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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
Plaintiff,	)	**Case No. 04 C 5996**
MILTON PARKER, KEYON HAYES, ROBERT EWEN, AND ED WASHINGTON,	)	**Judge St. Eve** **Magistrate Judge Schenkier**
Plaintiffs-Intervenors,	)	
v.	)	
JEFFERSON SMURFIT CORP. (U.S.),	)	
Defendant.	)	

CONSENT DECREE

THE LITIGATION

1. Plaintiff Equal Employment Opportunity Commission (the "EEOC") filed this action alleging that Defendant Jefferson Smurfit (U.S.) Corp. ("Jefferson Smurfit") violated Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e-2(a), by discriminating against African-American employees Milton Parker, Keyon Hayes, Robert Ewen, Ed Washington ("Intervenors") on the basis of their race. Specifically, the EEOC alleged that Defendant violated Title VII by fostering or tolerating a working environment that was hostile to Intervenors, a class of four African-American employees. Defendant has denied these allegations. The EEOC seeks relief for Milton Parker, Keyon Hayes, Robert Ewen, Ed Washington, who filed charges of discrimination. Milton Parker, Keyon Hayes, Robert Ewen,

Ed Washington have intervened in this action, by filing an intervening complaint and are represented by the law firm of Katz, Friedman, Eagle, Eisenstein & Johnson.

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"). This Decree fully and finally resolves any and all issues and claims arising out of the Complaint filed by the EEOC and the Complaint filed by Intervenors in this action, as well as the underlying charges, determinations, and amended determinations. This Decree is not an admission by any party of the claims or defenses of the others.

FINDINGS

3. 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, Jefferson Smurfit, Intervenors, and the public interest are adequately protected by this Decree.

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

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

INJUNCTION AGAINST RACE DISCRIMINATION

4. Jefferson Smurfit and its officers, agents, management, successors and assigns, are hereby enjoined from discriminating against employees at its Hanover Park, Illinois, facility on the basis of their race.

NON-RETALIATION

5. Jefferson Smurfit, 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. Jefferson Smurfit shall pay an aggregate of $120,000 to the Intervenors. Following the entry of this Consent Decree, Jefferson Smurfit shall tender payment to Katz, Friedman, Eagle, Eisenstein & Johnson, Intervenors' attorney, located at 77 W. Washington, 20th Floor, Chicago, IL 60602, in accordance with the terms of the releases, within fourteen (14) business days of Intervenors providing documentation and signatures required by the releases negotiated between Intervenors and Defendant through their counsel. Defendant shall also mail copies of these checks to the EEOC within five (5) business days of tendering payment to Katz, Friedman, Eagle, Eisenstein & Johnson. Defendant shall issue 1099 federal tax forms for the payments made by Defendant to Intervenors and their counsel.

POSTING OF NOTICE

7. Within ten (10) business days after entry of this Decree, Jefferson Smurfit shall

post copies of the Notice attached as Exhibit A to this Decree at its Hanover Park, Illinois, facility on bulletin boards usually used by Jefferson Smurfit for communicating with employees. The Notice shall remain posted for two (2) years from the date of entry of this Decree. Jefferson Smurfit shall take all reasonable steps to ensure that the posting is not altered, defaced or covered by any other material. Jefferson Smurfit shall certify to the EEOC in writing within ten (10) business days after entry of the Decree that the Notice has been properly posted. Jefferson Smurfit shall permit a representative of the EEOC to enter Jefferson Smurfit's premises for purposes of verifying compliance with this Paragraph at any time between the hours of 9:00 a.m. and 5:00 p.m.

RECORD KEEPING

8. For a period of two (2) years following entry of this Decree, Defendant shall maintain records of each complaint of racial harassment made by its employees from its Hanover Park, Illinois, facility. Such records shall indicate the date the complaint was made, who made it, what was alleged, and what actions the Defendant took to resolve the matter.

9. Jefferson Smurfit shall make all documents or records referred to in Paragraph 8 above, available for inspection and copying within ten (10) business days after the EEOC so requests.

REPORTING

10. Jefferson Smurfit shall furnish to the 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:

1. A summary of the information recorded by Jefferson Smurfit pursuant to Paragraph 8;

2. A certification by Jefferson Smurfit that the Notice required to be posted in Paragraph 7, above, remained posted during the entire six (6) month period preceding the report.

DISTRIBUTION OF POLICY AGAINST RACIAL HARASSMENT

11. Jefferson Smurfit shall distribute its policy against racial harassment within twenty-one (21) days after the entry of this Consent Decree to each employee at its Hanover Park, Illinois, facility. The inclusion of Paragraph 11 in the Decree does not mean that EEOC or the Court approves of Jefferson Smurfit's anti-discrimination or anti-harassment policy.

