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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

FILED  
DEC 18 2002  
U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS  
Case No. 4:02CV00577 DJS

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
RADIOSHACK CORPORATION, )  
 )  
Defendant. )

**CONSENT DECREE**

**Introduction**

Plaintiff Equal Employment Opportunity Commission (hereinafter the "Commission") has instituted this action alleging that RadioShack Corporation (hereinafter the "Defendant") discriminated against Jessica Polk in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

For purposes of settlement and compromise only, the parties have advised the Court that they wish to resolve the instant controversy without the expense, delay, and burden of further litigation;

THEREFORE, it is the finding of this Court, made on the pleadings and on the record as a whole and upon agreement of the parties, that: (i) this Court has jurisdiction over the parties to and the subject matter of this action, (ii) the requirements of the Title VII will be carried out by the implementation of this Decree, (iii) this Decree is intended to and does resolve all matters in controversy in this lawsuit among the parties, and (iv) the terms of this Decree constitute a fair and equitable settlement of all issues in this lawsuit.

22

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

**I. General Provisions**

1. This Decree, being entered with the consent of the parties for purposes of settlement, shall not constitute an adjudication on the merits of this lawsuit and shall not be construed as an admission by Defendant of any violation of Title VII or any executive order, law, rule or regulation dealing with or in connection with sexual harassment or sex discrimination in the workplace.

2. Defendant shall not discriminate against its employees with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment on the basis of sex. Defendant maintains that it has not discriminated against its employees with respect to hiring, promotion, firing, compensation, or other terms, conditions or privileges of employment on the basis of sex.

3. Defendant shall not discriminate or retaliate against any person because he or she: (a) has opposed any practices alleged in this lawsuit as unlawful under Title VII; (b) has participated in any investigation by the Commission connected with or leading up to this lawsuit; (c) has participated in this lawsuit; or (d) has benefitted or will benefit in any way as a result of this Consent Decree. Defendant maintains that it has not discriminated or retaliated against any person because he or she: (a) has opposed any practices alleged in this lawsuit as unlawful under Title VII; (b) has participated in any investigation by the Commission connected with or leading up to this lawsuit; (c) has participated in this lawsuit; or (d) has benefitted or will benefit in any way as a result of this Consent Decree.

4. Defendant agrees to never employ Earnette A. Smith, the individual alleged to have harassed Jessica Polk, in any stores owned or operated by Defendant

## **II. Relief for Charging Party**

1. Defendant will pay a total of \$45,000 ("Settlement Sum"), including attorneys fees and costs, and compensatory damages to Jessica Polk. Within 10 days after execution of the Decree, Defendant will mail a check to Polk, in the amount of the Settlement Sum, in care of her attorney, David Terry, Johnson, Fellows, Blake & Terry, 1034 Brentwood Blvd., Suite 1380, St. Louis, Missouri 63117.

## **III. Posting and Policies**

1. Defendant shall post and cause to remain posted copies of the "Notice to Employees", including its Policy Against Harassment, attached hereto as Exhibit A, in locations publicly visible to all employees in all stores operated by Defendant within District 0811, comprising 26 stores in the St. Louis area, for a period of two (2) years, starting from the date of entry of this Decree. Defendant maintains that it has had posted the posting required by this paragraph.

2. Defendant shall post and cause to remain posted the posters required to be displayed in the workplace by EEOC regulation 29 C.F.R. §1601.30 in all stores operated by Defendant within the state of Missouri. Defendant maintains that it currently posts the posters required to be displayed in the workplace by EEOC regulation 29 C.F.R. §1601.30 in all stores operated by Defendant within the state of Missouri.

3. Defendant shall, within six (6) months from the date of entry of this Decree, provide sexual harassment training to all management and non-management employees at all stores in District 0811, comprising 26 stores in the St. Louis area.

#### **IV. Reporting, Record-keeping, and Access**

1. During the effective period of this Decree, Defendant shall, within fifteen (15) days of such complaint, provide written notification to the EEOC's Regional Attorney in its St. Louis District Office of any internal complaint of sex harassment, made by any employee at any of the stores in District 0811, comprising 26 stores in the St. Louis, area including the name(s) of the employee(s), a description of the investigation of the complaint(s), the finding of the investigation and a description of action taken, or resolution of the complaint(s).

