

AE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Equal Employment Opportunity Commission,	Plaintiff)	
)	
and)	Civil Action No. 05 C 4995
)	
Gwendolyn Farley,	Intervening Plaintiff)	Judge Aspen
)	
v.)	Magistrate Judge Ashman
)	
H and M International Transportation, Inc.,)	
	Defendant.)	
)	

CONSENT DECREE

The Equal Employment Opportunity Commission (hereafter the "Commission" or the "EEOC") filed this action against H and M International Transportation, Inc. ("H&M") under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981a. EEOC contends that Defendant failed to take reasonable action to stop and prevent sexual harassment. Gwendolyn Farley has intervened in this case as an Intervening Plaintiff. H&M has denied all material allegations of the Complaints

Neither side admits the claims or defenses of the other side.

The parties have determined to finally resolve this action through the entry of this Consent Decree.

Findings

Having carefully examined the terms and provisions of this Consent Decree, the Court finds the following:

1. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Sections 706(f) (1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f) (1) and (3).
2. This Court has jurisdiction over the parties.

3. The terms and provisions of this Consent Decree are adequate, fair, reasonable, equitable and just. This Consent Decree resolves all claims alleged by the EEOC in its Complaint and by Gwendolyn Farley in her Intervening Complaint. The rights of the parties and the interests of the public are adequately protected by this Consent Decree.

4. This Consent Decree conforms with the Federal Rules of Civil Procedure and Title VII, and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of Title VII.

5. This Decree covers H&M facilities in Chicago and Northlake, Illinois, except as specified in Paragraph 14.

WHEREFORE, upon the consent of the parties, IT IS ORDERED, ADJUDGED AND DECREED:

Injunction Against Harassment

6. Defendants and their managers, supervisors, officers, directors and agents, are enjoined from engaging in sexual harassment or harassment based on sex and from failing to take prompt and effective action in response to complaints of sexual harassment or harassment based on sex.

Revision and Publication of Policy Against Sexual Harassment

7 a) Defendant shall revise its existing Policy against sexual harassment within ten days after the entry of this Consent Decree to provide at a minimum that:

- i) repeated unsolicited or uninvited touching of another person is prohibited;
- ii) employees may complain of harassment to their supervisor or another supervisor at the same work site;
- iii) supervisors must respond both to complaints of sexual harassment and to sexual harassment which they observe.

b) Defendant shall forward a copy of the Policy to the EEOC within 14 days after entry of this Decree. Within 20 days after the entry of this Consent Decree Defendant shall distribute a copy of said Policy to each current employee. After that period Defendant shall give a copy of said policy to each new employee on the first day of employment.

c) Defendant shall revise its Notice of its Policy against sexual harassment within ten days after the entry of this Consent Decree so that it includes the names and current phone numbers of at least one person located in Chicago, one person located in Northlake, and one person with the Human Relations Department at H&M's headquarters, to whom employees may complain of sexual harassment.

d) Within 20 days after the entry of this Consent Decree, Defendant shall post the Notice on the bulletin boards customarily used for posting notice from management to employees. Thereafter Defendant shall make sure that the Notice remains posted for the term of this decree. (During the term, it may update the names and phone numbers of persons to whom employees may complain of sexual harassment.)

Non-Retaliation

8. Defendant and its officers, agents, employees, successors, assigns, members of Board of Directors and all persons acting in concert with it, shall not engage in any form of retaliation against any person because such person has opposed any practice made unlawful under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree.

Posted Notice

9. Within 10 days after this Consent Decree is entered, and continuously for the duration of this Consent Decree, Defendant shall conspicuously post the Notice attached as Exhibit A on all bulletin boards commonly used for announcements from Defendant to its employees. Within 20 days after entry of this Consent Decree, Defendant shall certify to the EEOC in writing that the notice has been posted. Twelve months later it shall certify to the EEOC in writing that the Notice remains posted.

Monetary Payment

10. Within five business days after submission of a signed release of claims by Anita Evans, Gwendolyn Farley or Tameka Smith, Defendant shall pay each woman the amount listed below in this paragraph. The release shall be in the form of Exhibit B for Evans and Smith, the claimants for whom the EEOC seeks relief. Farley has signed a release acceptable to Defendant, which has been negotiated with Defendant and agreed to on her behalf by her own private counsel, and with respect to which her own private counsel has advised her. EEOC has not participated in those negotiations, has not approved that form of release, and has not advised Farley with respect thereto.

Payment to claimants

Name	Back pay	Compensatory Damages	Total
Anita Evans	\$5,000	\$17,000	\$22,000
Gwendolyn Farley	\$5,000	\$30,000	\$35,000
Tameka Smith	\$5,000	\$27,500	\$32,500
Total	\$15,000	\$74,500	\$89,500

Applicable Federal and State withholdings shall be made from the portion of each check designated as back pay. (Only the claimant's share of federal social security and medicare taxes shall be withheld. The employer's share of such taxes shall not be withheld.) A 1099 form shall be furnished to each claimant by Defendant.

