

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

12/21/01 3:18

CLERK U.S. DISTRICT COURT
 MIDDLE DISTRICT OF FLORIDA
 FT. MYERS, FLORIDA

[Handwritten signature]

UNITED STATES EQUAL EMPLOYMENT)
 OPPORTUNITY COMMISSION,)
)
 Plaintiff,)
)
 and)
)
 CHRIS WEATHERSPOON,)
)
 Plaintiff-Intervener,)
)
 v.)
)
 VAL WARD CADILLAC, INCORPORATED,)
)
 Defendant)
)

CIVIL ACTION NO.
 2:00-cv-410-FtM-29D

CONSENT DECREE

1. This Consent Decree (the "Decree") is made and entered into by and between Plaintiff EEOC, the Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC"), and Plaintiff-Intervenor, Chris Weatherspoon (hereinafter referred to as "Plaintiff-Intervenor") and Defendant, Val Ward Cadillac, Incorporated (hereinafter referred to as "Val Ward Cadillac"). The Commission, Plaintiff-Intervenor and Val Ward Cadillac are collectively referred to herein as "the Parties."

2. On September 29, 2000, EEOC initiated this action by filing its Complaint against Val Ward Cadillac. EEOC's Complaint alleged that Val Ward Cadillac 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"). The Complaint arose out

of the allegations in an EEOC charge filed by Chris Weatherspoon against Val Ward Cadillac.

3. On November 8, 2000, Plaintiff-Intervenor, Chris Weatherspoon filed a Motion to Intervene in the above-styled case. On December 6, 2000, the Court granted the motion.

4. On February 12, 2001, Val Ward Cadillac filed its Answer to EEOC's Complaint, denying its actions were discriminatory in any way.

5. In the interests of resolving this matter, to avoid the costs of litigation, and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by the entry of this Decree. This Decree is final and binding upon the Parties, their successors and assigns. The entering into this agreement is not an admission to the allegations contained in the Complaint or raised in this matter.

6. The Parties agree that this Decree resolves all claims against Val Ward Cadillac alleged in EEOC Charge Number 150 99 1823 and the Complaints filed in this action. The Parties further agree that this Decree does not resolve any Charges of Discrimination that may be pending with the EEOC other than the Charge referred to in this paragraph.

7. This Decree constitutes the complete agreement between the EEOC and Val Ward Cadillac with respect to the matters referred to herein. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Decree. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by all parties to this Decree and approved or ordered by the Court.

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

JURISDICTION

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

9. 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 INJUNCTIVE PROVISIONS

10. Val Ward Cadillac, its officers, managers, employees, agents and partners, agree that it will not engage in any 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 or by discharging an employee for opposing or participating in any Title VII statutorily protected activity.

11. Val Ward Cadillac, its officers, managers, employees, agents and partners, agree that it will not discriminate against any employee who opposes any of Defendant's practices which the employee believes to be a violation of 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.

TRAINING

12. Val Ward Cadillac has established a written policy of compliance with Title VII

which is attached hereto as Exhibit A. A complete copy of this policy will be distributed to all its current employees at all of its facilities by January 31, 2002. Val Ward Cadillac further agrees that all new employees will be provided a copy of the policy within one week of employment.

13. In order to further insure the effective implementation of Val Ward Cadillac's anti-discrimination policies, Val Ward Cadillac will conduct training for all of its managers and supervisory personnel at its facilities in Ft. Myers, Florida, on all aspects of Title VII. Such training shall be conducted by Vicki Sproat, Esq., of the law firm of Henderson & Franklin, and shall last at least four hours. The first training shall be conducted by January 31, 2002. Val Ward Cadillac shall provide the EEOC at least two weeks notice before it conducts its training session(s). The notice shall include the date(s) of the training, copies of all training material 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.

