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U.S. DIST. COURT
BRUNSWICK DIV

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

VS.

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, LOCAL 1423**

**CIVIL ACTION NO.
CV297-127**

CONSENT DECREE

This action was instituted by the EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (hereinafter, the "Commission") against INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1423 (hereinafter the "Defendant") pursuant to Section 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. 2000e et seq. (hereinafter referred to as "Title VII") to remedy the alleged wrongful employment practices identified in the Complaint filed in this action.

This Court has jurisdiction of the subject matter of this action and of the parties to this action.

The Commission alleged in this Civil Action that the Defendant unlawfully discriminated against the Charging Parties, Ms. Ertice Johnson, Ms. Clarissa Davis, Ms. Joyce Higginbotham, Ms. Annletha Hall-Rouse, Ms. Janet Johnson, Ms. Dianne Reid Fulton,

and other similarly situated females who had been denied union membership, seniority, training, and/or the opportunity to work because of discriminatory worker selection and/or work assignment practices utilized by Defendant in violation of Title VII. In its Complaint, the Commission sought back pay relief, prejudgment interest, front pay relief, compensatory and punitive damages, and injunctive and other affirmative relief. The Defendant filed its Answer denying the allegations made by the Commission. Defendant denied any liability to the Commission, the Charging Parties, and/or to any other person.

The parties to this action want to avoid the additional expense, delay, and uncertainty which will result from continuing this litigation. Instead, the parties want to formulate a plan, to be embodied in a Consent Decree, which will promote and effectuate the purposes of Title VII.

This Court has reviewed the terms of the proposed Consent Decree in light of the pleadings and the applicable law and regulations and has conducted a fairness hearing at which individuals claiming entitlement to relief were permitted to address this Court. Based on the foregoing, this Court has approved this Consent Decree as one which will promote and effectuate the purposes of Title VII and is fair to the individuals entitled to relief.

Now, therefore, this Court being fully advised in the premises, it is hereby ORDERED, ADJUDGED AND DECREED:

I. DISCLAIMER OF VIOLATION

The negotiation, execution, and entry of this Consent Decree, and the undertakings made by Defendant hereunder, are in settlement and compromise of disputed claims of alleged sex discrimination, the validity of which are denied by Defendant. Neither the execution nor entry of this Consent Decree constitutes an acknowledgment or admission by the Defendant that its officers, agents, or employees have not been in compliance with Title VII or any other applicable law, rule, regulation, or order.

II. NON-DISCRIMINATION

Defendant shall not discriminate against any Charging Party or any other person with respect to the policies and practices alleged in the Complaint. Nor shall Defendant retaliate or take any adverse action against any Charging Party or any other person in the future because he, she, or they opposed practices believed to be in violation of Title VII, filed a charge of discrimination, or otherwise participated in an equal employment opportunity process. The Defendant shall not retaliate or take any adverse action against any person because of his or her participation in the investigation of any charges of discrimination or prosecution of this litigation.

Defendant, to insure equal opportunity in the employment process, shall make all decisions affecting work assignments, seniority, training, and union membership without regard to race, color, sex, religion, or national origin.

III. NOTICES TO BE POSTED AND RELATED INSTRUCTION

Defendant shall keep posted the notice required by Section 711 of Title VII, and, for at least one (1) year immediately following the entry of this Decree, at Defendant's union hall in Brunswick, Georgia. Defendant shall also keep conspicuously posted a copy of the notice attached to this Decree. The posting required by this paragraph shall be conspicuously made on a bulletin board or other location likely to be seen by Defendant's members or other persons whenever they come to the union hall seeking work. Within fourteen (14) days from the entry of this Consent Decree, Defendant shall instruct its membership regarding the meaning of those notices and of this Consent Decree. Within sixteen (16) days from the entry of this decree, Defendant shall certify to the Commission that the required notices have been posted and required instruction has been provided. Defendant shall permit the Commission to enter upon Defendant's premises to monitor compliance with this Section.