2. Within forty-five (45) days of the entry of this Decree, Defendant shall prepare and submit to the EEOC's Regional Attorney in its St. Louis District Office a letter affirming that the Notices have been posted and that the posters have been posted as required by Section III, above.

3. Within forty-five (45) days of the completion of the training required under Section III, subsection 3, Defendant shall prepare and submit to the EEOC's Regional Attorney in its St. Louis District Office a letter affirming completion of said training. The letter shall include the names of all employees who attended the training.

#### **V. Term and Effect of Decree**

1. By entering into this Decree the parties do not intend to resolve any charges of discrimination currently pending before the Commission other than the charge or charges that created the procedural foundation for the complaint in this case.

2. This Decree shall be binding upon the parties hereto, their successors and assigns. Defendant shall affirmatively notify any purchasers of the obligations of this Consent Decree prior to any sale which may take place.

3. This Decree shall be for a period of two (2) years and can only be extended for good cause shown. During the Decree's term the Court shall retain jurisdiction of this cause for purposes of compliance.

4. Each party shall bear that party's own costs and attorneys fees.

DATE: 12/2/02

Donald P. [Signature] 12-18-02  
UNITED STATES DISTRICT JUDGE

BY CONSENT:

FOR DEFENDANT:

[Signature]  
Exec. Div. V.P. - Sales Channels  
RadioShack Corporation

FOR PLAINTIFF:

[Signature]  
ROBERT G. JOHNSON  
Regional Attorney

[Signature]  
DAVID W. TERRY, EDMo #44519  
JOHNSON, FELLOWS, BLAKE & TERRY  
1034 Brentwood Blvd., Suite 1380  
St. Louis, MO 63117  
(314) 725-1600  
Attorneys for Plaintiff/Intervenor

[Signature]  
BARBARA A. SEELY  
Supervisory Trial Attorney

[Signature]  
MELVIN D. KENNEDY, ARN #33222  
Senior Trial Attorney  
St. Louis District Office  
Robert A. Young Federal Bldg.  
1222 Spruce, Room 8.100  
St. Louis, MO 63103  
(314) 539-7915

# THIS NOTICE IS TO REMAIN POSTED

# Equal Employment Opportunity is THE LAW

## Private Employment, State and Local Governments, Education Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws:

### Race, Color, Religion, Sex, National Origin

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

### Disability

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

### Age

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the

basis of age in hiring, promotion, discharge, compensation, terms, conditions, or privileges of employment.

### Sex (wages)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these Federal laws.

If you believe that you have been discriminated against under any of the above laws, you immediately should contact

The U.S. Equal Employment Opportunity Commission (EEOC)  
1801 L Street, N.W. Washington, D.C. 20507

or an EEOC field office by calling toll-free (800) 689-4000. For individuals with hearing impairments, EEOC's toll-free TDD number is (800) 800-3302.

## Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities:

### Race, Color, Religion, Sex, National Origin

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### Individuals with Disabilities

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of a disability and requires affirmative action to employ and advance in employment qualified individuals with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

### Vietnam Era and Special Disabled Veterans

38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance

Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans and qualified special disabled veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP)  
Employment Standards Administration, US Department of Labor (DOL)  
200 Constitution Avenue, N.W. Washington, D.C. 20210

or call (202) 219-8368 (DOL's toll-free TDD number for individuals with hearing impairments is (800) 328-2577), or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

## Programs or Activities Receiving Federal Financial Assistance

### Race, Color, National Origin, Sex

In addition to the protection of Title VII of the Civil Rights Act of 1964, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or whose employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

### Individuals with Disabilities

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of a disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.  
U.S. Government Printing Office: 1987-425-840 EEOC-PVE-1

## Your Rights Under the Fair Labor Standards Act

Federal Minimum Wage

EXHIBIT A

Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance. U.S. Government Printing Office: 1997-423-840 EEOC-P/5-1

# Your Rights Under the Fair Labor Standards Act

## Federal Minimum Wage

**\$5.15 per hour**  
effective September 1, 1997

Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.

Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

**Tip Credit**—Employers of "tipped employees" must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

### Overtime Pay

At least 1 1/2 times your regular rate of pay for all hours worked over 40 in a workweek.

### Child Labor

An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:

- No more than 3 hours on a school day or 18 hours in a school week
- 8 hours on a non-school day or 48 hours in a non-school week.

Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m.

Different rules apply in agricultural employment.

### Enforcement

The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.

Fines of up to \$10,000 per violation may be assessed against employers who violate the child labor provisions of the law and up to \$1,000 per violation against employers who willfully or repeatedly violate the minimum wage or overtime pay provisions. This law prohibits discriminating against or discharging workers who file a complaint or participate in any proceedings under the Act.

### Notes:

- Certain occupations and establishments are exempt from the minimum wage and/or overtime pay provisions.
- Special provisions apply to workers in American Samoa.
- Where state law requires a higher minimum wage, the higher standard applies.

For Additional Information, Contact the Wage and Hour Division office nearest you—listed in your telephone directory under United States Government, Labor Department.

This poster may be viewed on the worldwide web at this address: <http://www.dol.gov/dol/easa/public/minwage/main.htm>

The law requires employers to display this poster where employees can readily see it.

U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division  
Washington, D.C. 20210

WH Publication 1088  
Revised October 1996

# NOTICE—Employee Polygraph Protection Act

U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division  
Washington, D.C. 20210

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

### Prohibitions

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

### Exemptions\*

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities. The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers. The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in

economic loss to the employer.

### Examinee Rights

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

### Enforcement

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties up to \$10,000 against violators. Employees or job applicants may also bring their own court actions.

### Additional Information

Additional information may be obtained, and complaints of violations may be filed, at local offices of the Wage and Hour Division, which are listed in the telephone directory under U.S. Government, Department of Labor, Employment Standards Administration.

The law requires employers to display this poster where employees and job applicants can readily see it.

\*The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

WH Publication 1422  
September 1988

# AT ALL TIMES - DO NOT REM

## Corporation Policies



RadioShack  
Executive Offices  
100 Throckmorton Street,  
Suite 1800  
Fort Worth, TX 76102;  
Telephone (817) 416-3700

### Equal Employment Opportunity Commitment

RadioShack practices and promotes a policy of nondiscrimination. We are fully committed to the principles of equality in employment and opportunity for all team members. RadioShack will not, under any circumstances, condone or knowingly tolerate conduct that may constitute discrimination in the work environment.

RadioShack prohibits discrimination on the basis of race, color, religion, sex, disability, national origin, age, veteran status or sexual orientation. We will also observe individual state laws that specify additional protected classes. We apply these principles to all aspects of the employment relationship. We expect all team members to adhere to our principles of equality in employment and opportunity.

Leonard H. Roberts  
Chairman and CEO

### Harassment Policy

RadioShack is firmly committed to maintaining a work environment free from all forms of harassment, whether based on race, color, religion, sex, disability, national origin, age or sexual orientation. Harassment of any RadioShack team member or applicant for employment, whether it is committed by a supervisor, co-worker, client/customer, vendor or visitor, is unacceptable behavior, violates both Company policy and state and federal discrimination laws, and will not be tolerated. This Policy includes, but is not limited to, sexual harassment.

### Defining Harassment

For the purposes of this policy, harassment can be defined as:

- An incident or a course of bothersome, annoying or offensive comments or conduct involving unwelcome remarks, jokes or slurs, or other verbal or physical conduct, which is known or should reasonably be known to be unwelcome (in the case of sexual harassment, it may include unwelcome sexual advances or requests for sexual favors); or
- A sexual advance or solicitation made by a person who uses his/her authority to threaten any team member with loss of job, career advancement, benefits or compensation as a condition of employment in exchange for sexual favors; or
- A reprisal or threat of reprisal for having invoked this Policy, for having participated in an investigation under this Policy, or for the rejection of a sexual solicitation or advance.