DEVELOPMENT OF COMPLAINT PROCEDURE

14. Val Ward Cadillac will implement the investigation and complaint resolution procedures attached as Exhibit B. This investigation and complaint procedure will be: 1) documented in Val Ward Cadillac's Employee Handbook ; 2) given to all employees; and 3) posted in a conspicuous location in all of Val Ward Cadillac's facilities by January 31, 2002.

POSTING

15. Val Ward Cadillac will post within seven days from the Court's execution of this Decree an 8.5" x 11" size copy of the Notice attached hereto as Exhibit C. Said notice shall be posted at all Val Ward Cadillac facilities for the duration of this Decree in conspicuous locations

accessible to all employees.

MONITORING

16. Val Ward Cadillac will retain all employment records relating in any way to any complaint, allegation and investigation of race discrimination or retaliation at any of Val Ward Cadillac's facilities for the duration of this Decree and as required by law.

17. Val Ward Cadillac will provide the EEOC with the name, address and phone number of any person who alleges they have been subjected to racial harassment or retaliation while working at any of Val Ward Cadillac's facilities during the preceding six (6) months. Val Ward Cadillac will also state its actions taken in response to each such allegation. The first report shall be submitted by January 31, 2002. Val Ward Cadillac will provide upon request by the Commission any and all documentation associated with each such complaint.

18. Val Ward Cadillac will certify to the EEOC every six (6) 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 January 31, 2002.

MONETARY RELIEF

19. Val Ward Cadillac shall pay Chris Weatherspoon a lump sum in the amount of \$80,000.00 (Eighty Thousand Dollars). \$7,000.00 (Seven Thousand Dollars) represents back pay, less amounts required to be withheld for federal, state, and local income taxes. Val Ward Cadillac will also issue an I.R.S. form and W-2, and shall be responsible for the payment of the employer's share of any federal, state, or local income taxes, and social security withholdings. Additionally,

\$40,302.00 (Forty Thousand Three Hundred and Two Dollars) represents compensatory and punitive damages and Val Ward Cadillac shall issue a form 1099 itemizing same. Also, \$32,698.00 (Thirty Two Thousand Six Hundred and Ninety Eight Dollars) represents attorney fees. All payments shall issue within fifteen (15) calendar days from the Court's execution of this Decree, and shall be made by certified check in the name of Dennis Webb, Esq., in trust for Chris Weatherspoon and forwarded to Dennis Webb, Esq., at his office address, 1617 Hendry Street, Third Floor, Fort Myers, Florida 33901, by Federal Express Mail. Said copies shall be forwarded to the attention of Kenneth L. Gillespie, EEOC Trial Attorney, U.S. Equal Employment Opportunity Commission, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131.

20. If Val Ward Cadillac fails to tender the above-mentioned payments as set forth in paragraph 19, then Val Ward Cadillac 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 necessary to effectuate the terms of this Decree.

COSTS

23. Each Party shall bear its own costs associated with this litigation.

DURATION OF CONSENT DECREE

24. The duration of this Decree shall be three (3) years from the date of entry of the Decree.

SO ORDERED, ADJUDGED AND DECREED, this ____ day of ~~November~~, 2001.

JOHN E. STEELE
UNITED STATES DISTRICT JUDGE

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

by: *Delner Franklin Thomas*
Delner Franklin-Thomas
Regional Attorney
U.S. Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131

Date: 12-12-01

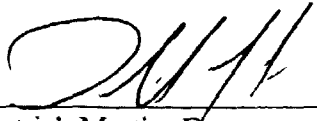
AGREED TO:
PLAINTIFF-INTERVENER
CHRIS WEATHERSPOON

by: *Chris Weatherspoon*
Chris Weatherspoon
Plaintiff-Intervener
c/o Dennis Webb, Esq.
1617 Hendry Street, Third Floor
Fort Myers, Florida 33901

Date: 12-11-01

AGREED TO:
FOR THE DEFENDANTS

by:



Patrick Martin, Esq.
Jackson, Lewis, Schnitzler & Krupman
First Union Financial Center
200 South Biscayne Boulevard
Suite 2600
Miami, Florida 33131

Date:

12/7/01

EXHIBIT A

GENERAL EMPLOYMENT POLICIES

It is this company's policy to employ people who are best qualified to do the work required. This organization attempts to provide up-to-date training, advancement for deserving employees, wages comparable to those prevailing in the area, and working relationships that are fair and free from bias and discrimination. With the above firmly in mind, we now turn to general employment policies.