There shall be no withholding from the portion of each check designated as compensatory damages.

If other taxes are due on the above amounts, they shall be paid by each claimant.

11. a) Defendant shall pay \$50,000 for attorney fees for the attorney for Gwendolyn Farley. Said check shall be made payable to "Gwendolyn Farley and Attorney Lawrence Byrne." The check shall be issued within 5 business days of the entry of this Consent Decree.

b) Defendant shall pay \$10,500 for attorney fees for the former attorney for Anita Evans. Said check shall be made payable to "The Law Offices of Ross J. Peters, Ltd.," and shall be mailed to The Law Offices of Ross J. Peters, Ltd at 33 North County Street, Suite 402, Waukegan, IL, 60085. Said check shall be issued within five business days after receipt of the Release of Attorney's Lien attached as Exhibit C, signed by Attorney Ross J. Peters.

12. Payments shall be by check. Defendant shall send to EEOC a copy of each check when it is sent to Evans, Farley, Smith, and Peters.

13. Each party shall bear its own costs. The EEOC and Defendant shall bear their own attorneys' fees.

Training

14. Within 45 days after entry of this Consent Decree Defendant shall train its employees in Chicago and Northlake, Illinois regard to its revised policy against sexual harassment and procedures for complaining of such harassment.

Within 45 days after entry of this Consent Decree Defendant shall train its supervisors in Chicago and Northlake, Illinois, and its employees in Jersey City, New Jersey responsible for implementing policies in regard to sexual harassment, in regard to its policy against sexual harassment and procedures for complaining of such harassment. Such training shall also include Title VII's prohibition of sexual harassment, and the obligation of supervisors to respond to complaints of sexual harassment and to sexual harassment that they observe.

15. Defendant shall certify to the EEOC in writing within five days after the training has occurred that the training has taken place and that the required personnel have attended. Such certification shall include: (i) the date, location and duration of the training; and (ii) the name and position of each person in attendance.

Record Keeping and Reporting

16. For the duration of this Decree, Defendant shall maintain reports containing the name, address, and telephone number of each employee who complains of sexual harassment. Such reports shall indicate the date the complaint was made, who made it, what was alleged, and what actions Defendant took to resolve this matter.

17. Defendant shall furnish to the EEOC written reports every six months for the term of this Decree. The first report shall be due six (6) months after entry of the Decree.

Each such report shall contain the name and address of each employee who, in the preceding six months, complained of sexual harassment, and the nature of the complaint. If no employee made such a complaint an officer of Defendant shall submit a signed statement so stating. If requested by the EEOC, the Defendant shall make documents or records related to such complaints and referred to in Paragraph 16 available for inspection and copying within five business days after the EEOC so requests. Defendant shall also make available on five business days notice either its Vice President of Operations or Human Relations Manager, should the EEOC request to interview such person for purposes of verifying compliance with paragraphs 17 and 17.

18. Each report shall also contain a statement signed by an officer of Defendant that the Notice required to be posted in paragraph 8, above, remained posted during the entire six month period preceding the report.

Enforcement

19. This Consent Decree shall be in effect for the period of two years, during which time the Court shall retain jurisdiction of the parties and of this action for the purpose of enforcing the provisions of this Consent Decree.

20. If the EEOC has reason to believe that Defendant is not complying with this Consent Decree, the EEOC shall so notify Defendant in writing. Defendant will then have ten days in which to achieve compliance or to satisfy the EEOC that there has been no non-compliance; if Defendant does neither, the EEOC shall have the right to apply to the Court for appropriate relief. If Defendant fails to pay the monetary amount specified above within the time provided, the EEOC may immediately apply to the Court for appropriate relief.

Miscellaneous Provisions

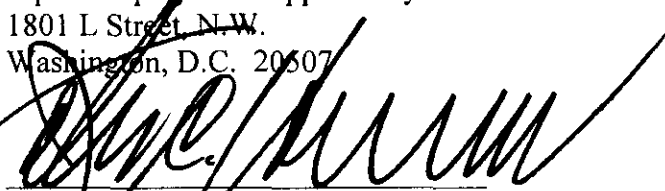
21. When this Decree requires the submission by Defendant of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to Gordon Waldron, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois, 60661. When this Decree requires submission by the EEOC of materials to Defendant, they shall be mailed to Dana Connell, Littler Mendelson, P.C. 200 N. La Salle Street, Suite 2900, Chicago, IL 60601.

22. The terms of this Consent Decree shall be binding upon the present and future directors, officers, managers, agents, successors, and assigns of Defendant. Defendant, and any successor of Defendant, will provide a copy of this Decree to any organization which proposes to acquire or merge with Defendant, or any successor of Defendant, prior to the effectiveness of any such acquisition or merger. This paragraph shall not be deemed to limit any remedies available in the event of any finding by the Court of contempt for a violation of this Decree.