Harassment may include, but is not limited to:

- Conduct which has the purpose or effect of interfering with an individual's job performance or creating an intimidating, hostile or offensive work environment;
- Unwelcome remarks, innuendoes or taunts about a person's race, color, religion, sex, disability, national origin, or sexual orientation (including marital status, personal relationships, or sexual experience);
- The telling of racial, ethnic, religious, disability, age or sexually oriented jokes;
- The use of discriminatory or sexually charged language, racial slurs, or demeaning or derogatory comments based on an individual's race, color, religion, sex, disability, national origin, age or sexual orientation;

harassment, or interference with or refusal to cooperate in a harassment investigation, may face disciplinary action, as deemed appropriate, up to and including termination of employment. Be assured that we will not tolerate acts of retaliation against any team member who uses this process in good faith.

Violators of this Policy will be subject to disciplinary action, including written disciplinary warnings, transfer, demotion, suspension or discharge from employment.

Anyone involved in a harassment investigation who intentionally makes untruthful statements may face disciplinary action, up to and including termination.

## Employee Assistance Program

RadioShack has chosen Managed Health Network (MHN) to provide confidential, professional counseling services available to you and your eligible family members. So when you're faced with a problem, call LIFELINE.

LIFELINE can help with:

- Marital and family problems
- Alcohol abuse and drug dependency
- Emotional problems and stress
- Financial and credit concerns
- Legal issues and questions
- Relationship issues
- Interpersonal conflicts
- Relocation issues
- Child and elder care
- Pre-retirement planning
- Federal taxpayer problems

LIFELINE is a telephonic counseling and consultation service designed to help you and your eligible family members with a wide range of personal issues. LIFELINE services are provided confidentially by licensed, qualified counselors. All information is privileged in accordance with the psychotherapist patient privilege and/or other applicable laws. The services are confidential and the cost has been covered by RadioShack Corporation.

Remember that the right time to seek help is as soon as possible—don't wait until the problem reaches the critical stage.

LIFELINE counseling is available by telephone only.

Caring. Confidential. Convenient. 24 hours a day, 365 days a year.

800-734-8341

TDD for the hearing impaired: 800-734-0841

## Your Rights Under the Family and Medical Leave Act of 1993

The Family and Medical Leave Act requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least 12 months, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

### Reasons for Taking Leave:

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or



person's race, color, religion, sex, disability, national origin, age or sexual orientation (including marital status, personal relationships, or sexual experience);

- The telling of racial, ethnic, religious, disability, age or sexually oriented jokes;
- The use of discriminatory or sexually charged language, racial slurs, or demeaning or derogatory comments based on an individual's race, color, religion, sex, disability, national origin, age or sexual orientation;
- The display of discriminatory, offensive or otherwise inappropriate material in the workplace, including racial, ethnic, religious, disability, age or sexually oriented cartoons, pictures, posters or electronic material; and
- Unwelcome sexual advances, propositions or physical contact, such as touching, patting, pinching or punching.

**Handling Harassment in The Workplace**

Each team member plays a part in ensuring that the workplace is free from harassment. If you feel you are being harassed, sexually or otherwise, you should:

- Ask the harasser to stop!
- Report the situation to your manager, department head or People Services by calling, from work (700) 825-3947, select Option 7, then choose 2; or toll-free from home: (877) 825-3947, select Option 7, then choose 2.

You are also free to report the matter to the Director People Services; Senior Director-People Services; the Senior Vice President-People; or to any other RadioShack officer, up to and including the Chairman and Chief Executive Officer.

**Investigating a Discrimination or Harassment Claim**  
All complaints or reports will be handled in a timely and confidential manner. Only those people necessary for the investigation and resolution of the complaint will be involved or given information about the matter.

We are committed to investigating and appropriately resolving any situation related to harassment. If an allegation of discrimination or sexual harassment is substantiated by the investigation, RadioShack will act promptly to eliminate the offensive conduct. The alleged offender will be disciplined in an appropriate manner, up to and including termination.

Any team member who receives a report of possible harassment is required to report the matter to People Services for instructions and guidance.

Retaliation against any team member, who in good faith reports harassment or participated in the investigation of a harassment complaint, is strictly prohibited. If you think you are being retaliated against because of a harassment complaint, share your concerns with your manager, your department head or People Services.