Employment at Will Policy

It is understood that your employment will be for no definite period, regardless of the period of payment of your wages. You have the right to terminate your employment at any time with or without notice, and this organization has the same right. No one other than the owner of this company has the authority to modify this relationship or make any agreement to the contrary. Any such modification or agreement must be in writing and signed by both parties.

Open Door Policy

Please keep in mind that all managerial office doors are open to you. Management personnel is willing and anxious to meet with you on a one-to-one basis to answer questions, provide information, and settle any differences or grievances in an amicable manner. Each employee should feel free to discuss with his supervisor any matters affecting his employment without reprisal. When satisfaction is not received at the departmental level, questions may then be referred to the General Manager.

Equal Employment Opportunity Employer (EEOE)

This organization is an equal employment opportunity employer.

EEOE

We do not discriminate against employees or job applicants on the basis of race, religion, color, sex, age, national origin, marital status, disability, veteran status, or any other status or condition protected by applicable federal or state statutes, except where a bona fide occupational qualification applies. This organization will provide equal opportunity for all staff members in employment and personnel practices, company sponsored education and training programs, and any social-recreational activities.

All employment applications will be considered on the basis of individual qualifications with emphasis on selecting

"the best qualified person for the job."

Selection decisions will include, but not be limited to, such considerations as the date of the application, previous work records, special training and skills, work experience, attitude, and any other qualifications that are clearly job related.

Employee Handbook - Rev. 01/00

All employees are obligated to act affirmatively to ensure full and equal participation in all available opportunities. Any violation of the organization's equal employment opportunity policy should be reported to the employee's immediate supervisor and the appropriate grievance procedure will be followed. If the employee's supervisor is believed to be involved in or has caused this policy violation, it should be reported directly to any member of management or the owner of this organization.

Please keep in mind, however, this company can not address a violation unless it is made aware of the allegation. All employees are obligated to report any knowledge of such violations to management. In addition, this company prohibits retaliatory conduct by anyone against an employee reporting a violation or participating in the grievance process.

Policy Against Sexual Harassment

This organization is committed to providing a safe work environment. In keeping with this commitment, we maintain a strict policy prohibiting any kind of sexual harassment.

Do you know what sexual harassment is?

The *Equal Employment Opportunity Commission (EEOC)* defines sexual harassment as jokes, comments, and/or graphic or physical conduct relating to an individual's sex including sexual advances, requests for sexual favors, offensive touching, or any conduct of a sexual nature. Sexual harassment includes a hostile environment that interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Please do not bring to the workplace any material that is non-business in nature such as sexual or racial materials. Should you receive such materials at the dealership (via co-worker, fax, mail, etc.), it is the company's policy to notify your supervisor. This material is to be destroyed and discarded. Furthermore, the telling of jokes or stories of this nature is not permitted.

Sexual Harassment Grievance Procedure

Any employee who believes that she has been harassed by a co-worker, supervisor, vendor, or agent of this organization, should promptly report the facts of the incident(s) and the name(s) of the individual(s) involved to her supervisor or to any member of management.

Please keep in mind, however, that this company can not address a violation of this policy unless it is made aware of the allegation. All employees are obligated to report any knowledge of such violations to management. This company prohibits retaliatory conduct by anyone against an employee reporting a violation or participating in the grievance process.

Management will make every effort to ensure that complaints of harassment are resolved promptly and effectively. If the employee is not satisfied with the action taken by his supervisor, the employee may bring the complaint to the attention of the General Manager. The complaint will be investigated by the General Manager and the employee will be advised of the findings and conclusions. Any employee found to have harassed any other employee of this company will be properly disciplined and is subject to

Immediate dismissal. Therefore, it is imperative that a harassed employee utilize this described grievance procedure in a timely manner so that the appropriate remedial action may be undertaken by this company.