IV. MONETARY RELIEF AND FAIRNESS HEARING

A. Monetary Relief

Subject to the approval of this Consent Decree, following a fairness hearing, the Commission and Defendant have agreed that Defendant shall pay to the six Charging Parties and JoAngela Coney, Mary K. Green, Gloria Y. Gardner, Kathye Pickens, Cynthia M. Pinckney, Angelia Grovner, Juanita Stevens, Essie Kitchen, Paula Higginbotham, Loretta Gibbons-Miller, Sanita Nixon, and Felicia Jones a \$5.00 per hour wage bonus for all hours these eighteen women work for any member of the Georgia Stevedore Association,

commencing on October 1, 1998, or such later date as the woman shall select, and continuing for a period of three years for each woman, provided, however, that a woman shall not continue to receive the bonus if she loses her seniority status after she has begun to receive the bonus. These amounts shall be paid by Defendant directly to each of these women on a quarterly basis within 15 days of the end of each quarter. The basis for calculating hours shall be the number of hours reported by the Georgia Stevedore Association to the International Longshoremen's Association Pension and Welfare Fund. Defendant shall deduct all federal, state and local taxes required by law, and shall otherwise comply with payroll deduction and withholding obligations imposed by law.

B. Fairness Hearing

On or before September 20, 1998, the Commission shall send written notice of the proposed distribution plan and a notice of a fairness hearing to all women known to have worked a total of 300 hours or more in any one fiscal year since October 1, 1990 pursuant to one of Defendant's work permits. The notice shall state that copies of this proposed decree are available from the Local's President or his secretary for any person who desires a copy. Immediately upon receiving from the Commission the form of the Notice, Defendant shall post the notice conspicuously on its bulletin board where it shall remain until after the hearing. Defendant shall also personally deliver to each holder of an "I" or "J" card a copy of the notice within three days of its posting, but in any event no later than seven days prior to the fairness hearing.

The fairness hearing is set for Tuesday, September 29, 1998, at 9:00 a.m., at the United States Courthouse, Second Floor Courtroom, Gloucester Street, Brunswick Georgia. After the fairness hearing, at which claimants shall have an opportunity to be heard concerning the fairness of the plan, the Court shall make a final determination as to the approval of this Consent Decree.

V. GENDER NEUTRAL WORK REFERRAL SYSTEM

The Commission has alleged that Defendant has used a discriminatory system to assign work to the pool of workers who have "work permits" but who have not met the preconditions for having any seniority rights. Without admitting that its existing system for assigning work is discriminatory, Defendant agrees to adopt the following work referral system in order to assure that work assignments to work permit holders does not reflect any gender discrimination.

To the extent needed to fulfill Defendant's contractual obligations to the Georgia Stevedore Association during job assignment sessions ("shape-ups"), when positions requiring specialized skills (e.g., fork lift driver, towmotor operator, winch man, gear man, and crane operator) are available for work permit holders, headers shall select workers who possess the required skills first. After filling all positions requiring specialized skills, headers shall select from among work permit holders alphabetically in accordance with the permit holder's last name. If any worker believes that he or she was not selected for a position requiring a specialized skill because of the worker's gender, the worker may orally note his

or her belief to Defendant's designated official, who shall make an initial determination on the spot as to whether the selection by the header should be changed. If the selection is not changed, the worker may submit a written statement of his or her belief to the Defendant's designated official. That written statement, together with any information concerning Defendant's remedial response, if any, shall be included in Defendant's periodic reports as required by Section IX of this Consent Decree.

At the commencement of the new work assignment system, work permit holders shall establish the name by which their alphabetical priority will be determined. If a worker's name changes during the year, that change will be effective for alphabetical priority the following October 1. Work permit holders attending the first shape-up after October 1 will be eligible for selection in alphabetical order beginning with the letter A. After the last job is filled at a shape up, Defendant's business agent or designee will record the next name in alphabetical sequence following the name of the last work permit holder selected. The business agent or designee will place the next work permit holder's name conspicuously on the bulletin board. At the next shape-up, priority for selection among work permit holders will begin with the listed name and proceed in alphabetical sequence through the entire list of work permit holders. Thereafter, the priority will repeat in alphabetical order the list of work permit holders including any new work permit holders who have been added to the list.