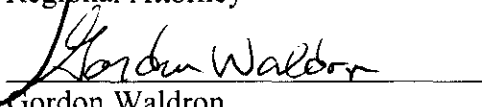
Approved for Plaintiff:

Ronald S. Cooper, General Counsel
Gwendolyn Young Reams, Associate General Counsel

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507



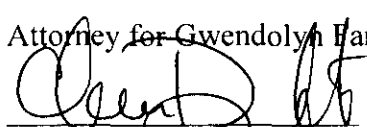
John C. Hendrickson
Regional Attorney



Gordon Waldron
Senior Trial Attorney

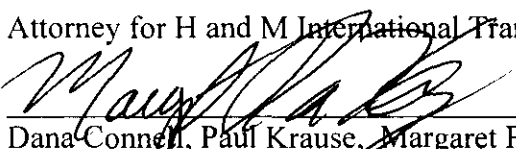
Equal Employment Opportunity Commission
500 West Madison Street, Suite 2800
Chicago, Illinois 60661
(312) 353-7525

Attorney for Gwendolyn Farley



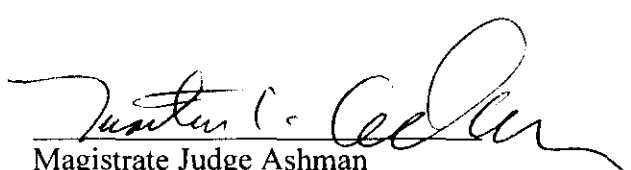
Lawrence W. Byrne, Christine Decke Alt
Pedersen & Houpt
161 North Clark Street, Suite 3100
Chicago, IL 60661
(312) 641-6888 office

Attorney for H and M International Transportation, Inc.



Dana Connel, Paul Krause, Margaret Parnell Hogan
Littler Mendelson, P.C.
200 N. La Salle Street, Suite 2900
Chicago, IL 60601
(312) 372- 5520

Entered And Ordered November 16, 2006



Magistrate Judge Ashman

EXHIBIT A

Notice To All Employees of H and M International Transportation, Inc.

This Notice is being posted pursuant to a Consent Decree entered by the federal court resolving a lawsuit filed by the Equal Employment Opportunity Commission (“EEOC”) against H and M International Transportation, Inc., (“H&M’), *EEOC and Farley v. H and M International Transportation, Inc.*, No.05 C 4995, N.D. IL. In its suit, the EEOC alleged that H&M failed to take reasonable action to stop and prevent sexual harassment. H&M has denied those allegations.

To resolve the case, the parties have entered into a Consent Decree which provides that:

- 1) H&M shall provide a monetary payment to three claimants.
- 2) H&M will not create, facilitate or permit the existence of a work environment that is hostile to employees on the basis of their sex.
- 3) H&M will not retaliate against any person because (s)he opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree;
- 4) H&M shall publicize a policy prohibiting sexual harassment.

The EEOC enforces the federal laws against discrimination in employment on the basis of race, color, religion, national origin, sex, age or disability. The laws also prohibit discrimination against a person who has complained of illegal discrimination or who has participated in an investigation or enforcement proceeding under such laws. If you believe you have been discriminated against, you may contact the EEOC at (312) 353-2713. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for two years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to: H&M Settlement, EEOC, 500 West Madison Street, Suite 2800, Chicago, IL 60661.

Date

Magistrate Judge Ashman

EXHIBIT B

RELEASE AGREEMENT

I, _____ for and in consideration of the sum of _____ payable to me pursuant to the terms of the Consent Decree entered by the Court in EEOC and Farley vs. H and M International, Inc., No. 05 C 0841, N.D. Ill., on behalf of myself, my heirs, assigns, executors, and agents, do hereby forever release, waive, remise, acquit, and discharge H and M International, Inc., and all past and present shareholders, officers, agents, employees, Directors and representatives of it from all claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., that I have as of this date.

Date

Signature

Print Address to which check should be mailed

Exhibit C

RELEASE OF ATTORNEY'S LIEN

IN CONSIDERATION of the payment of \$ 10,500 to Anita Evans' former attorney, Ross J. Peters, Attorney Peters hereby waives and releases H & M International, Inc., and (as applicable) its subsidiaries, holding companies, predecessors, parent corporations, affiliates, related companies, divisions, successors, assigns, officers, directors, attorneys, employees, agents, trustees, representatives, and insurers (the "Released Parties") from any and all claims for attorneys' fees, by lien or otherwise, for legal services rendered by him in connection with any claims or causes of actions that Evans did bring or may have brought to date against the Released Parties.

Attorney Ross Peters

Date: _____