

AE

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

FILED
OCT 12 2005
OCT 12 2005
JUDGE GEORGE M. MAROVICH

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
HOWARD PONTIAC, INC.,)
)
)
Defendant.)

Case No. 05C 4006

Judge Marovich
Magistrate Judge Nolan

CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission ("EEOC") filed this action alleging that Defendant Howard Pontiac, Inc. ("Howard Pontiac") violated 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, by retaliating against James Wilson ("Wilson" or "Charging Party") for complaining about sex discrimination to management at Howard Pontiac and for filing a charge of discrimination under Title VII with the EEOC.

2. 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 Consent Decree (hereafter "Decree").

3. This Decree fully and finally resolves any and all issues and claims arising out of the Complaint filed by EEOC. This Decree has been entered before Howard Pontiac answered

the Complaint. Had Howard Pontiac answered the Complaint, it would have denied the allegations. Nothing in this Decree shall be deemed to constitute an admission by either party with respect to the claims or defenses of the other.

FINDINGS

4. Having carefully examined the terms and provisions of this Decree, and based on the pleadings, record, and stipulations of the parties, the Court finds the following:

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

b. The terms of this Decree are adequate, fair, reasonable, equitable, and just. The rights of EEOC, Howard Pontiac, the Charging Party and the public interest are adequately protected by this Decree.

c. This Decree conforms with the Federal Rules of Civil Procedure, 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 the parties, the Charging Party, and the public.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

NON-RETALIATION

5. Howard Pontiac, its officers, agents, employees, successors, assigns 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.

MONETARY RELIEF

6. Howard Pontiac shall pay \$32,500 to the Charging Party, Mr. James Wilson, as set out in ¶ 7.

7. Within five (5) business days after entry of this Decree, EEOC will mail to the Charging Party a copy of the Release Agreement attached as Exhibit A. Within five (5) business days after receipt by EEOC of a signed Release Agreement, EEOC shall mail the Release Agreement to Howard Pontiac. Within five (5) business days after receipt by Defendant of a signed Release Agreement, Howard Pontiac shall issue and mail by certified mail to the Charging Party a cashier's check in the amount set forth above in ¶ 6. EEOC shall provide Defendant with the current address for the Charging Party. Defendant will also send a copy of the check to EEOC.

POSTING OF NOTICE

8. Within ten (10) business days after entry of this Decree, Howard Pontiac shall post copies of the Notice attached as Exhibit B to this Decree at its Elmhurst, Illinois dealership on the bulletin board usually used by Howard Pontiac for communicating with its employees and not for public viewing. The Notice shall remain posted for two (2) years from the date of entry of this Decree. Howard Pontiac shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Howard Pontiac shall certify to EEOC in writing within ten (10) business days after entry of the Decree that the Notice has been properly posted. Howard Pontiac shall permit a representative of EEOC to enter Howard Pontiac's premises for purposes of verifying compliance with this Paragraph at any time during normal business hours without prior notice.

RECORD KEEPING

9. Howard Pontiac shall maintain and make available for inspection and copying by EEOC records (including names, social security numbers, addresses, and telephone numbers) of each employee or applicant who complains of retaliation.

10. Howard Pontiac shall make all documents or records referred to in Paragraph 9 above available for inspection and copying within ten (10) business days after EEOC so requests. In addition, Howard Pontiac shall require personnel within its employ whom EEOC reasonably requests for purposes of verifying compliance with this Decree to cooperate with EEOC and to be interviewed.

REPORTING

11. Howard Pontiac shall furnish to EEOC the following written reports semi-annually for a period of two (2) years following entry of this Decree. The first report shall be due six (6) months after entry of the Decree. The final report shall be due twenty-three (23) months after entry of the Decree. Each such report shall contain:

- (a) A summary of the information recorded by Howard Pontiac pursuant to Paragraph 9;
- (b) A certification by Howard Pontiac that the Notice required to be posted in Paragraph 8, above, remained posted during the entire six (6) month period preceding the report.

TRAINING

12. During each of the two (2) years covered by this Decree, all of Howard Pontiac's supervisory and managerial employees shall participate in an annual training session by a trainer paid for by Howard Pontiac and approved by EEOC regarding retaliation. All current human

resources employees at Howard Pontiac shall also participate in such training, and any new human resources employee shall receive such training prior to starting work. A registry of attendance shall be maintained. The first training shall take place within ninety (90) days of entry of this Decree.

13. Howard Pontiac shall obtain EEOC's approval of its proposed trainer prior to the training session. Howard Pontiac shall submit the name, address, telephone number, resume and training proposal of the proposed trainer, including all proposed training materials, to EEOC at least fifteen (15) business days prior to the proposed date(s) of the training. EEOC shall have five (5) business days from the date of receipt of the information described above to accept or reject the proposed trainer. In the event EEOC does not approve Howard Pontiac's designated trainer, Howard Pontiac shall have five (5) business days to identify an alternate trainer. EEOC shall have five (5) business days from the date of receipt of the information described above to accept or reject the alternate trainer. If the parties cannot through this process agree on a trainer, then they may seek the Court's assistance under ¶ 16.

14. Howard Pontiac shall certify to EEOC in writing within five (5) business 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) a copy of the registry of attendance, which shall include the name and position of each person in attendance.

15. Howard Pontiac will also provide EEOC with any and all copies of pamphlets, brochures, outlines or other written material(s) provided to the participants of the training session(s).

DISPUTE RESOLUTION

16. In the event that either party to this Decree believes that the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance and shall afford the alleged non-complying party ten (10) business days to remedy the non-compliance or to satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied within ten (10) business days, the complaining party may apply to the Court for appropriate relief.