A team member who retaliates against any other team member for bringing a good faith complaint of

harassment, and if there are at least 50 employees within 75 miles.

**Reasons for Taking Leave:**

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
  - To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
  - For a serious health condition that makes the employee unable to perform the employee's job.
- At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

**Advance Notice & Medical Certification:**

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is foreseeable.
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

**Job Benefits & Protection:**

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent or equal pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**Unlawful Acts by Employers:**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA;

**Enforcement:**

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**For Additional Information:**

Contact the nearest office of the Wage and Hour Division listed in most telephone directories under U.S. Government Labor Department.

harassment, or interferes with or refuses to cooperate in a harassment investigation, may face disciplinary action, as deemed appropriate, up to and including termination of employment. Be assured that we will not take any acts of retaliation against any team member who uses this process in good faith.

Violators of this Policy will be subject to disciplinary action, including written disciplinary warnings, transfer, demotion, suspension or discharge from employment.

Anyone involved in a harassment investigation who intentionally makes untruthful statements may face disciplinary action, up to and including termination.

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RadioShack has chosen Managed Health Network (MHN) to provide confidential, professional counseling services available to you and your eligible family members. So when you're faced with a problem, call LIFELINE.

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- Relationship issues
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- Relocation issues
- Child and elder care
- Pre-retirement planning
- Personal taxpayer problems

LIFELINE is a telephonic counseling and consultation service designed to help you and your eligible family members with a wide range of personal issues. LIFELINE services are provided confidentially by licensed, qualified counselors. All information is privileged in accordance with the psychotherapist patient privilege and/or other applicable laws. The services are confidential and the cost has been covered by RadioShack Corporation.

Remember that the right time to seek help is as soon as possible—don't wait until the problem reaches the critical stage.

LIFELINE counseling is available by telephone only.

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800-734-8341

TDD for the hearing impaired: 800-734-8341

### Your Rights Under the Family and Medical Leave Act of 1993

The Family and Medical Leave Act requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least 12 months, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

Reasons for Taking Leave:

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;

### Job Safety and Health Protection

The Occupational Safety and Health Act of 1970 provides job safety and health protection for workers by promoting safe and healthful working conditions throughout the Nation. Provisions of the act include the following:

#### Employers

All employers must furnish to employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to employees. Employers must comply with occupational safety and health standards issued under the Act.

#### Employees

Employees must comply with all occupational safety and health standards, rules, regulations and orders issued under the Act that apply to their own actions and conduct on the job.

The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor has the primary responsibility for administering the Act. OSHA issues occupational safety and health standards, and its Compliance Safety and Health Officers conduct job site inspections to help ensure compliance with the Act.

#### Inspection

The Act requires that a representative of the employer and a representative authorized by the employees be given an opportunity to accompany the OSHA inspector for the purpose of aiding the inspection.

Where there is no authorized employee representative, the OSHA Compliance Officer must consult with a reasonable number of employees concerning safety and health conditions in the workplace.

#### Complaint

Employees or their representatives have the right to file a complaint with the nearest OSHA office requesting an inspection if they believe unsafe or unhealthful conditions exist in their workplace. OSHA will withhold, on request, names of employees complaining.

The Act provides that employees may not be discharged or discriminated against in any way for filing safety and health complaints or for otherwise exercising their rights under the Act. Employees who believe they have been discriminated against may file a complaint with their nearest OSHA office within 30 days of the alleged discriminatory action.

#### Citation

If upon inspection OSHA believes an employer has violated the Act, a citation alleging such violations will be issued to the employer. Each citation will specify a time period within which the alleged violation must be corrected.

The OSHA citation must be prominently displayed at or near the place of alleged violation for three days, or until it is corrected, whichever is later, to warn employees of danger that may exist there.

