

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

01/05/02
US DISTRICT COURT
EAST. DIST. MICH.
BAY CITY
MAY 20 11 34 AM '02

FILED

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,) CASE NO. 01-CV-10283-BC
)
v.)
)
HART PONTIAC GMC.) HON. DAVID M. LAWSON
)
Defendant.)
_____)

CONSENT DECREE

WHEREAS, this matter was instituted by the Equal Employment Opportunity Commission ("EEOC") under federal law, particularly, Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), alleging that the Defendant, Hart Pontiac GMC, ("Hart Pontiac"), retaliated against Rhonda Colby because of a Charge she filed with the Commission, and that Colby was discharged in retaliation for exercising her rights under Title VII;

WHEREAS, the parties acknowledge that the Court has subject matter jurisdiction and personal jurisdiction with regard to the captioned litigation and the parties thereto;

WHEREAS, the EEOC on behalf of Rhonda Colby and Hart Pontiac desire to forever resolve all issues raised, presented, or joined in Civil Action No. 01-CV-10283-BC without the burden, expense and potential delay of further litigation, including potential appeal, of all issues and related or potential issues and intend to be bound by the promises made herein;

WHEREAS, Hart Pontiac denies all the allegations in the Complaint, including any

25

allegation that it discriminated against Rhonda Colby or that she was subjected to retaliation;

WHEREAS, the parties stipulate and agree that the EEOC is the agency of the United States government authorized to investigate allegations of unlawful employment discrimination, to bring civil actions to prohibit unlawful employment practices, and to seek relief for individuals affected by the practices complained of in the Complaint which commenced this action; and

WHEREAS, the Court having reviewed the pleadings, the statements and representations of counsel, also finds that the purposes, provisions and protections of law will be promoted and effectuated by entry of this Consent Decree in Full Resolution of Suit;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED as follows:

FINAL DISPOSITION

1. This Decree forever and absolutely resolves all matters, claims and issues for relief of any kind and nature relating to the charges of discrimination filed by Rhonda Colby on November 29, 2000 with the EEOC, being Charge No. 230-A1-0264 and all claims arising out of, or joined with, the issues raised by the Complaint in the above-captioned civil action between the parties to this lawsuit and their privies.

MONETARY RELIEF

2. The EEOC and Hart Pontiac stipulate and agree that Hart Pontiac will pay the amount of Thirty Two Thousand Five Hundred (\$32,500) Dollars on behalf of Rhonda Colby, \$15,000 of said amount representing back pay and \$17,500 representing compensatory damages. The EEOC hereby assigns said monetary amounts to Rhonda Colby. Pursuant to this Paragraph, Hart Pontiac, its counsel or its insurer shall issue checks in the amount of \$15,000 and \$17,500 to Colby. Hart Pontiac shall deduct federal, state and local taxes,

FICA and other statutory deductions from said back pay amount in accordance with customary payroll procedures. Hart Pontiac shall submit a Form 1099 to Rhonda Colby for said compensatory damage amounts at the end of the calendar year. Hart Pontiac shall mail said checks via certified mail to Rhonda Colby at 7659 Sashabaw Road, Clarkston, Michigan 48348 within ten (10) days of the entry of this Consent Decree. A copy of the checks and certified mail receipts shall be mailed to the EEOC, addressed to: Adele Rapport, Regional Attorney, 477 Michigan Avenue, Rm. 865, Detroit, Michigan 48226. The Commission shall have the right to monitor compliance with this paragraph through inspection of all documents relating to said disbursement, including but not limited to, a copy of the checks, check stubs, return receipts, letters, and any other documents evincing payment hereunder.

NON-RETALIATION

3. Hart Pontiac, through its directors, officers, agents, servants, successors, assigns and employees, will not retaliate against any person known to them who participated or cooperated in the investigation or prosecution by the EEOC of charge number 230-A1-0264 filed under Title VII of the Civil Rights Act of 1964, as amended.

INJUNCTIVE RELIEF

4. Hart Pontiac, its officers, agents, employees, successors, assigns, and all persons in active concert or participation with them or any of them shall comply with the provisions of the Title VII of the Civil Rights Act of 1964, as amended.

POSTING OF NOTICE

5. Hart Pontiac will post the notification attached hereto as Exhibit A in at least one (1) conspicuous place at its facility within ten (10) days of entry of this Consent Decree for the duration of said Decree. Should any posted copies of the Notice become defaced, marred or otherwise made unreadable, Hart Pontiac agrees to immediately post a readable copy of this Notice in the same manner heretofore specified. In addition, Hart Pontiac warrants that it will continue to post all employment discrimination notices as required by applicable law at all times.