DURATION OF THE DECREE AND RETENTION OF JURISDICTION

17. All provisions of this Decree shall be in effect (and the Court will retain jurisdiction of this matter to enforce this Decree) for a period of two (2) years immediately following entry of the Decree, provided, however, that if, at the end of the two (2) year period, any disputes under ¶16, above, remain unresolved, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Decree) until such time as all such disputes have been resolved.

MISCELLANEOUS PROVISIONS

18. Each party to this Decree shall bear its own expenses, attorney's fees and costs.

19. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Howard Pontiac.

20. When this Decree requires the submission by Howard Pontiac of reports, certifications, notices, or other materials to EEOC, they shall be mailed to: Howard Pontiac Title VII Settlement, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois, 60661. When this Decree requires submission by EEOC of materials to

Howard Pontiac, they shall be mailed to: Dawn Cassie, Bryce Downey, LLC, 200 N. LaSalle,
Suite 2700 Chicago, Illinois, 60601.

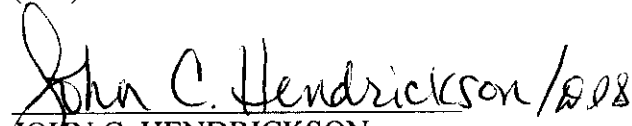
ENTERED AND APPROVED FOR:


For the EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507


JAMES LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

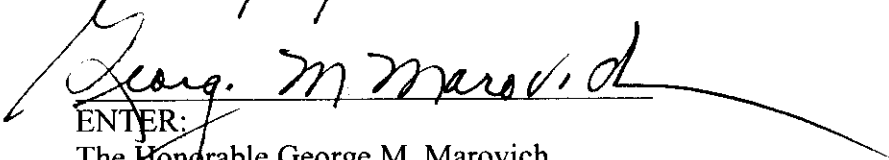
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
500 West Madison Street
Suite 2800
Chicago, Illinois 60661
(312) 353-7582


JOHN C. HENDRICKSON
Regional Attorney

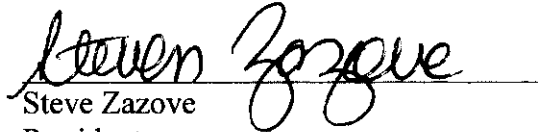

DIANE I. SMASON
Supervisory Trial Attorney


AARON R. DECAMP
Trial Attorney

DATE: 10/12/05


ENTER:
The Honorable George M. Marovich
United States District Judge

For Howard Pontiac


Steve Zazove
President

CERTIFICATE OF SERVICE

Aaron R. DeCamp, an attorney, hereby certifies that he caused a copy of the foregoing **Joint Motion for Entry of Consent Decree** to be sent electronically, on this 5th day of October, 2005 to counsel of record at the following address:

To: Dawn M. Cassie
BRYCE DOWNEY, LLC
200 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
(312) 377-1501

October 5, 2005


Aaron R. DeCamp

EXHIBIT A

RELEASE AGREEMENT

In consideration for \$32,500 paid to me by Howard Pontiac, Inc., in connection with the resolution of EEOC v. Howard Pontiac, Inc., No. 05 C 4006 (N.D. Ill.), I waive my right to recover for any claims of retaliation 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, that I had against Howard Pontiac, Inc. prior to the date of this release and that were included in the claims alleged in EEOC's complaint in EEOC v. Howard Pontiac, Inc., No. 05 C 4006, or in EEOC Charge Nos. 210-2004-03029 or 210-2003-02762 or which could have been included in the EEOC's complaint.

Date

Signature

EXHIBIT B

NOTICE TO ALL HOWARD PONTIAC EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Howard Pontiac, Inc., No. 05 C 4006, resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Howard Pontiac.

In its suit, EEOC alleged that Howard Pontiac discriminated against an employee by retaliating against him for complaining about sex discrimination to management at Howard Pontiac and for filing a charge of discrimination under Title VII with EEOC.

To resolve the case, Howard Pontiac and EEOC have entered into a Consent Decree which provides, among other things, that:

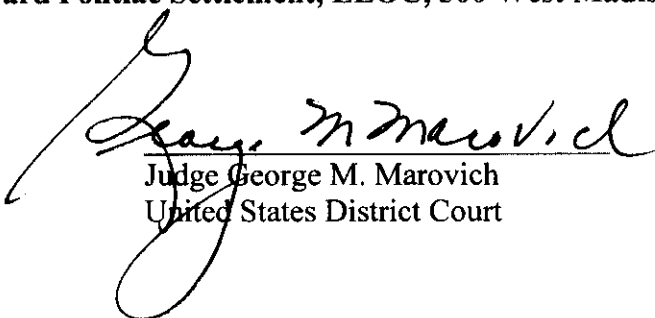
- 1) Howard Pontiac will make a monetary payment to the employee who was the alleged victim of retaliation in order to settle the above claim.
- 2) Howard Pontiac will not retaliate against any person because (s)he opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and
- 3) Howard Pontiac will train all its managers and human resource personnel regarding retaliation and its policy.

EEOC enforces the federal laws against discrimination in employment on the basis of race, color, religion, national origin, sex, age or disability. If you believe you have been discriminated against, you may contact EEOC at (312) 353-8195. EEOC charges no fees and has a TTD number.

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: Howard Pontiac Settlement, EEOC, 500 West Madison Street, Suite 2800, Chicago, IL 60661.

10/12/05
Date


Judge George M. Marovich
United States District Court

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JUDGE GEORGE M. MAROVICH