#### Proposed Penalty

The Act provides for mandatory civil penalties against employers of up to \$7,000 for each serious violation and for optional penalties of up to \$7,000 for each non-serious violation. Penalties of up to \$7,000 per day may be proposed for failure to correct violations within the proposed time period and for each day the violation continues beyond the prescribed abatement date. Also, any employer who willfully or repeatedly violates the Act may be assessed penalties of up to \$70,000 for each such violation. A minimum penalty of \$5,000 may be imposed for each willful violation. A violation of posting requirements can bring a penalty of up to \$7,000.

There are also provisions for criminal penalties. Any willful violation resulting in the death of any employee, upon conviction, is punishable by a fine of up to \$250,000 (or \$500,000 if the employer is a corporation), or by imprisonment for up to six months, or both. A second conviction of an employer doubles the possible term of imprisonment. Falsifying records, reports, or applications is punishable by a fine of \$50,000 or up to six months in jail.

they have worked for a covered employer for at least 12 months, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

#### Reasons for Taking Leave:

Unpaid leave must be granted for any of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
  - To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
  - For a serious health condition that makes the employee unable to perform the employee's job.
- At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

#### Advance Notice & Medical Certification:

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

#### Job Benefits & Protection:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent or equal pay, benefits, and other employment terms.

The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

#### Unlawful Acts By Employers:

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

#### Enforcement:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

#### For Additional Information:

Contact the nearest office of the Wage and Hour Division listed in most telephone directories under U.S. Government Labor Department.

\$5,000 may be imposed for each willful violation. A violation of posting requirements can bring a penalty of up to \$7,000. There are also provisions for criminal penalties. Any willful violation resulting in the death of any employee, upon conviction, is punishable by a fine of up to \$250,000 (or \$500,000 if the employer is a corporation), or by imprisonment for up to six months, or both. A second conviction of an employer doubles the possible term of imprisonment. Falsifying records, reports, or applications is punishable by a fine of \$10,000 or up to six months in jail or both.

#### Voluntary Activity

While providing penalties for violations, the act also encourages efforts by labor and management, before an OSHA inspection, to reduce workplace hazards voluntarily and to develop and improve safety and health programs in all workplaces and industries. OSHA's Voluntary Protection Programs recognizes outstanding efforts of this nature. OSHA has published Safety and Health Program

Management Guidelines to assist employers in establishing perfecting programs to prevent or control employee exposure to workplace hazards. There are many public and private organizations that can provide information and assistance in this effort, if requested. Also, your local OSHA office can provide considerable help and advice on solving safety and health problems or can refer you to other sources for help such as training.

#### Consultation

Free assistance in identifying and correcting hazards and in improving safety and health management is available to employers, without citation or penalty, through OSHA supported programs in each State. These programs are usually administered by the State Labor or Health department or a State university.

#### Posting Instructions

Employers in States operating OSHA approved State Plans should obtain and post the State's equivalent poster.

Under provisions of Title 29, Code of Federal Regulations Part 1903.2 (a)(1), employers must post this notice (or facsimile) in a conspicuous place where notices to employees are customarily posted.

#### More Information

Additional information and copies of the Act, OSHA safety and health standards, and other applicable regulations may be obtained from your employer or from the nearest OSHA Regional Office in the following locations:

Atlanta, GA	(404) 562-2300
Boston, MA	(617) 665-8650
Chicago, IL	(312) 353-2220
Dallas, TX	(214) 767-4731
Denver, CO	(303) 844-1800
Kansas City, MO	(816) 426-5851
New York, NY	(212) 837-2378
Philadelphia, PA	(215) 881-4800
San Francisco, CA	(415) 976-4310
Seattle, WA	(206) 539-6330

This information will be made available to sensory impaired individuals upon request. Voice phone: 1-800-321-OSHA, TTY message referral phone: 1-877-889-5627

U.S. GPO: 1998-447-381/89034

Alexis M. Herman, Secretary of Labor,  
U.S. Department of Labor  
Occupational Safety and Health Administration  
Washington, DC 20037 (Reprinted) OSHA 2203

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FOLLOWING INDIVIDUALS ON 12/18/02 by lkresko  
4:02cv577 EEOC vs RadioShack

42:2000e Job Discrimination (Employment)

Patrick Gavin -	Fax: 816-292-2001
Melvin Kennedy - 33222	Fax: 314-539-7895
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