TRAINING

6. Hart Pontiac agrees that it shall provide a Title VII training program to all of its management and non-management employees, which will include an explanation of the requirements of the federal equal employment opportunity laws. Such training shall be completed not more than three (3) months after entry of this Consent Decree. If said training is performed by persons not from the Commission, attendees shall be required to sign an attendance sheet and the Defendant shall submit to the EEOC a copy of the attendance sheet(s), a list of topics covered and the identity of the trainer(s) within thirty (30) days of completion of the training.

NON-ADMISSION OF LIABILITY

7. This Court finds that Hart Pontiac has denied all allegations of the Complaint filed by the EEOC along with any and all inferences of wrongdoing, and neither its consent to the entry

of this Decree, nor any of the terms or conditions set forth herein, shall be construed as an admission of liability, wrongdoing, guilt, and/or violation of federal law.

DURATION OF DECREE

8. For purposes of monitoring compliance with this Decree with respect to the non-discrimination, non-retaliatory, training and posting provisions, above, and for entry of such further orders or modifications as the Court finds necessary and appropriate, either party may petition the Court to enforce compliance with this Decree for up to three (3) years after this Decree is entered.

ALLOCATION OF COSTS

9. Each party will bear its own costs and attorneys fees.

DISSOLUTION OF DECREE

10. It is hereby agreed by and between the EEOC and Hart Pontiac that the Court shall issue an order dismissing the case without prejudice. However, three (3) years from its entry, this Decree shall automatically dissolve and shall operate as an Order dismissing the litigation with prejudice.

The EEOC and Hart Pontiac have consented to the entry of this Decree.

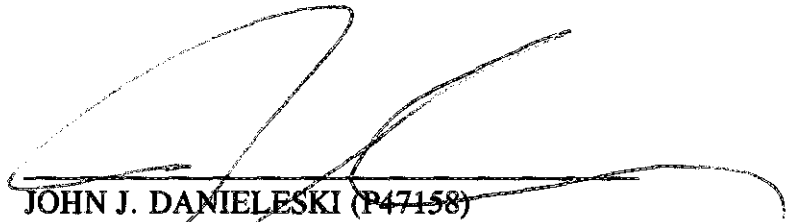
This Consent Decree is entered this ____ day of _____ 2002.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

ADELE RAPPORT
Regional Attorney



ADELE RAPPORT (P44833)
Regional Attorney
DETROIT DISTRICT OFFICE
477 Michigan Avenue, Rm. 865
Detroit, MI 48226
(313) 226-3406

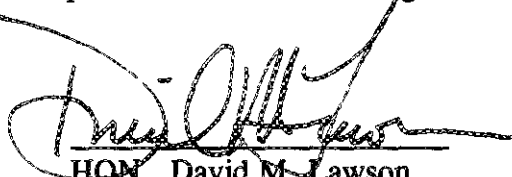


JOHN J. DANIELESKI (P47158)
Attorneys for Defendant
O'NEILL, WALLACE & DOYLE, P.C.
P.O. Box 1966
Saginaw, MI 48605-1966
(989) 790-0960

DATE: 5/15/02

DATE: _____

The foregoing Consent Decree is approved and adopted as the Order and Judgment of the Court
this ___ day of _____, 2002.



HON. David M. Lawson
United States District Judge

EXHIBIT A

NOTICE TO ALL EMPLOYEES

This Notice is being posted to inform you of your rights guaranteed by federal law under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et. seq. ("Title VII"), which prohibits discrimination and retaliation against any individual because they have engaged in protected activity. This Notice is posted in connection with a Consent Decree entered by the United States District Court for the Eastern District of Michigan, as a resolution to a lawsuit filed by the U.S. Equal Employment Opportunity Commission, on behalf of a former employee who alleged that she was treated differently and unfairly because she engaged in protected activity, in this case, filing a charge of discrimination with the Commission which alleged retaliation against former employers. Title VII prohibits retaliation against employees who engage in protected activity, which includes filing charges of discrimination with the Commission or state administrative agencies, participating in the Commission's investigation process, or otherwise opposing unlawful discrimination. Hart Pontiac guarantees that it will not retaliate against employees who engage in protected activity.

The United States Equal Employment Opportunity Commission is the federal agency which investigates charges of unlawful employment discrimination and, if necessary, files lawsuits in federal court to enforce the anti-discrimination and anti-retaliation provisions of Title VII. Any employee who believes that he/she is the victim of discrimination or retaliation has the legal right to file a charge of discrimination with the U.S. Equal Employment Opportunity Commission.

Hart Pontiac supports and will comply with this federal law in all respects. Hart Pontiac will not take any action against any employees because they have exercised their rights under Title VII by complaining about acts of discrimination to Hart Pontiac or to the U.S. Equal Employment Opportunity Commission.

Dated

Hart Pontiac