12. Jefferson Smurfit shall distribute to all managers at its Hanover Park, Illinois, facility its procedure for investigation of racial harassment complaints. The procedure shall provide for thorough and prompt investigation of complaints of racial harassment. The inclusion of Paragraph 12 in the Decree does not mean that EEOC or the Court approves of Jefferson Smurfit's racial harassment investigation procedures.

TRAINING

13 During each of the two (2) years covered by this Decree, all employees at Jefferson Smurfit's Hanover Park, Illinois, facility shall participate in an annual training session by a trainer paid for by Jefferson Smurfit and approved by the EEOC regarding racial harassment. The first training shall take place within ninety (90) days of entry of this Decree.

14. Jefferson Smurfit shall obtain the EEOC's approval of its proposed trainer prior to the training session. Jefferson Smurfit shall submit the name, address, telephone number, resume and training proposal of the proposed trainer to the EEOC at least thirty (30) calendar

days prior to the proposed date(s) of the training. The EEOC shall have ten (10) business days from the date of receipt of the information described above to accept or reject the proposed trainer. In the event the EEOC does not approve Jefferson Smurfit's designated trainer, Jefferson Smurfit shall have ten (10) business days to identify an alternate trainer. The EEOC shall have ten (10) 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 paragraph 16.

15. Jefferson Smurfit shall certify to the 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) an attendance list, which shall include the name and position of each person in attendance.

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 Paragraph 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 and costs. The EEOC, Intervenors and Jefferson Smurfit shall bear their own attorneys' fees.

19. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, assigns, and successors of Jefferson Smurfit in their capacities as representatives, agents, directors and officers of Jefferson Smurfit.

20. When this Decree requires the submission by Jefferson Smurfit of reports, certifications, notices, or other materials to the EEOC, they shall be mailed to: Richard J. Mrizek, Equal Employment Opportunity Commission, 500 West Madison Street, Suite 2800, Chicago, Illinois, 60661. When this Decree requires submission by the EEOC of materials to Jefferson Smurfit, they shall be mailed to Keith A. Dorman, McGuire Woods, 77 West Wacker Drive, Suite 4100, Chicago, Illinois 60601-1815.

21. This Decree, together with the Releases negotiated between Intervenors and Defendant, constitutes the entire agreement among the Parties with respect to the matters discussed herein and it supersedes all negotiations, representations, comments, contracts, and writings prior to the date of this Consent Decree.

ENTERED AND APPROVED FOR:

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

ERIC S. DREIBAND
General Counsel

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) 886-9078

John C. Hendrickson/D.S.
JOHN C. HENDRICKSON
Regional Attorney

Gregory Gochanour/D.S.
GREGORY GOCHNONOUR
Supervisory Trial Attorney

RICHARD J. MRIZEK
Trial Attorney

DATE: 2/4/05

For JEFFERSON SMURFIT
McGuire Woods
77 West Wacker Drive
Suite 4100
Chicago, Illinois 60601-1815
(312) 750-6020

Keith H. Dorman 2/4/05
KEITH DORMAN, ESQ.

For MILTON PARKER, KEYON HAYES,
ROBERT EWEN, AND ED
WASHINGTON, Intervenors
Katz, Friedman, Eagle, Eisenstein &
Johnson
77 W. Washington Street, 20th Floor
Chicago, IL 60602
(312) 263-6330

Stanley Eisenstein
STANLEY EISENSTEIN, ESQ.

Amy J. St. Eve 2/7/05
ENTER:
The Honorable Amy St. Eve
United States District Judge

EXHIBIT A

NOTICE TO ALL JEFFERSON SMURFIT EMPLOYEES

This Notice is being posted pursuant to a Consent Decree entered by the federal court in EEOC v. Jefferson Smurfit, resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Jefferson Smurfit Corp. (U.S.)

In its suit, the EEOC alleged that Jefferson Smurfit fostered or tolerated a working environment that was hostile toward its African-American employees, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"). Jefferson Smurfit denied these allegations.

To resolve the case, Jefferson Smurfit and the EEOC have entered into a Consent Decree which provided, among other things, that:

1) Jefferson Smurfit has paid monetary relief to a class of four employees;

2) Jefferson Smurfit will not discriminate on the basis of race;

3) Jefferson Smurfit will not retaliate against any person because he or she 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

4) Jefferson Smurfit will train all of its employees at its Hanover Park, Illinois, facility with respect to racial harassment.

The Consent Decree is not an admission by the EEOC or Jefferson-Smurfit of the claims or defenses of the other.

The 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 the EEOC at (312) 353-8195. The EEOC charges no fees and has employees who speak languages other than English. If you believe you have been discriminated against you may contact the EEOC.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED

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: Jefferson Smurfit Settlement at EEOC 500 West Madison Street, Suite 2800, Chicago, Illinois 60661.

2/7/05
Date

The Honorable Amy St. Eve