Persons who wish to receive work assignments but who have neither seniority letter cards nor work permits are permitted to sign a "sign-in book" for each day for which they

appear at a shape-up. Defendant's designated official will assure that the order in which persons are allowed to sign the sign-in book is the temporal order in which workers arrived for the shape up that day. If two or more workers are deemed to have arrived simultaneously, Defendant's designated official will devise a fair means (e.g., drawing straws, flipping a coin, etc.) to give sign in priority among workers deemed to have arrived simultaneously. If, at a shape up, fewer than all open positions are filled by workers holding seniority letter cards or work permits, open positions will be filled by persons whose names appear in that day's sign-in book, beginning with the first name on the list and proceeding, in order, with subsequent names. Any worker obtaining work in this manner will be granted a work permit and his or her name will be added to the alphabetical list of work permit holders.

VI. SENIORITY

Defendant will propose to the Georgia Stevedore Association the following seniority adjustments:

- a) Charging Party Clarissa Davis will be granted "I" Category seniority, including all benefits associated with being a union member with that level of seniority.
- b) Charging Parties Ertice Johnson, Joyce Higginbotham, Annletha Hall-Rouse, Janet Johnson, and Dianne Reid Fulton will be granted "J" Category seniority,

including all benefits associated with being a union member with that level of seniority.

- c) JoAngela Coney, Mary K. Green, Gloria Y. Gardner, Kathye Pickens, Cynthia M. Pinckney, Angelia Grovner, Juanita Stevens, Essie Kitchen, Paula Higginbotham, Loretta Gibbons-Miller, Sanita Nixon, and Felicia Jones will be granted "K" Category seniority, including all benefits associated with being a union member with that level of seniority.

Acceptance by the Georgia Stevedore Association of this proposal and the Association's agreement to implement the seniority provisions noted in this paragraph are a prerequisite to entry of this Consent Decree.

VII. UNION INITIATION FEES

Within fourteen days after final approval of this Decree, Defendant shall pay to each of the eighteen women who are receiving benefits under this Decree the sum of \$750. Defendant will provide an application for membership in the Union to any woman who requests it and provide such assistance as may be necessary to properly complete the form. Upon receiving from any of the eighteen women a completed application form and the initiation fee of \$750, Defendant will admit her to membership in the Union without a vote or any other formality. She will thereafter have and enjoy all of the rights and privileges of any other member of the Union.

VIII. TRAINING

Defendant represents and warrants that it has never provided or participated in any skill training program relating to positions available through shape-ups. Instead, Defendant represents and warrants that skill training was arranged on an individual basis by an experienced worker mentoring an inexperienced worker during nonworking hours using equipment provided by a stevedoring company. Defendant further represents and warrants that if the individualized training were deemed successful by the experienced worker, the inexperienced worker would be regarded as qualified to handle positions related to the individualized training, including fork lift driver, towmotor operator, winch man, gear man, and crane operator positions. In reliance on Defendant's representations, the Court will not require Defendant to develop any formal training program of its own. Instead, until June 1, 1999, Defendant must maintain a list on which women seniority card holders and work permit holders may seek training on the same basis as it has been available for male workers. Defendant will take responsibility for finding experienced workers willing to mentor the female workers by providing training as described above. Equipment needed for such training will be requested from stevedoring companies on the same terms as it has been provided in the past for male workers and, if necessary, Defendant will use its best efforts to assist the teacher/student team in obtaining permission to use the equipment. Defendant will use its best efforts to assure that the training shall be sufficiently extensive so that a person completing the training would be expected to have the experience needed to perform

the position for which the training was requested. If one or more stevedoring companies refuse to make equipment available for requested training or experienced mentors cannot be found for one or more female workers who request training, Defendant shall prepare a written account of the efforts it made to obtain equipment and mentors and the responses it was given by stevedoring companies and potential experienced mentors. That written account shall be included in Defendant's periodic reports as required by Section IX.