Alcohol and Use of Illegal Drugs

Drug and alcohol use is highly detrimental to the safety and productivity of employees in the workplace. The use of alcoholic beverages or illegal drugs on the dealership's premises is not permitted. Any employee on the premises found to be under the influence of alcohol or drugs will be subject to immediate dismissal.

Community Relations

Because YOU represent this dealership, the community's impression of you will often be their impression of the entire organization. In your interactions with others, whether they are customers or your working associates, you should always be courteous, tactful, and fair. This will not only add to the efficiency of the organization but it will enhance your experience here at the dealership.

Many of us have a tendency to become careless and indifferent when dealing with people other than on a face-to-face basis, such as telephone communications or letter writing. Most of the time this is unintentional. Thus, we hope that by making you aware of this, it will prompt you to make every effort to deal with others in a professional manner. The idea to

"treat others as you would want to be treated yourself"

is always a good rule to follow. Being friendly and courteous requires little energy, yet reaps large benefits. Bearing all this in mind will help you improve your relationships with our customers, the community, as well as with your associates.

Customer Relations

As you already know, it is the customer who pays our wages. Dealing with customers fairly, promptly, and courteously will give them a reason to return to this dealership for their next purchase or service needs. Here are some good ideas to implement.

1. *Greet customers promptly and with courtesy.*
2. *Smile!*
3. *Use a customer's name whenever possible.*
4. *Be friendly, but not familiar - some find this uncomfortable.*
5. *Do not lose your temper - only fools win arguments.*
6. *Make only the promises you can keep.*

EXHIBIT B

Employee Handbook - Rev. 01/00

All employees are obligated to act affirmatively to ensure full and equal participation in all available opportunities. Any violation of the organization's equal employment opportunity policy should be reported to the employee's immediate supervisor and the appropriate grievance procedure will be followed. If the employee's supervisor is believed to be involved in or has caused this policy violation, it should be reported directly to any member of management or the owner of this organization.

Please keep in mind, however, this company can not address a violation unless it is made aware of the allegation. All employees are obligated to report any knowledge of such violations to management. In addition, this company prohibits retaliatory conduct by anyone against an employee reporting a violation or participating in the grievance process.

Policy Against Sexual Harassment

This organization is committed to providing a safe work environment. In keeping with this commitment, we maintain a strict policy prohibiting any kind of sexual harassment.

Do you know what sexual harassment is?

- The *Equal Employment Opportunity Commission (EEOC)* defines sexual harassment as jokes, comments, and/or graphic or physical conduct relating to an individual's sex including sexual advances, requests for sexual favors, offensive touching, or any conduct of a sexual nature. Sexual harassment includes a hostile environment that interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Please do not bring to the workplace any material that is non-business in nature such as sexual or racial materials. Should you receive such materials at the dealership (via co-worker, fax, mail, etc.), it is the company's policy to notify your supervisor. This material is to be destroyed and discarded. Furthermore, the telling of jokes or stories of this nature is not permitted.

Sexual Harassment Grievance Procedure

Any employee who believes that she has been harassed by a co-worker, supervisor, vendor, or agent of this organization, should promptly report the facts of the incident(s) and the name(s) of the individual(s) involved to her supervisor or to any member of management.

Please keep in mind, however, that this company can not address a violation of this policy unless it is made aware of the allegation. All employees are obligated to report any knowledge of such violations to management. This company prohibits retaliatory conduct by anyone against an employee reporting a violation or participating in the grievance process.

