

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
PADUCAH DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	CIVIL ACTION NO.
Plaintiff,)	5:02CV-319-J
)	
v.)	
)	
WHIT-COR MASONRY, INC.,)	
)	
)	
Defendant.)	
)	

CONSENT DECREE

The United States Equal Employment Opportunity Commission (the “Commission”) commenced this action against Whit-Cor Masonry, Inc. (“Whit-Cor”) pursuant to Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 (“Title VII”) to correct Whit-Cor’s alleged unlawful employment practices on the basis of race, and to provide appropriate relief to Donald Acree (“Acree”), an African-American applicant for hire. This action was instituted and authorized by Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission and Whit-Cor stipulate to the Court’s jurisdiction over the parties. Further, the Commission and Whit-Cor desire to resolve Civil Action No. 5:02CV-319-J without the burden and expense of further litigation. As a result, and based on the pleadings and the record as a whole, the Court finds that: [i] the Court has jurisdiction over the parties and the subject matter of this action; [ii] the purpose and provisions of Title VII will be promoted and

effectuated by the entry of this Decree; and [iii] this Decree resolves all the matters in controversy between the parties as provided in paragraphs 1 through 14 below.

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED as follows:

1. Whit-Cor expressly denies any wrongdoing whatsoever on the basis of any of the allegations set forth in the underlying charge of discrimination filed with the Commission or on the basis of any of the allegations set forth in the Commission's Complaint. This Consent Decree, being entered with the consent of the Commission, Donald Acree and Whit-Cor, shall not constitute an adjudication or finding on the merits of this case against Whit-Cor and it shall never be used by the Commission as evidence against Whit-Cor.

2. Whit-Cor agrees that it and all of its officers, directors, employees, agents, shareholders, members, representatives, assigns, successors or any affiliated entity will not discriminate against any employee or applicant for employment on the basis of their race and agree to be bound by the terms of this Decree.

3. Whit-Cor agrees that there will be no discrimination or retaliation of any kind against any person because of opposition to any practice made unlawful under Title VII, or because of the filing of a charge, the giving of testimony, assistance, or participation in any manner in an investigation, proceeding or hearing under Title VII.

4. Whit-Cor shall pay the total sum of Five Thousand Three Hundred Seventy-Five Dollars (\$5375.00) to Donald Acree. Whit-Cor shall mail the to check, made to Donald Acree, to the undersigned counsel for the EEOC, Kenneth W. Brown, Equal Employment Opportunity Commission, Louisville Area Office, Suite 268, Dr. Martin Luther King Jr. Place, Louisville, Kentucky 40202-2285.

5. Whit-Cor shall create a policy prohibiting discrimination against its employees and/or applicants for employment based on race. Such policy shall be posted within thirty (30) days of the entry of this Decree. No later than ten (10) days before the policy is posted, Whit-Cor shall submit a copy to the Commission for review. The proposed policy shall be sent to Laurie A. Young (or her successor), Regional Attorney, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio St., Suite 1900, Indianapolis, Indiana 46204.

6. Within ninety (90) days of the date of execution of this Decree, Whit-Cor shall provide a training program to all of its supervisory and/or management employees. This training program shall include an explanation of the requirements of Title VII's prohibition of race discrimination, including Title VII's non-retaliation provisions. Thirty (30) days before the training, the Defendant shall provide: [i] notice to the Commission of the date, time, and place of the training; [ii] shall send to the Commission a copy of the training program and all written materials, if any, to be used; and [iii] shall provide the Commission with a roster of all employees who will receive the training. The Commission may provide reasonable input on the content of the training but shall do so no later than ten (10) days prior to the training. Whit-Cor agrees that the EEOC may review compliance with this Decree.

Upon completion of the training, Defendant shall certify to the Commission the specific training that was undertaken and shall provide the Commission with a roster of all employees who received the training. All reports shall be sent to the attention of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio Street, Suite 1900, Indianapolis, IN 46204-4203.

7. In the event that the EEOC determines that a violation of this Decree has

occurred, it will, prior to exercising any remedy provided by law, provide written notice to Whit-Cor specifically identifying the alleged violation(s). Whit-Cor will have thirty (30) days in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or any such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation before the Commission exercises any remedy provided by law.

8. Whit-Cor shall post the Notice attached hereto as Appendix B at the home office and all project sites with a trailer or other place for posting. The Notice shall be placed within a conspicuous area where it shall be visible to all employees.

9. The Commission and Whit-Cor shall each bear its own costs and attorney fees.

10. The term of this Decree shall be for one (1) year following the date of the entry of this Decree.

11. The EEOC and Donald Acree shall fully and forever release and discharge the Defendant, their successors and assigns, including their present and former directors, officers, employees, and agents, from any claim or obligation based on alleged race discrimination in hiring in violation of Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, which was or could have been raised in Civil Action No.5:02cv-319-J, provided that Whit-Cor complies with all provisions of this Decree.

12. All reports shall be directed to Laurie A. Young (or her successor), Regional Attorney, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio St., Suite 1900, Indianapolis, Indiana 46204.

13. **RETENTION OF JURISDICTION BY COURT:** The Court will retain

jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring

compliance with this Decree and entry of such further orders as may be necessary or appropriate.

Date

Judge, United States District Court


This Consent Decree is approved and consented to by the following authorized representatives of the parties:



Donald Acree

2 - 5-04

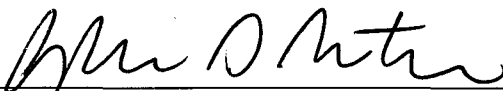
Date



Kenneth W. Brown
Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Louisville Area Office, Suite 268
Dr. Martin Luther King Jr. Place
Louisville, Kentucky 40202-2285
Tel. (502) 582-5440
Fax (502) 582-5437

February 17, 2004

Date



Signature of Authorized Representative/Counsel
for the Whit-Cor Masonry, Inc.

2-19-04

Date

Copies to:

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Senior Trial Attorney
**EQUAL EMPLOYMENT OPPORTUNITY
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Counsel for Plaintiff

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Attorneys at Law
555 Jefferson Street
PO Box 929
Paducah, KY 42002-0929
Counsel for Defendant

EMPLOYEE NOTICE

Posted Pursuant to an Agreement with the U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Louisville Area Office

NOTICE OF NON-DISCRIMINATION POLICY

This Notice is being distributed and posted by agreement between Whit-Cor Masonry, Inc. and the United States Equal Employment Opportunity Commission (EEOC).

Federal law requires that there be no discrimination nor harassment against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40) or disability.

Federal law also prohibits employers from discriminating against employees on the basis of gender in all aspects of employment, including, but not limited to, hiring, promotion, discharge, pay, job training and fringe benefits.

Whit-Cor Masonry, Inc., supports and will comply with such Federal law in all respects and will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law, or have given testimony, assisted or participated in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

A candidate for employment or employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. A candidate for employment or employee may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

Questions concerning this notice may be addressed to:
Equal Employment Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (317) 226-7212
EEOC 800 # 1-800-669-4000
TDD (317) 226-4162