From June 1, 1999, through June 1, 2004, Defendant will make available to all work permit holders, male and female, the opportunity to sign up for training, as described in the foregoing paragraph. Reporting requirements will continue to apply for the expanded program.

On or before January 29, 1999, Defendant will conduct a training program for all of its members, the purpose of which is to explain the statutory prohibitions against sex discrimination and against retaliation. All union members will be required to attend and nonunion workers with seniority cards or work permits will be invited to attend. Defendant will provide a copy of the curriculum and any teaching materials to the Commission by December 1, 1998 and will, to the extent practicable, consider the Commission's comments and supplement the Commission's recommendations concerning the curriculum and materials. The Commission will be permitted to have an observer attend the initial training session. Training sessions on the same topic will be offered to new union members on an annual basis through the year 2003.

IX. REPORTING

Defendant will submit to the Commission a written report outlining Defendant's compliance with the terms of this Consent Decree on a semi-annual basis for a period of two years following entry of this Consent Decree and on an annual basis for three years thereafter. Reports outlining compliance for the time period January 1 to June 30 are due on August 1. Reports outlining compliance for the time period July 1 to December 31 are due on February 1. Reports outlining compliance for the time period January 1 to December 31 are due on February 1. After receipt of a report, the Commission shall have 30 days to object or request supplementation or supporting documentation. If no objection or request for supplementation or supporting documentation is made within the required time, the report will be deemed to have been accepted by the Commission.

X. RELEASE

Each person receiving monetary or seniority relief under Sections IV or VI of this Consent Decree will, as a condition precedent to receipt of such monetary or seniority relief, be required to sign a release of all gender or retaliation claims which were asserted or could have been asserted on her behalf by the Commission in this litigation.

XI. DISCLOSURE TO THE PUBLIC

This Consent Decree will be filed and available for public review. Nothing in this Consent Decree nor in any of the negotiations which led to entry of this Consent Decree

subjects, or shall be construed to subject, either Defendant or the Commission to any nondisclosure obligation of any sort whatsoever.

XII. AGREEMENT BY THE GEORGIA STEVEDORE ASSOCIATION

To the extent any provision of this agreement requires the approval or cooperation of the Georgia Stevedore Association, the Association's agreement to provide such approval or cooperation is a condition precedent to entry of the Consent Decree and each party's acceptance of this agreement is conditioned on the Association's prior agreement to provide such approval or cooperation.

XIII. COMPLIANCE OFFICIAL

Within fourteen (14) days of the entry of this Consent Decree, Defendant shall designate a compliance official who shall be responsible for coordinating and overseeing Defendant's compliance with this Decree. Defendant shall notify this Court and the Commission, in writing, of the name and address of its compliance official within sixteen (16) days of the entry of this Consent Decree.

XIV. PROCEDURE FOR ENFORCING COMPLIANCE

The parties will attempt to resolve any dispute regarding the enforcement of this Consent Decree by informal mediation and consultation before seeking enforcement through the judicial process. The Commission agrees that if a charge of discrimination is filed concerning matters covered by this Consent Decree, it shall stay administrative proceedings, if Defendant so requests, and shall attempt to resolve the allegations included in the charge

pursuant to the procedures set forth in Section XIV. The Commission will notify Defendant in writing if it has any reason to believe that any action or omission by Defendant, whether subject to a charge of discrimination or not, is in violation of the Consent Decree. Such notice shall be given by United States mail, First Class postage paid, to Defendant's compliance official. No motion seeking judicial enforcement of the terms of this Consent Decree shall be filed until at least seven (7) days after such notice was mailed to the compliance official.