Management will make every effort to ensure that complaints of harassment are resolved promptly and effectively. If the employee is not satisfied with the action taken by his supervisor, the employee may bring the complaint to the attention of the General Manager. The complaint will be investigated by the General Manager and the employee will be advised of the findings and conclusions. Any employee found to have harassed any other employee of this company will be properly disciplined and is subject to

Immediate dismissal. Therefore, it is imperative that a harassed employee utilize this described grievance procedure in a timely manner so that the appropriate remedial action may be undertaken by this company.

Alcohol and Use of Illegal Drugs

Drug and alcohol use is highly detrimental to the safety and productivity of employees in the workplace. The use of alcoholic beverages or illegal drugs on the dealership's premises is not permitted. Any employee on the premises found to be under the influence of alcohol or drugs will be subject to immediate dismissal.

Community Relations

Because YOU represent this dealership, the community's impression of you will often be their impression of the entire organization. In your interactions with others, whether they are customers or your working associates, you should always be courteous, tactful, and fair. This will not only add to the efficiency of the organization but it will enhance your experience here at the dealership.

Many of us have a tendency to become careless and indifferent when dealing with people other than on a face-to-face basis, such as telephone communications or letter writing. Most of the time this is unintentional. Thus, we hope that by making you aware of this, it will prompt you to make every effort to deal with others in a professional manner. The idea to

"treat others as you would want to be treated yourself"

is always a good rule to follow. Being friendly and courteous requires little energy, yet reaps large benefits. Bearing all this in mind will help you improve your relationships with our customers, the community, as well as with your associates.

Customer Relations

As you already know, it is the customer who pays our wages. Dealing with customers fairly, promptly, and courteously will give them a reason to return to this dealership for their next purchase or service needs. Here are some good ideas to implement.

- 1. Greet customers promptly and with courtesy.**
- 2. Smile!**
- 3. Use a customer's name whenever possible.**
- 4. Be friendly, but not familiar - some find this uncomfortable.**
- 5. Do not lose your temper - only fools win arguments.**
- 6. Make only the promises you can keep.**

EXHIBIT C

NOTICE POSTED PURSUANT TO A CONSENT DECREE

This notice is being posted pursuant to a Consent Decree entered by the Court in EEOC vs. Val Ward Cadillac, Incorporated. Val Ward Cadillac, Inc. will not discriminate against employees in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Title VII protects individuals from discrimination in all aspects of their employment, including hiring, because of their race, religion, color, national origin, or sex.

Val Ward Cadillac, 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.

This notice shall remain posted for three 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, (305) 530-6000 or (305)530-6006.

Signed this ____ day of _____, 2001.

PRESIDENT CEO, Val Ward Cadillac, Incorporated



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Miami District Office**

One Biscayne Tower
2 South Biscayne Blvd, Suite 2700
Miami FL, 33131
(305) 536-4491
TTY (305) 536-5721
FAX (305) 536-4611

December 20, 2001

VIA FEDERAL EXPRESS

Leslie K. Stoddard
Clerk of Court
United States Courthouse
Middle District of Florida, Ft. Myers Division
2110 First St., #2-194
Ft. Myers, Florida 33901

Re: EEOC v. Val Ward Cadillac, Inc.
Civil Case No.: 2:00-cv-410-FtM-29D

Dear Ms. Stoddard:

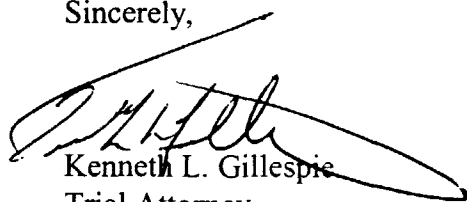
Enclosed for filing in the U.S. District Court for the Middle District of Florida, Ft. Myers Division, are an original and two copies of the following document:

Executed Consent Decree

I have stapled a self-addressed, stamped envelop to the copy that I wish to have stamped by your office and returned to me.

Thank you for your prompt attention to this matter.

Sincerely,


Kenneth L. Gillespie
Trial Attorney

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS, FLORIDA
2001 DEC 21 PM 3:18

RECEIVED
AFTERNOON MAIL ROOM