date signed. Employees or applicants for employment who have questions about their rights under Title VII or any other federal anti-discrimination law may telephone the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000.

Signed this ____ day of _____, 2001.

President/CEO
Sanctuary Golf Club, Inc.

F I L E C O P Y

Date Printed: 10/15/2001

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