XV. PERIOD OF JURISDICTION

This Consent Decree shall continue to be effective and binding upon the parties to this action until August 1, 2004. This Court shall retain jurisdiction over this action for the purposes of clarifying and enforcing this Consent Decree and for any other appropriate or equitable purposes until August 1, 2004, unless the Court acts or the Commission has, prior to that date, moved to enforce compliance with the Consent Decree. If this Court acts or the Commission has moved to enforce compliance with this Consent Decree within this period, this Court shall retain jurisdiction of this action until all issues relating to all such motions have been resolved. Thereafter, this Court shall dissolve this Consent Decree and shall dismiss this cause with prejudice.

XVI. COSTS AND ATTORNEY FEES

The Plaintiff Commission and Defendant shall each bear their respective costs and attorneys fees for this action.

The parties hereto and undersigned attorneys of record for the Plaintiffs and Defendant in the above-styled action hereby consent to the entry of the foregoing Consent Decree.

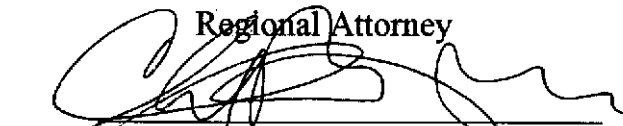
BY CONSENT:

Attorneys for Plaintiff


WILLIAM D. SNAPP

Ga. Bar #665345

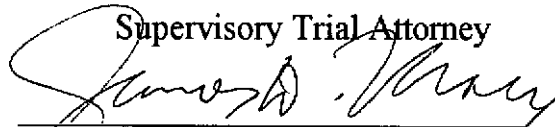
Regional Attorney



CHARLES T. BELL, JR.

Ga. Bar #047649

Supervisory Trial Attorney



JAMES D. MACY

Ga. Bar #464825

Senior Trial Attorney

Attorney for Defendant


FLETCHER FARRINGTON

Ga. Bar No: #255900

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
ATLANTA DISTRICT OFFICE - LEGAL UNIT
Atlanta Federal Center - Suite 4R30
100 Alabama Street, SW
Atlanta, Georgia 30303
404/562-6817 or 562-6811

P.O. Box 30276
Savannah, GA 31410
(912) 233-0111

APPROVED, DONE and SIGNED this 10th day of September, 1998.


UNITED STATES DISTRICT JUDGE

[Either EEOC or letterhead]

NOTICE

1. This notice to all members of INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1423 (hereinafter the "Defendant") is being posted as part of the remedy agreed to between the Defendant and the Equal Employment Opportunity Commission in a consent decree filed in the United States Federal District Court, Brunswick, Georgia (Case No. CV297-127).
2. Federal Law requires, in general, that there be no discrimination against any employee or applicant for employment because of the person's race, color, religion, sex, pregnant condition, national origin, disability or age (age 40 and above) with respect to hiring, firing, compensation or other terms, conditions or privileges of employment.
3. The Defendant supports and will comply with such Federal Law in all respects and will not take any action against employees because of their sex, pregnant condition, race, color, religion, national origin, disability or age (age 40 and above) or because they have exercised their rights under the law.
4. The Defendant has taken and will continue such remedial action as is required by the Consent Decree entered by the United States District Court, including the posting of this notice and the payment of monetary damages to several women who had sought employment.
5. This notice will remain posted for twelve (12) months, until October 1st, 1999.

Signed this 10 day of September, 1998.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 11423

DO NOT REMOVE THIS NOTICE UNTIL

UNITED STATES DISTRICT COURT
Southern District of Georgia

Case Number: 2:97-cv-00127
Date Served: September 10, 1998
Served By: Sherry L. Taylor

Attorneys Served:

Fletcher N. Farrington Jr., Esq.
William D. Snapp, Esq.
James D. Macy, Esq.
Charles Timothy Bell Jr., Esq.

Served
by
hand

Burford

Jan
law clerk
CSO

Wsm/Bwk
Norma

(told about
hearing,
didn't need order)

- Copy placed in Minutes
 Copy given to Judge
 Copy given to Magistrate